



Agenda MEMORANDUM

Planning Department

To: City Council
Via: Jay Boodheshwar, City Manager
From: Erica J. Martin, Planning Director
Date: June 6, 2022

Regular Meeting Date: June 13, 2022

SUBJECT:

Discussion related to the measurement of maximum building height.

SUMMARY:

City Council expressed their desire to discuss the definition and method of measurement for maximum height in various zoning districts throughout the city.

BACKGROUND:

On March 4, 2020 City Council adopted Ordinance 2020-14463 amending Chapter 16 - Construction, Rehabilitation and Property Maintenance Regulations, Chapter 44 – General Provisions, relating to Definitions and the residential zoning district standards in Chapter 58 and to approve a new Section 16-116 in Chapter 16 in order to: maintain a compliant Floodplain Management Ordinance, provide relief from the variance process for historic structures, comply with technical and administrative higher regulatory standards to the Florida Building Code and provide consistent language regulating flood elevation requirements through zoning codes. The amendment removed all references to FEMA as an elevation and provided a definitive regulation for height elevations single family zoning districts, including the RE - Rural Estates District, R1-E - Residence District, R1-15A – Residence District, R1-15 – Residence District, R1-10 – Residence District, R1-10A – Residence District, and R1-7.5 – residence District):

Sec. 44-8. Definitions.

The following words, terms and phrases, when used in this land development code, will have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Building height in commercial zoning districts, including HC, C1, C1-A, C2, C2-A, C3, C4, I, M, O, PD, and D, means the vertical distance measured from the FEMA 1st habitable floor height requirement to the peak of the roof or the highest point of any appurtenance attached to the roof.

Building height in multifamily residential districts, including R3-6, R3-12, R3T-12, R3-15, R3T-18, R3-18, R3-15CS, and R3-15MO, means the vertical distance measured from the greater of:

- (1) The lowest floor elevation as required by article III of chapter 16 for the first habitable floor height requirement;*

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- (2) 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;*
 - (3) 18 inches above the elevation of the average crown of the adjacent roads; or*
 - (4) The average natural grade (the natural contours of a land area generally unaltered by human intervention);*
- to the highest point of a flat roof, the deck line of a mansard roof, or the mean height between the eaves and ridge of a gable, hip or gambrel roof.*

Building height in single-family residential districts, including RE, R1-E, R1-15A, R1-15, R1-10, R1-10A, and R1-7.5, means the vertical distance measured from the greater of:

- (1) The lowest floor elevation as required by article III of chapter 16 for the first habitable floor height requirement;*
 - (2) 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;*
 - (3) 18 inches above the elevation of the average crown of the adjacent roads; or*
 - (4) The average natural grade (the natural contours of a land area generally unaltered by human intervention);*
- to the highest point of the roof surface or parapet.*

Section 56-39 of the Code of Ordinances provides exceptions to the maximum height limitations.

On June 16, 2021 City Council adopted Ordinance 2021-14664 amending Chapter 44, General Provisions; Section 44-8, Definitions; Chapter 46, Administrative Procedures and Enforcement, Article II, Administrative Procedures, Section 46-37, Variances to zoning requirements; and Chapter 56, Supplemental Standards, Article II, Standards applicable to all districts, Section 56-39, Height requirements, exceptions thereto, of the Code of Ordinances, City of Naples, pursuant to Text Amendment 20-T1 to clarify height limits for commercial districts. Among other changes, the Ordinance amended Section 56-39 to accomplish the following:

- Limit building height in commercial zoning districts (including buildings in Planned Developments that are exclusively residential) to three (3) floors and 42 feet to the peak of the roof, measured from the Base Flood Elevation plus one (1) foot as required by the Florida Building Code with no exceptions.
- Employ the more technically correct phrase “Base Flood Elevation plus one (1) foot as required by the Florida Building Code” as the base from which the height of 42 feet is measured in place of the less technically correct phrase “1st floor FEMA elevation.”
- Recognize that some buildings have previously been approved by the city with heights in excess of three (3) floors and 42 feet, and that those specific buildings, due to the operation of equitable estoppel, can be built to a height only as high as the height specifically previously approved for such buildings.

Sec. 56-39. Height limitations, exceptions thereto.

- (a) Chimneys, elevator shafts or overruns, stair tower roofs, rooftop heating, ventilating and air conditioning equipment, ornamental screening for such equipment, energy producing*

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devices such as solar panels and wind turbines and architectural embellishments may extend seven feet above the peak of the building roof; however, in no case shall the maximum commercial building height limit of 42 feet as measured from the required first floor elevation be exceeded to accommodate such structure or equipment. Rooftop heating, ventilating and air conditioning equipment and ornamental screening for such equipment are not exempt in single-family residence districts (see fences, walls and screening regulations). Flat roof areas that are at or above the maximum allowable height or enclosed by a railing, parapet, architectural embellishment or ornamental screening that extends above the maximum allowable height may not be made accessible by means of a fixed ladder, stairway or elevator; however, hatches may be provided for maintenance purposes.

