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2 **ORDINANCE NO. 2024-16**

3
4 **AN ORDINANCE OF THE CITY OF FLAGLER BEACH,**
5 **FLORIDA, AMENDING APPENDIX A, LAND**
6 **DEVELOPMENT REGULATIONS, ARTICLE II, ZONING,**
7 **SECTION 2.05.06, “HEIGHT REGULATIONS,” OF THE**
8 **CODE OF ORDINANCES; AMENDING THE ALLOWED**
9 **EXCEPTIONS TO THE THIRTY-FIVE FOOT HEIGHT**
10 **LIMITATION; PROVIDING FOR CONFLICTS;**
11 **PROVIDING FOR SEVERABILITY; AND PROVIDING FOR**
12 **AN EFFECTIVE DATE**

13
14 **WHEREAS**, in 2006, the City incorporated into its Charter a thirty-five foot height
15 regulation; and

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

20
21 **WHEREAS**, recent development has spurred discussion about these exceptions to the
22 thirty-five foot height limitation; and

23
24 **WHEREAS**, the City Commission adopted a moratorium on development approvals
25 utilizing the exceptions to the thirty-five foot height limitation to consider revisions; and

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

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

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

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

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42 **SECTION ONE. Amendment of Code.** Section 2.05.06, “Height Regulations,” of the Code of
43 Ordinances is Amended as follows (Note: underline text indicates additions, ~~strikethrough~~ text
44 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 parapets, 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 eight (8) feet above the lowest point of contact of the architectural feature with
75 the roof or forty-five (43) feet above the finished grade as measured at the center of the
76 front of the building, whichever is less and provided architectural features allowed
77 pursuant to this exception, other than a parapet, does not exceed fifty percent (50%) of
78 the linear length of the building façade upon which it is located.

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 stairwell and elevator bulkheads, water towers, gas tanks, communications equipment,
82 and air conditioning units provided such mechanical equipment does not exceed eight

83 (8) feet in height from the lowest point of contact of the equipment with the roof or forty-
84 three (43) feet above the finished grade as measured at the center of the front of the
85 building, whichever is less.

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

91 3. Within non-residential zoning districts, additional height shall be allowed for
92 screening walls necessary to screen mechanical equipment located on the roof provided
93 such parapet walls do not exceed six (6) feet in height from the lowest point of contact
94 with the roof or forty-one (41) feet above the finished grade as measured at the center of
95 the front of the building, whichever is less.

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

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

103 2.05.06.6 Human occupancy above thirty-five feet prohibited.

104 No roof located at or above (35) thirty-five feet shall be utilized for human
105 occupancy or habitation except as necessary for maintenance or emergencies. No
106 exceptions to the height restrictions contained herein shall be made for any equipment
107 or feature needed as a result of rooftop access or uses of a building even if its roofline is
108 below thirty-five (35) feet.

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

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

117 Section 2.05.06.7 Signs.

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

121 Section 2.05.06.68 Verification of building height.

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

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

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

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

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

137 ADOPTED by the City Commission of the City of Flagler Beach, Florida, this ____ day of
138 _____, 2024.

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City of Flagler Beach, Florida

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By: _____

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Patti King, Mayor

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Attest: _____

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Penny Overstreet, City Clerk

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