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~~County~~
~~City~~
~~Town~~ of Baxter Estates
Village

Local Law 5 of the year 2007

(Insert Title)

A local law to amend certain provisions of Chapter 175, "Zoning," of the Code of the Village of Baxter Estates, with respect to Size of Residential Structures and to make other Technical Corrections and Deletions of Obsolete Provisions.

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

~~County~~
~~City~~
~~Town~~ of Baxter Estates
Village

Section 1. Section 175-8, entitled "Height of Buildings," of Chapter 175, "Zoning," of the Code of the Village of Baxter Estates, is hereby amended to read in its entirety as follows:

"§ 175-8. Height of Buildings.

A. In the case of a single-family dwelling, no building shall exceed 2 ½ stories, with a maximum height of 30 feet, measured from average pre-existing ground level to the highest ridge on the roof, or, with respect to a flat roof, to the highest point of a flat roof.

B. No single-family dwelling shall have a horizontal eaves fascia height greater than 22 feet measured vertically from the finished ground level along the building façade to the top of the roof eaves.

C. For purposes of this Section, the “basement” or “cellar,” as defined in Section §175-92 of the Code, in any building subject to this Section shall be deemed a “story” if the Exposed Sub-level is at least four feet in height.

D. The height of any building that is neither (i) a single-family dwelling, nor (ii) a building or a structure that is accessory to a single-family dwelling, shall not exceed 3 stories, with a maximum height of 45 feet, measured from average pre-existing ground level to the highest ridge on the roof, or, with respect to a flat roof, to the highest point of a flat roof.”

Section 2. Section 175-9, entitled “Lot Area; Street Frontage; Floor Area Ratio,” of Article II, “Residence A Districts,” of Chapter 175, “Zoning,” of the Code of the Village of Baxter Estates, is hereby amended to read in its entirety as follows:

“§ 175-9. Lot Area; Street Frontage; Floor Area Ratio.”

A. No dwelling or other building shall be constructed on a lot containing an area of less than 8,500 square feet, or having a street frontage of less than 85 feet.

B. Total Floor Area shall not exceed:

(a) 36% of the lot area, where lot area is equal to or less than 10,000 square feet; or

(b) 33% of the lot area, where lot area is greater than 10,000 square feet but not greater than 16,000 square feet; or

(c) 31% of the lot area, where lot area is greater than 16,000 square feet.

C. The portion of the Total Floor Area for any dwelling allocable to the attic of such dwelling shall not exceed 35% of such Total Floor Area, with respect to a residence that has one story, or 25% of such Total Floor Area with respect to a residence that has more than one story.”

Section 3. Section 175-13, entitled “Side Yards,” of Chapter 175 of the Village Code is hereby amended to read in its entirety as follows:

“Section 175-13. Side yards.

A. A single-family dwelling on an interior lot shall have two side yards, one on each side of the main building, the aggregate width of which shall be not less than 25% of the width of the lot, but in no case shall the width of any side yard be less than the greater of

(i) fifteen feet, or (ii) that distance which, when added to the actual distance between the property line shared with the abutting lot and the closest point of any dwelling on the abutting lot (defined for purposes of this Section as the “Actual Abutting Residential Lot Setback”), equals thirty feet.

B. A single-family dwelling on a corner lot shall have only one side yard abutting an interior lot adjacent thereto. The minimum width of said side yard shall be the greater of (i) fifteen feet, or (ii) that distance which, when added to the Actual Abutting Residential Lot Setback, if any, equals thirty feet. The other yard fronting on the street of such corner lot, regardless of how same may be used or perceived, shall be deemed for purposes of this Code as a “front yard” and shall conform to the provisions of § 175-12B.

C. A main building other than a single-family dwelling on an interior lot shall have two side yards, each having a minimum width equal to the greater of (i) fifteen feet, or (ii) that distance which, when added to the Actual Abutting Residential Lot Setback, if any, equals thirty feet; provided, that if such building is over thirty five feet in height, the width of each side yard shall be not less than the greater of (i) twenty feet, or (ii) that distance which, when added to the Actual Abutting Residential Lot Setback, if any, equals thirty five feet.

D. A main building other than a single-family dwelling on a corner lot shall have two front yards, both of which shall conform to the provisions of § 175-12B. The minimum width of the remaining side yard shall be equal to the greater of (i) fifteen feet, or (ii) that distance which, when added to the Actual Abutting Residential Lot Setback, if any, equals thirty feet; provided, that if such building is over thirty five feet in height, the width of such side yard shall be not less than the greater of (i) twenty feet, or (ii) that distance which, when added to the Actual Abutting Residential Lot Setback, if any, equals thirty five feet.”

Section 4. Section 175-14, entitled “Rear Yards,” of Chapter 175 of the Village Code is hereby amended to read in its entirety as follows:

“§ 175-14. Rear Yards.

