

ORDINANCE NO. 2024-\_\_\_\_\_

**AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING APPENDIX A, LAND DEVELOPMENT REGULATIONS, ARTICLE II, ZONING, SECTION 2.05.06, "HEIGHT REGULATIONS," OF THE CODE OF ORDINANCES; AMENDING THE ALLOWED EXCEPTIONS TO THE THIRTY-FIVE FOOT HEIGHT LIMITATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, in 2006, the City incorporated into its Charter a thirty-five foot height regulation; and

**WHEREAS**, the Charter Amendment incorporated the City's land development regulation treatment of height and utilized same to continue certain exceptions from the thirty-five foot height limitation; and

**WHEREAS**, recent development has spurred discussion about these exceptions to the thirty-five foot height limitation; and

**WHEREAS**, the City Commission adopted a moratorium on development approvals utilizing the exceptions to the thirty-five foot height limitation to consider revisions; and

**WHEREAS**, after hearing from members of the public and conducting workshops of the Commission and Planning and Architectural Review Board, the City Commission requested a proposed amendment to the exceptions to the height limitations; and

**WHEREAS**, the primary purpose of this amendment is to clarify the existing exceptions to the height limitation and ensure the exceptions do not undermine the rule; and

**WHEREAS**, after receiving a recommendation from the Planning and Architectural Review Board and taking public comment, the City Commission has determined that this Ordinance is in the best interest of the health, safety, and welfare of the City of Flagler Beach residents, businesses, and guests.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA THAT:**

**SECTION ONE. Amendment of Code.** Section 2.05.06, "Height Regulations," of the Code of Ordinances is Amended as follows (Note: underline text indicates additions, ~~strikethrough~~ text indicates deletions).

45 **Sec. 2.05.06. Height regulations.**

46 Section 2.05.06.1 *Building height.*

47 Roof height shall not exceed thirty-five (35) feet above the finished grade as described  
48 herein.

49 Section 2.05.06.2 *Building height measurement.*

50 For purposes of this section, building height is defined as Measured as the vertical  
51 distance of a building measured from the finished grade at the center of the front of the  
52 building to:

- 53 1. The highest point of the roof surface for a flat roof.
- 54 2. To the deck line of a mansard roof.
- 55 3. To the mean height level between eaves and ridge for gable, hip and gambrel  
56 roofs.

57 Finished grade, for the purpose of measuring building height, is hereby defined as the  
58 greater of:

- 59 (a) The average natural grade along the front of the building.
- 60 (b) The minimum required finished floor elevation, if in a flood zone; or
- 61 (c) The highest allowable grade, defined as the average grade of adjacent  
62 developed lots or the minimum grade necessary to provide positive drainage.

63 Section 2.05.06.3 *Maximum number of stories.*

64 No building shall be permitted to have more than three (3) stories. See Section 6.02.04  
65 for height restrictions in Palma Vista and Venice Park Subdivisions.

66 Section 2.05.06.4 *General application.*

67 No building or structure shall have an aggregate height of a greater number of feet; than  
68 is permitted in the district in which such building or structure is located except as noted  
69 in Section 2.05.06.5.

70 Section 2.05.06.5 *Permitted exceptions to ~~height regulations~~ the thirty-five foot limitation.*

71 1. Within non-residential zoning districts, additional height shall be allowed for  
72 ornamental spires, towers, and belfries that are not designed or used for human  
73 occupancy provided the overall proposed height of the architectural feature does not  
74 exceed ten (10) feet above the lowest point of contact of the architectural feature with  
75 the roof or forty-five (45) feet above the finished grade as measured at the center of the  
76 front of the building, whichever is less and the cumulative area of all architectural  
77 features allowed pursuant to this exception does not exceed fifteen percent (15%) of the  
78 gross floor area of the uppermost story of the building.

79 2. Within non-residential zoning districts, additional height shall be allowed for  
80 mechanical equipment incorporated into the building including but not limited to  
81 elevator and stairwell bulkheads, water towers, gas tanks, communications equipment,  
82 and air conditioning units provided such mechanical equipment does not exceed eight

(8) feet in height from the lowest point of contact of the equipment with the roof or forty-nine feet above the finished grade as measured at the center of the front of the building, whichever is less.

