

## CITY COUNCIL AGENDA TRANSMITTAL

Council Meeting Date: January 13, 2021

Agenda Item Title: Ordinance O-20-03 Proposed Land Development Code Amendment to Article V – Zoning District Regulations; specifically Section 54-2-5.10(2) Size and Dimension Criteria with regards to Establishing Starting Points for Building Height Measurement

Recommendation: Conduct second reading and hold public hearing. Move to approve Ordinance O-20-03.

Background: Currently, the Land Development Code establishes building height as measured from the Finish Floor Elevation (FFE) to the highest point of the building, i.e. roof ridgeline, excluding permitted architectural embellishments, antennas, and rooftop mechanical equipment, etc. Buildings located in the Special Flood Hazard Areas are measured from the base flood elevation (BFE) also to roof ridgeline.

In 2017, the 6<sup>th</sup> edition of the Florida Building Code (FBC) was adopted by the State, which, amongst other updates and revisions, and in consideration of FEMA requirements, added additional regulations regarding minimum FFE's for buildings located within Special Flood Hazard Areas. Finished Floor Elevations are required to be raised an additional 12 inches from an established BFE. Also, the bottom of support beams of structures within Flood Hazard V Zones must be *above* the established BFE.

Staff has recently been approached by contractors who are having difficulties in applying the FBC requirements for properties in the SFHA – mostly along the riverfront - while trying to coordinate building height as the LDC defines it, and still design a home with desired wall sizes and roof pitches. Staff researched other coastal municipalities and their building height measurement regulations and found that many had updated their codes to include consideration of the current FBC requirements (Example A). *Please note that the proposed Ordinance does not change the maximum building height allowed in any zoning district, and will not affect any of the residential areas.* The Local Planning Agency (PZ Commission) unanimously recommended approval of the proposed amendment at its 11/19/20 meeting. City Council did not propose any changes to the ordinance at its first reading.

**If Agenda Item Requires Expenditure of Funds:**

Budgeted Amount:

Total Cost:

Funds to Be Utilized for Appropriation: *N/A*

**Attachments:** 1. Ordinance O-20-03  
2. Section 26-1, referenced in Ordinance  
3. Example A  
4. Local Planning Agency Minutes – 11/19/20

Administrative Services Department Review: *N/A*

City Attorney Review: *[Signature]*

Procurement Division Review, if applicable: \_\_\_\_\_

City Manager Authorization: *[Signature]*

Date: *1/13/21*

**ORDINANCE NO. O-20-03**

**AN ORDINANCE OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, AMENDING LAND DEVELOPMENT CODE SECTION 54-2-5.10(2), SIZE AND DIMENSION CRITERIA, REGARDING THE ESTABLISHMENT OF STARTING POINTS FOR BUILDING HEIGHT MEASUREMENT; PROVIDING FOR SEVERABILITY AND REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING FOR SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council finds it is in the public interest to modify and update certain sections of the code; and

**WHEREAS**, the City wishes to coordinate building height regulations with the requirements of the Florida Building Code regarding properties located in Special Flood Hazard Areas; and

**WHEREAS**, the Local Planning Agency held a public hearing on November 19, 2020, and made an unanimous recommendation to City Council to adopt Ordinance O-20-03.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SEBASTIAN, INDIAN RIVER COUNTY, FLORIDA, as follows:**

**Section 1.** That the *Land Development Code*, City of Sebastian, Florida, is hereby amended as follows:

**ARTICLE V. ZONING DISTRICT REGULATIONS**

\* \* \* \* \*

**Sec. 54-2-5.10. – Size and dimension criteria.**

\* \* \* \* \*

(2) Height regulations and exceptions thereto.

~~The term "building height" as used in the Land Development Regulations shall mean the vertical distance from either the required base flood elevation or the average construction grade, whichever is greater, of all exterior corners of a structure to the highest point of the building, not including those structures specifically permitted to extend beyond the height of the building.~~

~~On any site where fill is required to adhere to the base flood elevation, as established by the National Flood Insurance Act of 1968, and as required by other governmental agencies, the building height is the vertical distance from the required base flood elevation to the highest point of the building not including those~~

structures specifically permitted to extend beyond the height of the building.