There shall be a rear yard, the depth of which shall be not less than twenty feet.”

Section 5. Clause “E.” of Section 175-16, entitled “Accessory Structures,” of Chapter 175 of the Village Code is hereby amended to read in its entirety as follows:

“E. Other accessory structures not mentioned herein shall be located in accordance with the requirements for accessory buildings as provided in § 175-17.”

Section 6. Clause “B.” of Section 175-17, entitled “Accessory buildings,” of Chapter 175 of the Village Code is hereby amended to read in its entirety as follows:

“B. Unless otherwise provided in this Article, accessory buildings and/or structures shall be located in the rear yard and shall be not less than ten feet distant from the main building and not less than three feet distant from the rear and side lot lines.”

Section 7. Subclause “(9)” of Clause “C.” of Section 175-18, entitled “Outdoor Water Pools,” of Chapter 175 of the Village Code is hereby amended to read in its entirety as follows:

“(9) Pools shall be completely drained in winter or provided with tight-fitting covers that satisfy the requirements for pool covers set forth in Section 303.3.9(9.1) of the Property Maintenance Code of New York State, as amended from time to time, or any successor provision thereto.”

Section 8. Section 175-67, entitled “Accessory Buildings Housing Animals,” of Chapter 175 of the Village Code is hereby amended to delete the content thereof, so that said Section 175-67 shall read in its entirety as follows:

“§ 175-67. [Intentionally Omitted.]”

Section 9. Section 175-74, entitled “Junkyards,” of Chapter 175 of the Village Code is hereby amended to delete the content thereof relating to Junkyards, so that said Section 175-74 shall read in its entirety as follows:

“§ 175-74. [Intentionally Omitted.]”

Section 10. Section 175-92, entitled “Terms Defined,” of Chapter 175 of the Village Code is hereby amended by adding the definitions of “Average Pre-Existing Ground Level,” “Exposed Sub-Level,” “Ground Level,” and “Mean Ground Level,” each of which shall be deemed inserted in said Section 175-92 in alphabetical order, and each of which, respectively, shall read as follows:

“AVERAGE PRE-EXISTING GROUND LEVEL” – with respect to an improved parcel, the mean ground level along the foundation of an existing single family dwelling or other structure prior to any excavation, re-grading, construction or demolition relating to any project for which building permits are required and with respect to which a determination of ground level, mean ground level or average pre-existing ground level must be made hereunder; with respect to an unimproved vacant parcel, the mean ground level along the boundaries of the buildable envelope of such parcel (i.e., the area within such parcel enclosed by lines that are parallel to and set back from each front, rear and side property

line at a distance equal to, respectively, the minimum required front, rear and side yard set-back as applicable to such parcel under this Chapter).”

“EXPOSED SUB-LEVEL” – the portion of any basement or cellar, as measured from floor to finished ceiling, or, if none, to the bottom of the rafters underlying the first floor, that lies above the finished mean ground level immediately adjacent to any exterior wall of the dwelling; provided, however, that if the finished mean ground level along any such exterior wall varies, then the height of the Exposed Sub-level lying above such finished mean ground level shall be deemed the average measurement of the height of the Exposed Sub-level above ground level based upon four separate measurements made at equal distances along such wall.”

“GROUND LEVEL – the level of the ground in its natural state at the point of measurement.”

“MEAN GROUND LEVEL” – the average elevation of the ground level measured along any distance or group of distances on a parcel, including, for example, along a property line or portion thereof, or along any wall of a building, or along the entire foundation of a building. Such average elevation shall be determined based upon measurements at not fewer than four points, equally spaced, along each distance to be measured, such as, for example, each exterior wall of a building. Any application to the Building Department that requires a determination of ground level, mean ground level or average pre-existing ground level under this Chapter must be accompanied by a topographical survey map of the Premises, prepared by a duly licensed surveyor, containing such data as is reasonably required by the Village Building Official.”

Section 11. Section §175-92, entitled “Terms Defined,” of Chapter 175 of the Village Code is hereby further amended to amend the definition of “FLOOR AREA,” to read in its entirety as follows:

“FLOOR AREA” – the sum of the gross floor areas of all floors of all principal and accessory buildings on a lot, measured from the exterior faces of the exterior walls. In particular, floor area shall include all of the following:

- A. Floor space in any Basement or Cellar, if used for other than mechanical equipment or storage, or if the height of the Exposed Sub-Level thereof exceeds the finished mean ground level by at least four feet;
- B. Floor space of each story above the basement or the cellar and below the attic, and that portion of any attic space whether or not a floor has been laid that provides structural headroom of seven feet or

more;

- C. Floor space in interior balconies and interior lofts;
- D. Floor space in roofed terraces, exterior balconies or porches, if more than 50% of the perimeter thereof is enclosed by a parapet more than 3 feet 9 inches in height, or a railing less than 50% open and more than 4 feet 6 inches in height;
- E. With respect to any room in a single family home having a height, from finished floor to finished ceiling in excess of 8 ½ feet, an amount which shall be in addition to the floor area thereof included pursuant to clause B., and which shall be equal to the product obtained by multiplying (x) the floor area of such room, by (y) the number of feet (including any numerical fraction thereof) by which the height of such room exceeds 8 ½ feet, by (z) 10%.

