

## IMPLEMENTING POLICY 14.3.3

### RECENT CHANGES TO LEE PLAN POLICY 14.3.3:

**POLICY 14.3.3:** The county's Land Development Code zoning regulations will continue to state that no building or structure on Greater Pine Island will be erected or altered so that the peak of the roof exceeds thirty-eight (38) feet above the average grade of the lot in question, or forty-five (45) feet above mean sea level, whichever is the lower. No deviations from these height restrictions may be granted through the planned development process. These height restrictions will not be measured from minimum flood elevations nor will increases in building height be allowed in exchange for increased setbacks. Industrial buildings must also comply with these height restrictions.

### SUMMARY OF CODE CHANGES NEEDED TO IMPLEMENT POLICY 14.3.3:

- a. "No deviations from these height restrictions may be granted through the planned development process." – ADD THIS PROVISION TO 34-2175(5)
- b. "These height restrictions will not be measured from minimum flood elevations..."  
DELETE GREATER PINE ISLAND FROM 34-2171(1)
- c. "...nor will increases in building height be allowed in exchange for increased setbacks."  
ADD PROVISIONS TO 34-2174 & 34-2175(5) THAT EXEMPT GREATER PINE ISLAND FROM THESE INCREASES IN BUILDING HEIGHT
- d. "Industrial buildings must also comply with these height restrictions." DELETE THE EXEMPTION FOR INDUSTRIAL BUILDINGS FROM 34-2175(5)
- e. ADD GREATER PINE ISLAND TO OTHER ISLANDS LISTED IN 34-1444(B)(3) FOR PURPOSES OF REGULATING TOWER HEIGHTS

### COMPOSITE CODE CHANGES TO IMPLEMENT POLICY 14.3.3:

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#### CHAPTER 34 Zoning ARTICLE VII, SUPPLEMENTARY DISTRICT REGULATIONS Division 11, Wireless Communication Facilities

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##### Sec. 34-1444. Permissible wireless facility locations.

(a) Except as provided below, a wireless communications facility may be permitted only in accordance with Table 34-1447 and the provisions of this chapter. Regardless of the process required, the applicant must comply with all submittal, procedural and substantive provisions of this chapter. Variances or deviations from the requirements of this division may be granted only

in accordance with the requirements of section 34-1453 for a variance.

- (b) Exceptions:
- (1) Broadcast antenna-supporting structures in excess of 250 feet will only be allowed within an agricultural zoning district by variance in accordance with the requirements of section 34-1453. Broadcast studios are not allowed in the agricultural zoning district and must comply with all other applicable zoning and development regulations.
  - (2) All antennas proposed to be mounted on existing buildings or structures must apply for administrative review as set forth in section 34-1445(b).
  - (3) On the barrier islands, Greater Pine Island, and within the outer island future land use

- areas, the overall height of wireless communications facilities must not exceed 35 feet or the height limitation set forth in section 34-2175, whichever is less. ~~The provisions set forth in section 34-2174 are applicable only to For stealth wireless communication facilities only, these height limitations may be increased by one foot for each one-half foot that every required street, side, and rear setback is increased.~~
- (4) Wireless communications facilities are prohibited in the Density Reduction - Groundwater Resource (DR/GR) Future Land Use areas, wetlands, environmentally critical zoning districts and areas readily visible from the University Window Overlay, except for:
- Stealth wireless communication facilities;
  - Surface-mounted and flush-mounted antennas; and
  - Collocations.

The design of any facility proposed in these areas must be reviewed in accordance with the provisions of section 34-1445 and section 34-1447.

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## CHAPTER 34

### Zoning

#### ARTICLE VII, SUPPLEMENTARY DISTRICT REGULATIONS

#### Division 30, Property Development Regulations

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##### *Subdivision II. Height*

##### **Sec. 34-2171. Measurement.**

(a) Except as provided in this subdivision, the height of a building or structure is measured as the vertical distance from grade\* 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, and to the highest point of any other structure (excluding fences and walls).