The term “building height” as used in the land development regulations shall mean the vertical distance from the highest elevation of either:

- 1) The minimum Finished Floor Elevation as required in the Code of Ordinances Section 26-1; or
- 2) The average construction grade of a site where fill is required by another governmental agency; or
- 3) The base flood elevation plus one foot as required by the Florida Building Code; or
- 4) The base flood elevation plus 18 inches if located within a Coastal High Hazard Area (V Zone),

measured to the highest point of the building, not including those structures specifically permitted to the extend beyond the height of the building.

Chimneys and radio and television antennas may exceed height limitations upon the prior approval of the ~~Planning and Growth Management Director~~~~Community Development Department~~ staff and the City Engineer based on the compliance with all other applicable technical codes. Steeples, silos, windmills, ventilators, water tanks, cupolas and other appurtenances usually required to be placed above the roof level and not intended for human occupancy or use may exceed height limitations for the respective zoning district by no more than twenty (20) percent upon the prior approval of the ~~Planning and Zoning Commission~~~~city staff~~. All apparatus exceeding height limitations by more than twenty (20) percent for the applicable zoning district height restrictions shall require variance approval by the Board of Adjustment. In no event, however, shall any permitted heights be in conflict with the height regulations established by flight angles of state-approved airports in the city. All permitted heights shall comply with all requirements of the Federal Aviation Authority and the Federal Communications Commission.

\* \* \* \* \*

**Section 2. Severability.** In the event a court of competent jurisdiction shall determine that any part of this Ordinance is invalid, the remainder of the Ordinance shall not be affected and it shall be presumed that the City Council of the City of Sebastian did not intend to enact such invalid provision. It shall further be assumed that the City Council would have enacted the remainder of this Ordinance without said invalid provision, thereby causing said remainder to remain in full force and effect.

**Section 3. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Codification.** The sections of the ordinance shall be codified within part of the City Land Development Code and may be renumbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

**Section 5. Scrivener’s Errors.** Sections of this ordinance may be renumbered or re-lettered and corrections of typographical errors which do not affect the intent may be authorized by the City Manager, or the City Manager’s designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon its adoption by the City Council.

The foregoing Ordinance was moved for adoption by Councilmember \_\_\_\_\_ . The motion was seconded by Councilmember \_\_\_\_\_ and, upon being put to a vote, the vote was as follows:

Mayor Ed Dodd \_\_\_\_\_

Vice-Mayor Jim Hill \_\_\_\_\_

Councilmember Fred Jones \_\_\_\_\_

Councilmember Bob McPartlan \_\_\_\_\_

Councilmember Christopher Nunn \_\_\_\_\_

The Mayor thereupon declared this Ordinance duly passed and adopted this 13<sup>th</sup> day of January, 2021.

CITY OF SEBASTIAN, FLORIDA

By: \_\_\_\_\_

Ed Dodd, Mayor

ATTEST:

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Jeanette Williams, MMC

City Clerk

Approved as to form and legality for  
reliance by the City of Sebastian only:

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Manny Anon, Jr., Esq.

City Attorney

**ARTICLE I. IN GENERAL****Sec. 26-1. Floor elevations.**

(a) The minimum floor elevation of residential, duplex, multiple-family residences, motels, or hotels constructed in the city shall be no less than 18 inches above the crown of the abutting improved street, and no less than six feet above mean sea level, whichever is the higher elevation. Specific standards for properties located in a flood zone shall be in accordance with chapter 46 floods.

(b) The minimum floor elevation of commercial and industrial structures, private or public garages, cabanas, utility rooms, storage rooms and similar structures constructed in the city shall be no less than six inches above the crown of the abutting improved street. The elevations of floors where alley right-of-way exists shall not be less than six inches above alley paving. The floor elevation cited under subsection (a) of this section shall comply with the elevations specified in this subsection and shall be no less than six feet above mean sea level, whichever is the higher elevation. Specific standards for properties located in a flood zone shall be in accordance with chapter 46 floods.

