

Version: February 28, 2020

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Topic: Gross Floor Area

Presentation Date: January 17, 2020 regular meeting; February 21, 2020 regular meeting; March 9, 2020 workshop meeting

EXHIBIT A

**AN ORDINANCE TO AMEND CHAPTER 270, ZONING,
OF THE MUNICIPAL CODE OF THE CITY OF REHOBOTH BEACH,
DELAWARE, 2001, BY AMENDING SECTIONS 270-4 AND 270-21
RELATING TO GROSS FLOOR AREA AND FLOOR AREA RATIO**

WHEREAS, the Mayor and Commissioners desire to revise the zoning regulations relating to Gross Floor Area and Floor Area Ratio to ensure the regulations are consistent with past practices of the Building and Licensing Department; and

WHEREAS, the Mayor and Commissioners desire to exclude subsurface parking areas, and outdoor areas including, for example, open porches, decks, patios, and pergolas from the calculation of Gross Floor Area.; and

WHEREAS, Title 22, Chapter 3, Section 301 of the Delaware Code provides that “[f]or the purpose of promoting health, safety, morals or the general welfare of the community, the legislative body of cities and incorporated towns may regulate and restrict the height, number of stories and size of buildings and other structures, percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes”; and

WHEREAS, Article X, Amendment Procedure, Sections 270-86 and 270-88 of the Municipal Code of the City of Rehoboth Beach provides the following procedure to be followed by the City Commissioners before exercising the aforesaid authority:

1. Hold a public hearing at which hearing parties in interest and citizens shall have an opportunity to be heard;
2. Provide at least fifteen (15) days’ notice of such hearing by publishing notice of the time and place of such hearing in an official newspaper of the City of Rehoboth Beach or a newspaper of general circulation in the City; and

WHEREAS, a public hearing was conducted on _____, 2020.

WHEREAS, at least fifteen (15) days’ notice of such hearing was provided by publishing notice of the time and place of such hearing in an official paper or a paper of general circulation in the City.

BE IT ORDAINED by the Commissioners of the City of Rehoboth Beach, in session met, a quorum pertaining at all times thereto, in the manner following to-wit:

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Section 1. Chapter 270, Section 270-4, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by making insertions as shown by underline and deletions as shown by strikethrough to the definition of “FLOOR AREA, GROSS” as follows:

FLOOR AREA, GROSS

The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of the exterior walls, which are walls that enclose indoor space, or from the center line of a wall separating two attached buildings, including basements but not including any space where the floor-to-ceiling height is less than six feet, and not including subsurface parking areas; subject to the following:

- A It shall include the horizontal area of any space at grade beneath any building created by pilings, piers or any other structural support which is greater than four feet in height; however, if said building is located within any area designated as a special flood hazard area as determined by the Federal Emergency Management Agency (FEMA) and, as a result, the building is mandated by FEMA to be elevated in excess of four feet in height by pilings, piers or any other structural support, then said space shall not be included in calculating the gross floor area, so long as the building's elevation does not exceed by more than one foot the elevation so mandated.
- B Floors or stories or a portion thereof with a ceiling height greater than 12 feet shall be included twice in the computation of gross floor area. For rooms with cathedral ceilings where the ceiling is the underside of a roof the height shall be determined at the top wall plate, the point where the horizontal dimension begins to decrease.
- C It shall include open porches. However, the first 250 square feet of an open front porch shall be excluded from the gross floor area, provided that such porch is on the street side of the building, at the first-floor level, roofed, one floor with no living space or deck above the porch, meets the definition of open porch in § 270-4, and is not heated or air-conditioned.
- D It shall include roof decks above a height of 14 feet.

Section 2. Chapter 270, Section 270-21, of the Municipal Code of the City of Rehoboth Beach, Delaware, 2001, as amended be and the same is hereby further amended by

84 making insertions as shown by underline and deletions as shown by strikethrough to Subsection
85 270-21(B) as follows:

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87 B. Floor area ratio.

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89 (1) Residential Uses

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91 (a) In the R-1(S) District, the floor area ratio (FAR) for the residence
92 structure combined with the accessory structures, if any, shall not
93 exceed 0.50. In R-1 and R-2 Districts, the FAR for the residence
94 structure combined with the accessory structures, if any, shall not
95 exceed 0.60 for the first 5,000 square feet of gross lot area, and
96 0.30 for any additional gross lot area, or for properties
97 incorporating an accessory swimming pool 0.50 for the first 5,000
98 square feet of gross lot area and 0.25 for any additional gross lot
99 area.

