

ORDINANCE 10-12602

AN ORDINANCE RELATING TO EXCEPTIONS TO HEIGHT LIMITATIONS; AMENDING THE DEFINITION OF ARCHITECTURAL EMBELLISHMENT IN SECTION 44-8, DEFINITIONS, AND AMENDING SECTION 56-39(a), HEIGHT REQUIREMENTS, EXCEPTIONS THERETO, OF THE CODE OF ORDINANCES, CITY OF NAPLES, FOR THE PURPOSE OF CLARIFYING EXCEPTIONS TO THE HEIGHT LIMITATIONS; PROVIDING A SEVERABILITY CLAUSE, A REPEALER PROVISION AND AN EFFECTIVE DATE.

WHEREAS, City Council has directed staff to modify the exceptions to height limitations in order to clearly limit the use of rooftop decks and to provide for exceptions for energy producing devices; and

WHEREAS, following a public hearing, the Planning Advisory Board has considered the recommendation of the staff and the public input and has recommended by a vote of 7 to 0 that the provisions of the Code of Ordinances governing exceptions to the height limitations be revised; and

WHEREAS, after considering the recommendation of the Planning Advisory Board and City staff, following a public hearing on the subject, and providing the petitioner, staff and the public an opportunity to present testimony and evidence, the City Council has determined that it is in the best interest of the City of Naples to approve Text Amendment Petition No. 09-T8;

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

Section 1. That the definition of architectural embellishment in Section 44-8, Definitions, of the Code of Ordinances of the City of Naples, Florida, is hereby amended as follows, (with ~~strikethrough~~ indicating deletions and underline indicating additions):

Sec. 44-8 Definitions.

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

. . .

Architectural embellishment means a ~~nonhabitable~~ design element surmounting a building's roof, including but not limited to minor cupolas, towers, and monitors, accessible only for maintenance purposes, intended as a decorative, nonfunctional feature. See section 56-39 (height requirements, exceptions thereto) Elements that function as part of a roof over habitable space, such as a rotunda, are not considered architectural embellishments.

Section 2. That Section 56-39(a), Height Requirements, exceptions thereto, of the Code of Ordinances, City of Naples, Florida, is hereby amended as follows, (with ~~strikethrough~~ indicating deletions and underline indicating additions):

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

(a) Chimneys, elevator shafts or overruns, stair towers roofs, rooftop heating, ventilating and air conditioning equipment, ornamental screening for such equipment, energy producing devices such as solar panels and wind turbines and architectural embellishments not for habitation may extend 7 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 1st floor FEMA 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.

. . .

Section 3. That it is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Naples, Florida, and that the sections of this ordinance may be renumbered to accomplish such intention.

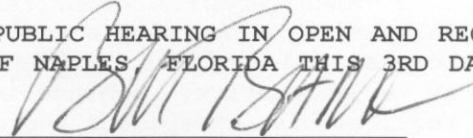
Section 4. If any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 5. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict therewith, be and the same are hereby repealed to the extent of such conflict.

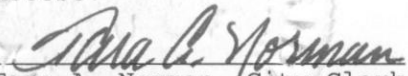
Section 6. This ordinance shall take effect immediately upon adoption at second reading.

APPROVED AT FIRST READING THIS 20TH DAY OF JANUARY, 2010.

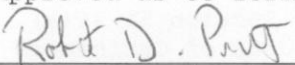
PASSED AND ADOPTED AT SECOND READING AND PUBLIC HEARING IN OPEN AND REGULAR SESSION OF THE CITY COUNCIL OF THE CITY OF NAPLES, FLORIDA THIS 3RD DAY OF FEBRUARY, 2010.


Bill Barnett, Mayor

Attest:


Tara A. Norman, City Clerk

Approved as to form and legality:


Robert D. Pritt, City Attorney

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Date filed with City Clerk: 2-18-10