



## CITY COMMISSION WORKSHOP MEETING AGENDA

Thursday, March 14, 2024 at 5:30 PM

City Commission Chambers – 105 S. 2ND Street, Flagler Beach, FL 32136

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ALL MEETING ITEMS WILL BE CONTINUED UNTIL MEETING IS COMPLETE.

1. **Call the meeting to order**
2. **Pledge of Allegiance followed by a moment of silence to honor our Veterans, members of the Armed Forces and First Responders**
3. **General Business**

[a.](#) Discussion regarding the Building Height Moratorium.

4. **Adjournment**

RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Commission makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a CD of the meeting for \$3.00 at the City Clerk's office. Copies of CDs are only made upon request. The City is not responsible for any mechanical failure of the recording equipment. In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at (386) 517-2000 ext 233 at least 72 hours prior to the meeting. The City Commission reserves the right to request that all written material be on file with the City Clerk when the agenda item is submitted.

**Sec. 2.05.06. Height regulations.***Section 2.05.06.1 Building height.*

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

*Section 2.05.06.2 Building height measurement.*

Measured as the vertical distance from the finished grade at the center of the front of the building to:

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

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

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

*Section 2.05.06.3 Maximum number of stories.*

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

*Section 2.05.06.4 General application.*

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

*Section 2.05.06.5 Permitted exception to height regulations.*

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.

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 2.05.06.6 Verification of building height.*

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

(Ord. No. 2005-14, § 2, 6-23-05)

ORDINANCE NO. 2023-05

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA ESTABLISHING A TEMPORARY MORATORIUM WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF FLAGLER BEACH ON ACCEPTANCE, REVIEW, PROCESSING, OR APPROVAL OF APPLICATIONS FOR DEVELOPMENT, SITE PLANS, ZONING APPROVALS, SPECIAL EXCEPTIONS, AND DEVELOPMENT ORDERS THAT WOULD ALLOW NEW DEVELOPMENT TO USE EXCEPTIONS TO THE THIRTY-FIVE FOOT HEIGHT LIMITATION FOR MECHANICAL AND ARCHITECTURAL ELEMENTS; DIRECTING STAFF TO STUDY AND DEVELOP LAND DEVELOPMENT CODE PROVISIONS AND OTHER RECOMMENDATIONS RELATED TO EXCEPTIONS TO THE THIRTY-FIVE FOOT HEIGHT LIMITATION FOR MECHANICAL AND ARCHITECTURAL ELEMENTS; PROVIDING FOR EXPIRATION AND EXTENSION OF THE MORATORIUM; PROVIDING STANDARDS FOR RELIEF FROM THE APPLICATION OF THE MORATORIUM; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

**WHEREAS**, the City is granted the authority, under Section 2(b), Art. VIII of the State Constitution, and Section 166.021, Florida Statutes, to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, in 2006 the electors of the City of Flagler Beach amended the City Charter to impose a thirty-five foot height limitation within the City; and

**WHEREAS**, said height limitation in the Charter provided that the thirty-five foot height limitation would apply as described in the City’s Land Development Code; and

**WHEREAS**, the City’s Land Development Code exempts from the definition of building height certain mechanical and architectural elements; and

**WHEREAS**, as development in Flagler County continues at a rapid pace, developers continue to find creative methods of maximizing density and intensity of uses; and

**WHEREAS**, in order to ensure the City’s Land Development Code regulations implement the will of the electors of the City as expressed in the Charter, the City Commission finds it necessary and appropriate to pause processing of new development applications for buildings that would make use of any exemption to the thirty-five foot height limitation; and

**WHEREAS**, it is the City’s intent that this moratorium be applicable only to new development that has not already received site plan approval and processing and issuance of building permits for development that has already received site plan approval is expressly exempted from this moratorium; and

47       **WHEREAS**, the City is not aware of any pending applications for new development that  
48 would make use of any exemption to the thirty-five foot height limitation; and  
49

50       **WHEREAS**, this Ordinance is adopted in good faith, is not discriminatory against any  
51 property owner, is of limited duration, and is appropriate to the development of the amendments  
52 of the City's Zoning Code; and  
53

54       **WHEREAS**, the City Commission finds this ordinance to be in the best interests of the  
55 public health, safety, and welfare of the citizens of Flagler Beach.  
56

57       **NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF FLAGLER**  
58 **BEACH, FLORIDA:**

59       **SECTION 1. RECITALS.** The foregoing recitals are hereby ratified and fully  
60 incorporated herein by reference as legislative findings of the City Commission of the City of  
61 Flagler Beach.  
62

63       **SECTION 2. TEMPORARY MORATORIUM.** Beginning on the effective date of this  
64 ordinance and continuing for a period of 180 days, a moratorium is hereby imposed upon the  
65 accepting, review, processing or approval of applications for development activities, including site  
66 plans, zoning approvals, special exceptions and development orders that would allow new  
67 development to use exceptions contained in the Land Development Code for mechanical and  
68 architectural elements of buildings to exceed thirty-five feet in height.  
69