(c) The federal flood insurance rate maps, as amended, for the city are hereby incorporated into this Code by specific reference, a copy of which shall be available for inspection by the public in the office of community development.

(Ord. No. O-12-08, § 1, 8-22-12)

## EXAMPLE A

### BUILDING HEIGHT MEASUREMENT REGULATIONS - EXAMPLES:

#### City of Vero Beach:

##### **Sec. 60.15. - Building height measurements.**

(a) *Rules applicable to measurement of building heights.* Except where specifically modified by other provisions of this title, the regulations of this section shall govern the measurement of building heights.

(b) *Starting point for height measurements.* The starting point for measurement of any building height shall be whichever is the highest elevation of the following:

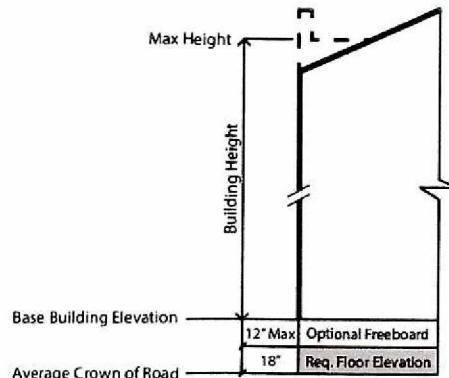
- (1) The existing weighted average grade elevation of the property;
- (2) The base flood elevation;
- (3) The base flood elevation plus 18 inches, if located within a coastal high hazard area (V Zone);
- (4) The required Florida Department of Environmental Protection (FDEP) elevation plus 18 inches, if located seaward of the Coastal Construction Control Line; or,
- (5) 18 inches above the crown of the nearest adjoining improved road.

#### City of Delray Beach:

(2) The base building elevation, specifically for the measurement of building height, is defined as the highest point for the following site conditions: (Ord. No. 02-19, [§ 2](#), 4-16-19)

(a) For sites not located within a FEMA designated special flood hazard area (SFHA), the base building elevation shall be a minimum of 18 inches (or less with approval by the City Engineer) and a maximum of 30 inches (which allows for 12 inches of freeboard) above the mean elevation of the crown of the street along the lot frontage or the average of the mean elevation of the crowns of the streets for lots with multiple lot frontages. (Ord. No. 02-19, [§ 2](#), 4-16-19)

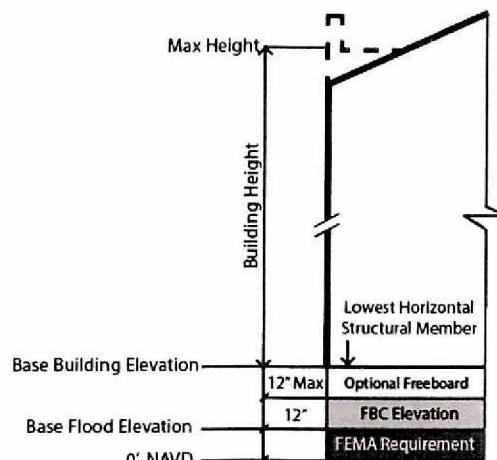
#### **Base Building Elevation: Not within a Special Flood Hazard Area (SFHA)**



(b) For sites located within a FEMA designated SFHA, as amended, the base building elevation is established as the higher of the following: (Ord. No. [15-18](#), [§ 2](#), 6-19-18; Ord. No. 02-19, [§ 2](#), 4-16-19)

(i) The minimum required base flood elevation, as required by FEMA and the Florida Building Code (FBC), as amended, and allowing up to 12 inches for freeboard; or, (Ord. No. [15-18, § 2](#), 6-19-18; Ord. No. 02-19, [§ 2](#), 4-16-19)

**Base Building Elevation:  
Within a Special Flood Hazard Area (SFHA)**



(ii)

The average crest of the dune located within the property limits, measured from north to south on the subject site. Any portion of the structure between the minimum required base flood elevation and the point of the average crest of the dune shall not be included in the height measure of the buildings on the subject site. (Ord. No. [15-18, § 2](#), 6-19-18; Ord. No. 02-19, [§ 2](#), 4-16-19)

resolution. Staff also recommends approval of the two requested adjustments stated on Page 11 of the Staff Report for the temporary allowance of one main public ingress/egress and one emergency exit and for the length of the cul-de-sac on Archie Smith Lane.

