

**ORDINANCE 2024-**

**AN ORDINANCE FOR THE PURPOSE OF AMENDING REGULATIONS RELATING TO FLOODPLAIN MANAGEMENT; AMENDING SECTION 44-8, DEFINITIONS, CHAPTER 44, GENERAL PROVISIONS; AND AMENDING SECTIONS RELATING TO MINIMUM YARDS AND MAXIMUM HEIGHT THROUGHOUT CHAPTER 58, ZONING, SECTIONS 58-56, 58-58, 58-86, 58-88, 58-116, 58-118, 58-146, 58-148, 58-176, 58-178, 58-206, 58-208, 58-236, 58-238, 58-298, AND 58-328, OF THE CITY OF NAPLES CODE OF ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER PROVISION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 44, Section 44-8, of the Code of Ordinances provides the definition of building height; and

**WHEREAS**, Chapter 58, Sections 58-56, 58-58, 58-86, 58-88, 58-116, 58-118, 58-146, 58-148, 58-176, 58-178, 58-206, 58-208, 58-236, 58-238, of the Code of Ordinances provide minimum yard and maximum building height regulations for the RE, R1-E, R1-15A, R1-15, R1-10, R1-10A, and R1-7.5 Residence Districts; and

**WHEREAS**, Chapter 58, Sections 58-298 and 58-328 of the Code of Ordinances provide maximum building height regulations for the R3-12 and R3T-12 Multifamily Districts; and

**WHEREAS**, the Planning Advisory Board, serving as the local planning agency and following an advertised public hearing on January 10, 2024, considered the public input, the recommendation of staff, and recommended by a vote of 7 to 0 that Text Amendment 24-T1 be approved finding that changes proposed are consistent with the Comprehensive Plan; and

**WHEREAS** an advertisement of the public hearing for adoption of the proposed ordinance was published in the Naples Daily News on the \_\_\_\_ day of \_\_\_\_, 2023 as required by Section 166.041, Florida Statutes and the City of Naples Code of Ordinances; and

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA:**

**Section 1.** That Sections 44-8, Definitions, of Chapter 44, General Provisions, of the Code of Ordinances of the City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Sec. 44-8. Definitions.**

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*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 the Florida Building Code 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 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.

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

*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 the Florida Building Code 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.

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

**Section 2.** That Section 50-241, Architectural and landscape architectural design standards, of Article IX, Design Review Standards, of Chapter 50, Development and Design Standards, of the Code of Ordinances of the City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

**Section 3.** That Subsection (1) of paragraph (d), Building area, of Section 58-1134, Specific provisions, of Division 6, 5<sup>th</sup> Avenue South Special Overlay District, of Article III, Special Overlay Districts, of Chapter 58, Zoning, of the Code of Ordinances of the City of Naples, is hereby amended to read as follows (with underlining indicating additions and ~~strikethrough~~ indicating deletions):

## **Chapter 58 – ZONING**

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## **ARTICLE II. – ZONING DISTRICTS**

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## **DIVISION 2 – RURAL ESTATES DISTRICT**

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### **Sec. 58-56. Minimum Yards.**

Minimum yards in the RE district are as follows:

- (1) Front yard: 75 feet.
- (2) Side yard: 15 feet. This side yard applies to the first 15 feet of vertical height measured from the greater of:
  - a. The lowest floor elevation as required by the Florida Building Code article III of chapter 16 for the first habitable floor height requirement;
  - b. 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
  - c. 18 inches above the elevation of the average crown of the adjacent roads; or

- d. The average natural grade.

Additional height must remain within a 12:12 slope beyond the initial setback.

- (3) Rear yard: 75 feet.

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#### **Sec. 58-58. Maximum height.**

Maximum height of structures in the RE district is 30 feet, measured from the greater of:

- (1) The lowest floor elevation as required by the Florida Building Code 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 (natural contours of a land area generally unaltered by human intervention).

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

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#### **DIVISION 3 – R1-E RESIDENCE DISTRICT**

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#### **Sec. 58-86. Minimum yards.**

Minimum yards in the R1-E district are as follows:

- (1) Front yard: 50 feet.
- (2) Side yard: 15 feet. This side yard applies to the first 15 feet of vertical height measured from the greater of:
  - a. The lowest floor elevation as required by the Florida Building Code article III of chapter 16 for the first habitable floor height requirement;
  - b. 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
  - c. 18 inches above the elevation of the average crown of the adjacent roads; or

- d. The average natural grade.

Additional height must remain within a 12:12 slope beyond the initial setback. Guesthouses and staff residences must meet the above setback plus 0.5 feet for every foot of height above the first 15 feet of vertical height as measured above.

- (3) Rear yard: 35 feet.

- a. Rear yards abutting a public alley may be reduced to 15 feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding 100 square feet in area.
- b. Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than 15 feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.

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#### **Sec. 58-88. Maximum height.**

Maximum height of structures in the R1-E district is 35 feet, measured from the greater of:

- (1) The lowest floor elevation as required by ~~the Florida Building Code 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 (natural contours of a land area generally unaltered by human intervention).