Mechanical equipment allowed pursuant to this exception shall be set back from the nearest edge of the roof so that such equipment is behind the imaginary plane which is drawn at a forty-five degree angle commencing from the nearest junction of the wall of the building with the roof and sloping upward and inward toward the center of the building

3. Additional height shall be allowed for parapet walls necessary to screen mechanical equipment located on the roof provided such parapet walls do not exceed six (6) feet in height from the lowest point of contact with the roof or forty-nine (49) feet above the finished grade as measured at the center of the front of the building, whichever is less.

Screening parapet walls for which the highest point is above thirty-five feet from the finished grade as measured at the center of the front of the building shall be set back from the edge of the roof so that such equipment is behind the imaginary plane which is drawn at a forty-five degree angle commencing from the nearest junction of the wall of the building with the roof and sloping upward and inward toward the center of the building

4. An applicant intending to utilize these height allowances shall submit plans with sufficient detail to establish compliance with this section.

#### 2.05.06.6 Human occupancy above thirty-five feet.

In non-residential zoning districts, occupiable spaces shall be allowed above thirty-five feet subject to the following limitations as follows:

1. As necessary for maintenance of the structure and fixtures and for emergency egress or ingress from or to the building;
2. For gathering spaces, amenities, and other recreation areas, provided all of the following standards are met:
  - a. The floor level for such gathering space, amenity, or other recreation area is no greater than thirty-five feet.
  - b. Such areas cumulatively do not take up more than fifty (50%) of the total roof area of the building;
  - c. All such areas are designed, constructed, and operated to protect both the users of the space and those at ground level from any hazards that could be caused by such rooftop use;
  - d. Any such area shall not be fully enclosed; provided, however, partial walls and transparent drop curtains may be used for protection from the elements;
  - e. Partial walls to delineate and protect gathering spaces, amenity, or other recreational areas may be constructed to a height not to exceed six feet and shall be set back from the edge of the roof so that such equipment is behind the imaginary plane drawn at a forty-five degree angle from the nearest

junction of the wall of the building with the roof and sloping upward and inward toward the center of the building;

- f. Roofs or shades over any such area shall not exceed fourteen (14) feet above the lowest point of contact of the roof or shade support with the building roof or forty-nine feet above the finished grade as measured at the center of the front of the building, whichever is less and shall be set back from the edge of the roof so that all portions of such roof or shade is behind the imaginary plane measured at a forty-five degree angle from the nearest junction of the wall of the building with the building roof and sloping upward and inward toward the center of the building.

3. An applicant intending to utilize this additional height allowance shall submit plans with sufficient detail to show compliance with this section.

~~With the exception of residential uses, chimneys, cooling towers, elevators, bulkheads, fire towers, gas tanks, steeples, water towers, ornamental towers or spires, communications, radio or television towers or necessary mechanical appurtenances, may be erected as to their height in accordance with existing or hereafter adopted ordinances of the city, provided no tower other than a church spire, tower of public building or commercial communications tower shall exceed the height regulations by more than forty (40) percent.~~

~~No tower shall be used as a place of habitation or for tenant purposes.~~

#### Section 2.05.06.7 Signs.

No sign, nameplate, display or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank or other structure which extends above the height limitations, except for city-owned structures.

#### Section 2.05.06.68 Verification of building height.

~~Building height verification, if required, shall be provided prior to roof framing inspection.~~

**SECTION TWO. Ordinances in Conflict.** All ordinances or parts thereof, which may be determined to be in conflict herewith, are hereby repealed and superseded by this Ordinance, to the extent of such conflict.

**SECTION THREE. Severability.** If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

**SECTION FOUR. Codification.** It is the intent of the City Commission of the City of Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance.

**SECTION FIVE. Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

163 ADOPTED by the City Commission of the City of Flagler Beach, Florida, this \_\_\_\_ day of  
164 \_\_\_\_\_, 2024.

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166 City of Flagler Beach, Florida

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168 By: \_\_\_\_\_

169 Patti King, Mayor

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171 Attest: \_\_\_\_\_

172 Penny Overstreet, City Clerk

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