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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

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 set back from the
87 nearest edge of the roof so that such equipment is behind the imaginary plane which is
88 drawn at a forty-five degree angle commencing from the nearest junction of the wall of
89 the building with the roof and sloping upward and inward toward the center of the
90 building

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

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

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

106 1. As necessary for maintenance of the structure and fixtures and for emergency egress
107 or ingress from or to the building;

108 2. For gathering spaces, amenities, and other recreation areas, provided all of the
109 following standards are met:

110 a. The floor level for such gathering space, amenity, or other recreation area is
111 no greater than thirty-five feet.

112 b. Such areas cumulatively do not take up more than fifty (50%) of the total
113 roof area of the building;

114 c. All such areas are designed, constructed, and operated to protect both the
115 users of the space and those at ground level from any hazards that could be
116 caused by such rooftop use;

117 d. Any such area shall not be fully enclosed; provided, however, partial walls
118 and transparent drop curtains may be used for protection from the elements;

119 e. Partial walls to delineate and protect gathering spaces, amenity, or other
120 recreational areas may be constructed to a height not to exceed six feet and
121 shall be set back from the edge of the roof so that such equipment is behind
122 the imaginary plane drawn at a forty-five degree angle from the nearest

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

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

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

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

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

143 Section 2.05.06.7 Signs.

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

147 Section 2.05.06.68 Verification of building height.

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

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

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

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

161 **SECTION FIVE. Effective Date.** This Ordinance shall become effective immediately upon its
162 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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City of Flagler Beach, Florida

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By: _____

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Patti King, Mayor

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171 Attest: _____

172 Penny Overstreet, City Clerk

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