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

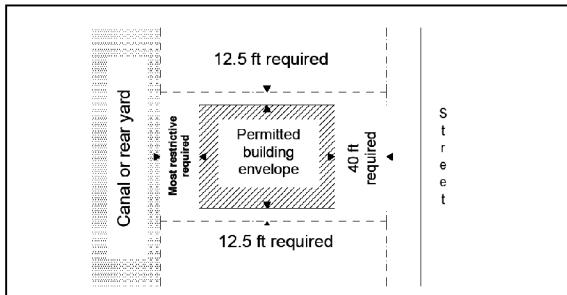
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#### **DIVISION 4 – R1-15A RESIDENCE DISTRICT**

#### **Sec. 58-116. Minimum yards.**

Minimum yards in the R1-15A district are as follows:

- (1) *Front yard:* 40 feet.



**Figure 1. Illustration of Required Setbacks**

(2) *Side yard:* 12½ feet. This side yard applies to the first 12½ feet of vertical height measured from the greater of:

- The lowest floor elevation as required by ~~the Florida Building Code article III of chapter 16~~ for the first habitable floor height requirement;
- 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
- 18 inches above the elevation of the average crown of the adjacent roads; or
- The average natural grade (natural contours of a land area generally unaltered by human intervention).

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#### **Sec. 58-118. Maximum height.**

Maximum height in the R1-15A district is 30 feet, measured from the greater of:

- The lowest floor elevation as required by ~~the Florida Building Code article III of chapter 16~~ for the first habitable floor height requirement;
- 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
- 18 inches above the elevation of the average crown of the adjacent roads; or
- The average natural grade (natural contours of a land area generally unaltered by human intervention).

Architectural embellishments may extend five feet above the maximum height requirement.

*\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.*

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## DIVISION 5 – R1-15 RESIDENCE DISTRICT

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### **Sec. 58-146. Minimum yards.**

Minimum yards in the R1-15 district are as follows:

- (1) Front yard: 40 feet.
- (2) Side yard: Ten feet. This side yard applies to the first 15 feet of vertical height measured from the greater of:
  - a. The lowest floor elevation as required by ~~the Florida Building Code article III of chapter 16~~ for the first habitable floor height requirement;
  - b. 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
  - c. 18 inches above the elevation of the average crown of the adjacent roads; or
  - d. The average natural grade.

Additional height must remain within a 12:12 slope beyond the initial setback.

- (3) Rear yard: 30 feet.
  - a. Rear yards abutting a public alley may be reduced to 15 feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding 100 square feet in area.
  - b. Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than 15 feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.
- (4) On lots which front on more than one street, one of the front yards may be reduced to 35 feet. The property owner may choose which setback to reduce, subject to the approval of the city manager.

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### **Sec. 58-148. Maximum height.**

Maximum height of structures in the R1-15 district is 30 feet, measured from the greater of:

- (1) The lowest floor elevation as required by ~~the Florida Building Code 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 (natural contours of a land area generally unaltered by human intervention).

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

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## **DIVISION 6 – R1-10 RESIDENCE DISTRICT**

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### **Sec. 58-176. Minimum yards.**

Minimum yards in the R1-10 district are as follows:

- (1) Front yard: 30 feet.
- (2) Side yard: 7½ feet. This side yard applies to the first 15 feet of vertical height measured from the greater of:
  - a. The lowest floor elevation as required by the Florida Building Code article III of chapter 16 for the first habitable floor height requirement;
  - b. 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
  - c. 18 inches above the elevation of the average crown of the adjacent roads; or
  - d. The average natural grade.

Additional height must remain within a 12:12 slope beyond the initial setback.

- (3) Rear yard: 25 feet.
  - a. Rear yards abutting a public alley may be reduced to 15 feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding 100 square feet in area.
  - b. Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than 15 feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.
- (4) On lots which front on more than 1 street, 1 of the front yards may be reduced to 25 feet. The property owner may choose which setback to reduce, subject to the approval of the city manager.

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## **Sec. 58-178. Maximum height.**

Maximum height of structures in the R1-10 district is 30 feet, measured from the greater of:

- (1) The lowest floor elevation as required by ~~the Florida Building Code 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 (natural contours of a land area generally unaltered by human intervention).

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

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## **DIVISION 7 – R1-10A RESIDENCE DISTRICT**

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### **Sec. 58-206. Minimum yards.**

Minimum yards in the R1-10A district are as follows:

- (1) Front yard: 30 feet; 40 feet for lots on Crayton Road and Park Shore Drive.
- (2) Side yard: 10 feet. This side yard applies to the first 15 feet of vertical height measured from the greater of:
  - a. The lowest floor elevation as required by ~~the Florida Building Code article III of chapter 16~~ for the first habitable floor height requirement;
  - b. 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
  - c. 18 inches above the elevation of the average crown of the adjacent roads; or
  - d. The average natural grade.

Additional height must remain within a 12:12 slope beyond the initial setback.