70       **SECTION 3. APPLICABILITY AND EXCEPTION RELATED TO EXISTING**  
71 **USES.** Nothing herein shall be interpreted to cause a suspension or termination of a use identified  
72 in Section 2 which is lawfully existing as of the effective date of this Ordinance. Building permits  
73 shall be processed for properties upon which a site plan or other approval relying upon the  
74 exemptions from the height limitation for mechanical and architectural elements has already been  
75 granted by the City.  
76

77       **SECTION 4. EXPIRATION OF THE TEMPORARY MORATORIUM.** The  
78 temporary moratorium imposed by Section 2 of this Ordinance shall expire 180 days from the  
79 effective date of this ordinance, upon the adoption of an amendment to the Land Development  
80 Code implementing changes to the exemptions for mechanical and architectural elements, or upon  
81 the majority vote of the City Commission, whichever occurs earliest. If the City requires additional  
82 time to complete the enactment of amending zoning regulations applicable to the property subject  
83 to this moratorium, the City Commission may consider extending the moratorium through a  
84 subsequent ordinance providing the justification for the extension.  
85

86       **SECTION 5. RECOMMENDATIONS FOR LAND DEVELOPMENT CODE.** City  
87 staff is hereby directed to examine the current land use regulations and make recommendations to  
88 the City Commission and the Planning and Architectural Review Board related to updating the  
89 land use regulations applicable to exceptions from the height limitation for mechanical and  
90 architectural elements.  
91

**SECTION 6. ADMINISTRATIVE RELIEF PROCEDURE.**

(a) The City Commission may authorize exceptions to the moratorium imposed by this Ordinance when it finds, based upon substantial competent evidence presented to it, that deferral of action on an application for permit, development order, or other official action of the City for the duration of the moratorium would impose an extraordinary hardship on a landowner or petitioner.

(b) A request for an exception based upon extraordinary hardship shall be filed with the City Clerk, including a non-refundable fee of \$350.00 by the owner/petitioner, or the petitioner with the consent of the owner/petitioner, to cover processing and advertising costs, and shall include a recitation of the specific facts that are alleged to support the claim of extraordinary hardship.

(c) A public hearing on any request for an exception for extraordinary hardship shall be held by the City Commission at the first regular meeting of the City Commission that occurs after the expiration of the period for publication of notice of the request for an exception.

(d) Notice of filing of a request for an exception, and the date, time, and place of the hearing thereon shall be published once at least 7 days prior to the hearing in a newspaper of general circulation within the city limits of the City of Flagler Beach, Florida.

(e) In reviewing an application for an exception based upon a claim of extraordinary hardship, the City Commission shall consider, at a minimum, the following criteria:

- (1) The extent to which the applicant has, prior to the effective date of this Ordinance, received a permit or approval to conduct a use subject to this moratorium.
- (2) The extent to which the applicant has, prior to the effective date of this Ordinance, made a substantial expenditure of money or resources in reliance upon a permits or approvals of the City of Flagler Beach directly associated with a use subject to this moratorium.
- (3) Whether the moratorium will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable investment backed expectation on the real property that is affected by this Ordinance.

(f) At a minimum, the City Commission shall consider the following non-exclusive factors under the criteria set forth in subsection (e) above:

- (1) The history of the property;
- (2) The history of the commercial, business or any use on the property; and

(3) The location of the property.

(g) At the conclusion of the Public Hearing and after reviewing the evidence and testimony placed before it, the City Commission shall act upon the request either to approve, deny, or approve in part and deny in part the request made by the applicant.

**SECTION 7. SEVERABILITY.** It is hereby declared to be the intention of the City Commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

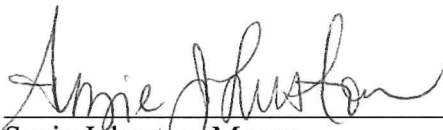
**SECTION 8. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

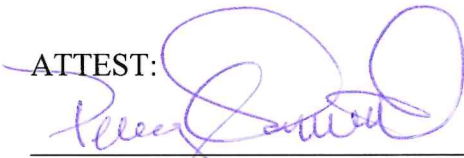
**SECTION 9. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

PASSED ON FIRST READING THIS 26TH DAY OF OCTOBER, 2023.

PASSED AND ADOPTED THIS 9th DAY OF November, 2023.

CITY OF FLAGLER BEACH, FLORIDA  
CITY COMMISSION

  
Suzie Johnston, Mayor

ATTEST:   
Penny Overstreet, City Clerk



# STAFF REPORT

City Commission Workshop Meeting

March 14, 2024

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**To:** Elected Officials

**From:** Dale L. Martin

**Date:** March 14, 2024

**Item Name:** Discussion regarding the Building Height Moratorium

**Background:** Ordinance 2023-05 adopted November 9, 2023 applied a 180-day moratorium on applications that have not received site plan approval to utilize the exceptions contained in the Land Development Regulations for mechanical and architectural elements to exceed the 35-foot height limit. The moratorium expires on May 7, 2024. Staff is seeking direction.

**Fiscal Impact:**

**Staff Recommendation:**

**Attachments:** Ordinance 2023-03, Section 2.05.06 Height regulations





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**Fiscal Impact:**

**Staff Recommendation:**

**Attachments:** Ordinance 2023-03, Section 2.05.06 Height regulations