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101 ~~(a) The first 250 square feet of an open front porch shall be excluded~~
102 ~~from the gross floor area, provided that such porch is on the street~~
103 ~~side of the building, at the first floor level, roofed, one floor with~~
104 ~~no living space or deck above the porch, meets the definition of~~
105 ~~open porch in § 270-4, and is not heated or air conditioned. Any~~
106 ~~square footage in excess of 250 square feet shall be included in the~~
107 ~~gross floor area.~~

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109 (b) A maximum of 1,000 square feet of a basement may be excluded
110 from the gross floor area of a residence structure subject to the
111 following conditions:

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113 [1] The vertical measurement from the basement floor to the
114 bottom of the first-floor floor joists must not exceed eight
115 feet.

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117 [2] The bottom of the first-floor floor joists must not be at a
118 height of more than three feet. The measurement should be
119 taken from a point where the center line of the building to
120 be erected intersects with the center line of the street on
121 which the building will front.

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123 [3] FAR for the remainder of the residence structure combined
124 with the accessory structures, if any, does not exceed 0.50
125 for the first 5,000 square feet of gross lot area and 0.30 for
126 any additional gross lot area, or for properties incorporating

127 an accessory swimming pool 0.40 for the first 5,000 square
128 feet of gross lot area and 0.25 for any additional gross lot
129 area.
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131 (c) A basement, where the vertical measurement from the basement
132 floor to the bottom of the first-floor floor joists does not exceed
133 6 1/2 feet and the bottom of the first-floor floor joists are not at a
134 height of more than three feet as measured from a point where the
135 center line of the building to be erected intersects with the center
136 line of the street on which the building will front, shall not be
137 included in gross floor area.
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139 (d) The area of any attic shall not be included in the gross floor area if
140 access is limited to fold-away stairs or other nonpermanent means
141 of access.
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143 (e) Any basement existing on August 7, 2006, regardless of ceiling
144 height, shall not be included in gross floor area to the extent it
145 remains an unfinished area used only for mechanical, plumbing
146 and electrical equipment, laundry machines, storage and the like;
147 and provided further that the bottom of the first-floor floor joists
148 shall not be at a height of more than four feet as measured from a
149 point where the center line of the building intersects with the
150 center line of the street on which the building fronts.
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152 (2) (f) In no case shall the gross floor area of a dwelling in the R-1(S)
153 District exceed 6,000 square feet.
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155 (3) (g) In no case shall the gross floor area of a dwelling in the R-1
156 District exceed 4,500 square feet.
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158 (4) (h) In no case shall the gross floor area of a dwelling unit in the R-2
159 District exceed 4,500 square feet.
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161 (5) Commercial Uses
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163 (a) In all commercial districts, the floor area ratio (FAR) for all
164 buildings or structures shall not exceed 2.0; however, total floor
165 area ratio (FAR) devoted to Tier 1 uses shall not exceed 0.60. For
166 all mixed-use buildings (i.e., residential uses and commercial
167 uses), the average of the gross floor area of all residential floors
168 shall not exceed 50% of the gross lot area and the gross floor area

169 of any one residential floor shall not exceed 75% of the gross lot
170 area.

171
172 (a**b**) Any one commercial floor in a mixed-use building in a commercial
173 district may include one residential unit, used in conjunction with a
174 hotel, motel or inn. Such unit shall not exceed 10% of the gross
175 floor area of said floor with the maximum of 1,000 square feet.

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177 (b**c**) Any one residential floor in a building in a commercial district
178 used, in whole or in part, as a hotel, motel or inn may include
179 meeting rooms for use as convention facilities. To the extent that
180 the aggregate gross floor area of these meeting rooms does not
181 exceed 25% of the gross lot area or 5,000 square feet, whichever is
182 less, such area exclusively devoted to meeting rooms and no other
183 purpose will not be counted in calculating the fifty-percent
184 maximum lot coverage in Subsections C(2) and ~~B(5)~~B(2)(a). In no
185 case shall the floor area ratio (FAR) of 2.0 be exceeded. The
186 meeting rooms as permitted in this section shall contain no food
187 preparation areas or areas devoted to the dispensing of alcoholic
188 beverages.

189
190 **Section 2.** If any provision of this Ordinance shall be deemed or held to be invalid or
191 unenforceable for any reason whatsoever, then such invalidity or unenforceability shall not affect
192 any other provision of this Ordinance which may be given effect without such invalid or
193 unenforceable provision, and to this end, the provisions of this Ordinance are hereby declared to
194 be severable.

195
196 **Section 3.** This Ordinance shall take effect immediately upon its adoption by a
197 majority vote of the Commissioners of the City of Rehoboth Beach.

198
199 Adopted by the Commissioners
200 Of the City of Rehoboth Beach
201 _____, 2020

202
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205 _____
206 Secretary of the Commissioners of
207 the City of Rehoboth Beach

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209 **SYNOPSIS:** This Ordinance revises the definition of Gross Floor Area (270-4) and Floor Area
210 Ratio provision (270-21) to exclude subsurface parking areas. It also clarifies that exterior walls

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211 are walls that enclose interior space. The Ordinance provides that open porches are included
212 within the determination of Gross Floor Area but that 250 sf of an open front porch is exempt.

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