Section 12. Section 175-92, entitled “Terms Defined,” of Chapter 175 of the Village Code is hereby further amended to amend the definitions of “BASEMENT,” “CELLAR,” “COURT,” “DEPARTMENT OF HEALTH,” “FAMILY,” “HEIGHT OF A BUILDING,” “INDUSTRY,” “MOTOR VEHICLE REPAIR SHOP,” “PREMISES” and “STRUCTURE,” each of which shall read in its entirety as follows:

“BASEMENT – a story partly underground, but having at least one half of its height, measured from floor to finished ceiling or, if none, to the bottom of the rafters supporting the first floor, above the average mean ground level adjacent to the building.”

“CELLAR – a story having more than one half of its height, measured from floor to finished ceiling, or if none, to the bottom of the rafters supporting the first floor, below the average mean ground level adjacent to the building.”

“COURT – an open and unoccupied space on the same lot as a building and enclosed on at least three sides by walls of a building.”

“DEPARTMENT OF HEALTH – The Department of Health and any other health board or department established pursuant to the laws of the State of New York and having jurisdiction over the regulation, control and/or supervision of matters pertaining to and affecting the public health in the Village of Baxter Estates.”

“FAMILY – one or more persons related by blood, marriage or legal adoption residing and cooking or warming or preparing food together as a single housekeeping unit, exclusive of household servants; or one or more persons, though not related by blood,

marriage or legal adoption, residing and cooking or warming or preparing food together as a single housekeeping unit, exclusive of household servants, so long as the persons, as a group, bear the generic character of a family unit as a relatively permanent household, and are not a framework for transients or transient living.”

“HEIGHT OF A BUILDING – the height of a building or other structure shall be the vertical distance from the mean ground level along the foundation of the building or other structure to the highest point of the building or other structure.”

“INDUSTRY – the manufacturing, assembly, fabrication, processing or finishing of materials, goods or articles of any kind or nature to be sold at wholesale or retail.”

“MOTOR VEHICLE REPAIR SHOP – a building or portion of a building in which a motor vehicle repair work business is conducted.”

“PREMISES – a lot or lots, including the land and all buildings or structures thereon.”

“STRUCTURE - a combination of materials other than a building to form a construction that is safe and stable, including, without limitation, reviewing stands, platforms, stagings, radio towers, water tanks, oil and fuel tanks, water towers, sheds, display signs, fences, retaining walls, outdoor fireplaces, pools, pergolas, gazebos and machinery or equipment that, due to its size and weight, or the manner in which it is affixed to the ground or to another structure or building, is not portable. The term “structure” shall be construed as if followed by the words “or part thereof.”

Section 13. Section 175-92, entitled “Terms Defined,” of Chapter 175 of the Village Code is hereby further amended to delete therefrom the following definitions: “JUNKYARD, “ABATTOIR,” “SANATORIUM,” “TOURIST CAMP,” and “TRAILER OR CAMP CAR.”

Section 14. Section 175-96, entitled “Penalties for Offenses,” of Chapter 175 of the Village Code is hereby amended to read in its entirety as follows:

“§175-96. Penalties for Offenses.

Any and every violation of or failure to comply with any provision of this Chapter of the Code of the Village of Baxter Estates, shall be deemed a violation, punishable as follows: for a conviction of a first offense, by a fine not more than five hundred dollars (\$500), or imprisonment for a period not to exceed fifteen days, or both; for a conviction of a second offense, both of which were committed within a period of five years, by a fine not less than five hundred dollars (\$500), nor more than one thousand dollars (\$1,000), or imprisonment for a period not to exceed fifteen days, or both; and, for a

conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine not less than one thousand dollars (\$1,000), nor more than three thousand dollars (\$3,000), or imprisonment for a period not to exceed fifteen days, or both. Each week's continued violation shall constitute a separate additional violation hereunder. For any and every violation hereunder, each of the owner, general agent or contractor of a building or premises where any such violation has been committed, or shall exist, and each of the lessee or tenant of an entire building or entire premises where any such violation has been committed or shall exist, and each of the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part any such violation has been committed or shall exist, and each of the general agent, architect, builder, contractor or any other person who knowingly commits, takes part or assists in any such violation, or who maintains any building or premises in which any such violation shall exist, shall be liable hereunder with respect to such violation."

Section 15. Effective Date.

This local law shall take effect immediately.

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