- (b) In single-family residence districts, exemptions to the maximum height limitation may only extend a maximum of five feet above the maximum height limitation in single-family zoning districts.*
- (c) For any building, where allowed, the aggregate area of the bases of architectural embellishments and ornamental screening shall not exceed ten percent of the building's roof area.*
- (d) In commercial zoning districts as defined in section 44-8, no building shall exceed three floors and a building height of 42 feet to the peak of the roof or any appurtenances, whichever is higher, measured from the first floor, base flood elevation plus one foot as required by the Florida Building Code, and no exceptions, [including, but not limited to, exceptions such as listed in subsection (a) above], shall be allowed in such districts.*
- (e) Due to the application of the doctrine of equitable estoppel, subsection 56-39(d) shall not apply to a building heretofore constructed or to be constructed or reconstructed, whether or not a site plan or building permit for any such building or buildings has been issued or applied for, where the city affirmatively approved, or a court ratified, prior to when this Code provision became effective, height limits that would be applicable to such building with specific height limits that exceed the height limits set forth in subsection 56-39(d) above, and such approval has not expired, been repealed, replaced or amended to delete the granted height provision. Neither this subsection 56-39(e) nor subsection 56-39(a) shall be used to increase height limits for a building in excess of height limits already approved by the city prior to this Code provision becoming effective.*

Recently, City Council has expressed an interest in discussing the definition and method of measurement for maximum height in various zoning districts throughout the city. To aide in this discussion, Staff looked at the definitions and methods of measurement of maximum building height in nearby jurisdictions, including Collier County and Marco Island.

EXAMPLES OF OTHER JURISDICTIONS' REGULATIONS FOR MAXIMUM BUILDNG HEIGHT:

Collier County Land Development Code

1.08.02 Definitions

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Building, actual height of: The vertical distance from the average centerline elevation of the adjacent roadways to the highest structure or appurtenances without the exclusions of [section 4.02.01](#).

Building, zoned height of: The vertical distance from the first finished floor to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs. Where minimum floor elevations have been established by law or permit requirements, the building height shall be measured from such required minimum floor elevations. (See [section 4.02.01](#), Exclusions from height limits, and off-street parking within a building.) Required minimum floor elevations shall be in conformance with the Florida Building Code and Collier County Floodplain Management Ordinance and, if necessary, FDEP requirements for minimum habitable first-floor structural support. Rooftop recreational space and accessory facilities are also exempted from the limitations established for measuring the height of buildings. See Figure 3

4.02.01 Dimensional Standards for Principal Uses in Base Zoning Districts

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D. Exemptions and exclusions from design standards.

1. The height limitations contained in LDC subsection 4.02.01 A. Table 2. Building Dimension Standards for Principal Uses in Base Zoning Districts do not apply to infrastructure in support of the **building**, such as mechanical penthouses, elevator shafts, stair shafts, mechanical equipment, mechanical screening, spires, belfries, cupolas, flagpoles, antennas, communications **towers**, water tanks, fire **towers** when operated by a branch of government, ventilators, chimneys, feed storage **structures**, silos, windmills, **airport** control **towers**, or other appurtenances placed above the roof level and not intended for human occupancy or for commercial purposes as provided below:
 - a. Structural elements shall be no higher than necessary to accomplish the purpose it is intended to serve.
 - b. The aggregate area of **structures** or appurtenances shall not exceed one-third the area of the supporting roof.
 - c. Where this section conflicts with section 5.05.08, the provisions of section 5.05.08 will control.
 - d. The heights of these **structures** or appurtenances thereto shall not exceed any height limitations prescribed by the Federal Aviation Agency or **airport** zoning regulations within the flight approach zone of **airports**. (See section 2.03.07 C.).

Marco Island

Sec. 30-10. Definitions.

- (c) Definitions enumerated. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building, height of means the overall height of a building as measured from the required flood elevation or average sidewalk elevation, whichever is higher, to (1) the top of the roof for flat roofs, (2) the deck lines for mansard roofs, or (3) the average height between eaves and ridge for gable, hip and gambrel roofs. For properties for which there is no FEMA finished floor elevation required, the starting point shall be the greater of the following:

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- (1) *Eighteen inches above the state department of environmental protection requirement for the first habitable floor structural support.*
- (2) *Eighteen inches above the elevation of the average crown of the adjacent road(s); or*
- (3) *The average natural grade (the natural contours of a land area generally unaltered by man's intervention).*

RECOMMENDED ACTION:

City Council discuss the regulations related to the measurement of maximum building height and provide direction to Staff.