- (3) Rear yard: 25 feet.
  - a. Rear yards abutting a public alley may be reduced to 15 feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding 100 square feet in area.
  - b. Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than 15 feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.

- (4) On lots which front on more than one street, one of the front yards may be reduced to 25 feet, except that corner lots on Crayton Road and Park Shore Drive must maintain at least a 35-foot front yard on one of those roads. The property owner may choose which setback to reduce, subject to the approval of the city manager.

...Sec. 58-208. Maximum height.

Maximum height of structures in the R1-10A district is 30 feet, measured from the greater of:

- (1) The lowest floor elevation as required by ~~the Florida Building Code 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 (natural contours of a land area generally unaltered by human intervention).

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

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## DIVISION 8 – R1-7.5 RESIDENCE DISTRICT

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### Sec. 58-236. Minimum yards.

Minimum yards in the R1-7.5 district are as follows:

- (1) Front yard: 25 feet.
- (2) Side yard: 7½ feet. This side yard applies to the first 15 feet of vertical height measured from the greater of:
  - a. The lowest floor elevation as required by ~~the Florida Building Code article III of chapter 16~~ for the first habitable floor height requirement;
  - b. 18 inches above the state department of environmental protection requirement for the first habitable floor structural support;
  - c. 18 inches above the elevation of the average crown of the adjacent roads; or
  - d. The average natural grade.

Additional height must remain within a 12:12 slope beyond the initial setback.

- (3) Rear yard: 20 feet.

- a. Rear yards abutting a public alley may be reduced to 15 feet for garages and carports that have direct vehicular access from the alley or utility sheds not exceeding 100 square feet in area.
- b. Unroofed pools or pools enclosed only with open mesh screening may be located in rear yard setback areas but may not be closer than 15 feet to any rear lot line, provided that no pool or pool enclosure shall be placed within a utility or drainage easement.

(4) On lots which front on more than one street, one of the front yards may be reduced to 20 feet. The property owner may choose which setback to reduce, subject to the approval of the city manager.

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#### **Sec. 58-238. Maximum height.**

Maximum height of structures in the R1-7.5 district is 30 feet, measured from the greater of:

- (1) The lowest floor elevation as required by ~~the Florida Building Code 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 (natural contours of a land area generally unaltered by human intervention).

~~\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.~~

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#### **DIVISION 10 – R3-12 MULTIFAMILY DISTRICT**

#### **Sec. 58-298. Maximum height.**

Maximum height of structures in the R3-12 district is 30 feet, except that the development on any R3-12 property immediately adjacent to, or across an alley from, any R1 zoned property will be limited to two stories in height. For the purposes of this section, height will be measured from the greatest of the following:

- (1) The lowest floor elevation as required by ~~the Florida Building Code article III of chapter 16~~ for the first habitable floor height requirement;
- (2) Eighteen inches above the state department of environmental protection requirement for the first habitable floor structural support;

- (3) Eighteen inches above the elevation of the average crown of the adjacent roads; or
- (4) The average grade 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.

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

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## DIVISION 11 – R3T-12 MULTIFAMILY DISTRICT

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### Sec. 58-328. Maximum height.

Maximum height of structures in the R3T-12 district is 30 feet, except that the development on any R3T-12 property immediately adjacent to, or across an alley from, any R1 zoned property shall be limited to two stories in height. For the purpose of this section, height will be measured from the greatest of the following:

- (1) The lowest floor elevation as required by the Florida Building Code article III of chapter 16 for the first habitable floor height requirement;
- (2) Eighteen inches above the state department of environmental protection requirement for the first habitable floor structural support;
- (3) Eighteen inches above the elevation of the average crown of the adjacent roads; or
- (4) The average grade 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.

\* In the case where the lowest floor elevation as determined by the May 16, 2012 Federal Emergency Management Agency Flood Insurance Rate Maps (FIRM) is higher than the lowest floor elevation required by the current FIRM, the applicant can choose to utilize the 2012 elevation for the first habitable floor. If the higher 2012 elevation is chosen, maximum building height will be measured from this elevation.

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**Section 2.** That if any word, phrase, clause, subsection, or section of this ordinance is for any reason held unconstitutional, invalid, or ineffective, the same will not affect the validity of any remaining portions of this ordinance. In such event, the pre-existing word, phrase, clause, subsection, or section, will be revived.

**Section 3.** That all sections or parts of sections of the Code of Ordinances, City of Naples, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 4.** That this ordinance shall take effect immediately upon adoption at second reading.

**APPROVED AT FIRST READING AND PUBLIC HEARING THIS 22<sup>ND</sup> DAY OF FEBRUARY, 2024.**

**SCHEDULED FOR SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THE 6<sup>TH</sup> DAY OF MARCH, 2024.**

Attest:

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Patricia L. Rambosk, City Clerk

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Teresa Lee Heitmann, Mayor

Approved as to form and legality:

/s/ James Stokes, Esq.  
James Stokes, Interim Deputy City Attorney

Date filed with City Clerk:\_\_\_\_\_