

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

June 27, 2017

Ramapo Town Board
237 Route 59
Suffern, NY 10901

Tax Data:

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date:

Date Review Received: 5/8/2017

Item: *TOWN OF RAMAPO/GROSS FLOOR AREA (R-2600)*

Proposed Local Law to amend the Zoning Law in relation to the definition of Gross Floor Area.
Throughout the Town of Ramapo

Reason for Referral:

State and County roads, parks, streams and facilities, and adjacent municipalities.

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

In reviewing the proposed zoning code amendment, we have undertaken an analysis of the definition for "gross floor area" provided in the Zoning Codes of the five unincorporated towns of Rockland County, as well as the numerous definitions contained in the American Planning Association's April 2004 Planning Advisory Service Report entitled "A Planners Dictionary." We have also conferred with the Assistant Director, Compliance and Oversight, Division of Building Standards and Codes, New York State Department of State. Our conclusion is that there are wide differences in the definition of gross floor area in terms of the inclusion of basements. There is also great variation in the definition of basement. The Town of Ramapo's decision to rely on the NYS Uniform Fire Prevention and Building Code definition of basement is supported by New York State Department of State. In their opinion, this is advantageous because the Zoning Code will not have to be modified, updated or revised if the NYS Uniform Fire Prevention and Building Code definition changes. Currently, basement is defined as "a story that is not a story above grade plane." A story is "that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above." A story above grade plane is defined as "any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is either of the following:

- a. More than 6 feet (1829 mm) above grade plane.

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b. More than 12 feet (3658 mm) above the finished ground level at any point."

With these variations in mind, as well as the NYS Uniform Fire Prevention and Building Code definitions, we offer the following recommendations on the proposed Zoning Code amendment.

1 To avoid confusion, the definition for basement must include an ICC website reference in the printed version, and a hyperlink to the ICC website in the online version, of the Town of Ramapo's Zoning Code. The link provided by New York State Department of State, Division of Building Standards and Codes, is <https://codes.iccsafe.org/public/collections/NY>. The Town must insure that an up-to-date link is maintained in the online version of their Zoning Code.

2 Basements are not considered habitable or livable space in many Zoning Codes throughout the country. The Town must specify whether, and under what circumstances, basements can be used as habitable space. Fire and safety concerns must prevail. Standards must be established for height, ingress, egress, light and air.

3 The proposed definition of gross floor area excludes non-habitable space devoted to mechanical equipment or storage. However, Section 376-5 "Definitions" of the Zoning Code does not define this term. To help clarify the gross floor area definition, habitable and/or non-habitable space must be defined in Section 376-5 of the Ramapo Zoning Code.

4 As noted above, non-habitable space devoted to mechanical equipment or storage is excluded when calculating gross floor area. "Storage space" is not defined in Section 376-5 "Definitions" of the Zoning Code. We believe this is a serious omission. Storage space must be concisely defined in the Zoning Code. Site plan submissions must include floor plans with clearly delineated storage space. The site plan shall include a note specifying the basement floor area devoted to storage space. Conversion of basement storage space to living space shall be prohibited as this space is not included in the floor area ratio calculation. The likelihood that such a conversion will require a variance for floor area ratio is great. The Town Board must discourage future conversion of non-habitable space as an after-the-fact attempt to increase residential density.

5 The NYS Department of State has determined that the Town is not administering or enforcing the State Uniform Fire Prevention and Building Code in accordance with minimum standards set forth in 19 NYCRR part 1203. Given the concerns about the Town's administration and enforcement of the State Uniform Fire Prevention and Building Code raised in the Executive Deputy Secretary of State's letter of July 15, 2016, the proposed local law must be held to the requisite minimum standards and comply with all requirements of this code.

6 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town Fire Inspector and the local fire districts to analyze fire and building safety considerations related to this zoning code amendment.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Yitzchok Ullman, Ramapo
New York State Department of Transportation
Palisades Interstate Park Commission
New York State Department of State
Rockland County Department of Highways
Rockland County Drainage Agency
Rockland County Sewer District #1

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Rockland County Division of Environmental Resources
Rockland County Office of Fire and Emergency Services

Clarkstown, Haverstraw, Orange County
Airmont, Chestnut Ridge, Hillburn, Kaser,
Montebello, New Hempstead, New Square, Pomona,
Sloatsburg, Spring Valley, Suffern & Wesley Hills
Alan Berman, Deputy Town Attorney

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