Mr. Roth called for a motion on this matter. A motion to approve recommendation to City Council of PUD Subdivision Preliminary Development Plan/Plat -- Spirit of Sebastian, Pods 1 and 2 -- 77.99 acres, 208 single-family lots -- 2.67 units per acre -- Old Dixie Highway, Del Monte Road -- LDR Future Land Use (low-density residential, 5 units per acre) -- PUD-R Zoning District (Planned Unit Development -- Residential) with the 13 conditions for approval and attached as Exhibit A, with the amendments as noted to conditions 9, 10, 12 was made by Mr. Alvarez and seconded by Mr. Christino.

Roll Call

Mr. Hughan -- Yes  
Ms. Kautenburg (a) -- Yes  
Mr. Roth -- Yes  
Mr. Simmons -- Yes

Mr. Christino (a) -- Yes  
Mr. Alvarez -- Yes  
Mr. Carter -- Yes

Vote was 7-0 in favor. Motion passes.

Mr. Roth recognized all the public who commented and the attendance of the supporting team of the developer tonight.

B. **Public Hearing -- Recommendation to City Council -- Ordinance O-20-03, Establishing Starting Points for Building Height Measurement --**  
Amending Land Development Code Section 54-2-5.10(2), Size and Dimension Criteria -- *(No Proposed Amendments to Maximum Building Heights)*

Mr. Anon read the item into the record. Mr. Roth called for staff's presentation.

Ms. Bosworth explained that this has come about because there have been some difficulties with some of the properties that are in the City's flood zones based on what is currently in the Code on how building heights are measured and where that starting point is. She reviewed the memo that was attached to this evening's agenda packet. Staff recommends approval, and staff would like to take this to City Council for their first reading of the ordinance at the December 9th meeting with this Commission's recommendation.

There being no discussion/comments by the Commissioners, Mr. Roth called on anyone from the public, either in Chambers or via Zoom, who wished to speak on this matter. There was no one. Mr. Roth called for a motion.

A motion recommending to City Council to approve Ordinance O-20-03, establishing starting points for building height measurement amending Land Development Code Section 54-2-5.10(2), size and dimension criteria was made by Mr. Simmons and seconded by Mr. Carter.

Roll Call

Mr. Roth -- Yes	Mr. Hughan -- Yes
Mr. Alvarez -- Yes	Mr. Carter -- Yes
Mr. Christino (a) -- Yes	Ms. Kautenburg (a) -- Yes
Mr. Simmons -- Yes	

Vote was 7-0 in favor. Motion passes.

VII. Unfinished Business -- None

VIII. Public Input -- None

IX. New Business -- None

X. Commissioner Matters

Mr. Christino complimented both staff's and Mr. Mechling's preparation and presentation of this project. He asked if the agenda packets could be gotten to the Commissioners a little earlier when there is so much detail to review. Mr. Carter also commented on how many of the developer's team was present for this meeting.

XI. City Attorney Matters

Mr. Anon stated that he has been gone for several months due to a health issue with COVID-19. He was critical for a while but came out of it and feels 100% now. He thanks everyone for their support and allowing him to appear via Zoom.

XII. Staff Matters

Ms. Bosworth stated that staff is proceeding with the Comprehensive Plan. Tentatively, the transmittal hearing will be December 9th, but on December 2nd there will be a public engagement workshop from 11:00 a.m. to 1:00 p.m. and from 5:00 p.m. to 7:00 p.m. Tables will be set up for each of the elements. Everyone is welcome. There is information on the website regarding this matter.

XIII. Adjourn