\* For purposes of this subdivision, grade is the average elevation of the street or streets abutting the property measured along the centerline of the streets, at the points of intersection of the streets with the side lot lines (as extended) and the midpoint of the lot frontage.

- In areas within the Coastal Building Zone and other flood prone areas (as defined in Chapter 6 Articles III and IV of the LDC), height of a building is the vertical distance from the minimum required flood elevation to the highest point of the roof surface of a flat or Bermuda roof, to the deck line of a mansard roof, to the mean height level between eaves and ridge of gable, hip and gambrel roofs. However, this substitution of “minimum required flood elevation” for “average grade” does not apply to Captiva Island, Gasparilla Island, or Greater Pine Island (sections 34-2175(2), (4), and (5) respectively).
- Fences, walls, and buffers are measured in accordance with section 34-1744 and section 10-416.

##### **Sec. 34-2172. Reserved.**

NOTE: The provisions of sections 34-2173 and 34-2174 do not apply to satellite earth stations and amateur radio antennas (section 34-1175) or wireless communication facilities (section 34-1441, et seq.), except for stealth facilities.

##### **Sec. 34-2173. Exception to height limitations for certain structural elements.**

- The following structural appurtenances may exceed the height limitations stipulated in the applicable districts for authorized uses, without increasing setbacks as required in section 34-2174:
  - Purely ornamental structural appurtenances such as church spires, belfries, cupolas, domes, ornamental towers, flagpoles or monuments.
  - Appurtenances necessary to mechanical or structural functions such as chimneys and smokestacks, water tanks, elevator and stairwell enclosures, ventilators, and bulkheads; AM and FM radio and television masts, aerials, and antennas; fire and hose towers, utility transmission and distribution structures, cooling towers, aircraft control towers or navigation aids, forest fire observation towers, and barns, silos, windmills or other farm structures when located on farms.

For satellite earth stations and amateur radio antennas - refer to section 34-1175.

For wireless communication facilities, refer to section 34-1441 et seq.

(b) The permitted exceptions to the height limitations may be authorized only when the following conditions can be satisfied:

- (1) The portion of the building or structure permitted as an exception to a height limitation may not be used for human occupancy or for commercial purposes.
- (2) Structural exceptions to height limitations may only be erected to the minimum height necessary to accomplish the purpose it is intended to serve, and no higher.
- (3) If the roof area of the structural elements permitted to exceed the height limitations equals 20 percent or more of the total roof area, they will be considered as integral parts of the whole structure, and therefore not eligible to exceed the height limitations.

#### **Sec. 34-2174. Additional permitted height when increased setbacks provided.**

(a) Subject to conditions set forth in section 34-2175, any building or structure may be permitted to exceed the height limitations specified by the zoning district regulations in which the property is located provided every required street, side, and rear setback is increased by one-half foot for every one foot by which the building or structure exceeds the specified height limitation.

(b) In zoning districts that do not specify a maximum height limitation, the increase to setbacks stated in this section will apply to all buildings or structures exceeding 35 feet in height.

(c) The additional height in exchange for increased setbacks that is permitted by this section may not be used on Upper Captiva Island, Captiva Island, Gasparilla Island, Greater Pine Island, and all other islands (sections 34-2175(1), (2), (4), (5), and (6) respectively).

#### **Sec. 34-2175. Height limitations for special areas.**

The following areas have special maximum height limitations applicable to all conventional and planned development districts:

- (1) ***Upper Captiva Island.*** The height of a structure may not exceed 35 feet above grade (base flood elevation). The provisions of section 34-2174(a) do not apply to Upper Captiva Island. No variance or deviation from the 35-foot height restriction may be granted.

In addition to compliance with all applicable building codes (including Fire and Life Safety codes), any building with two or more stories or levels must provide an exterior stairway from the uppermost levels (including "widow's walks" or observation decks) to the ground OR a one-hour fire rated interior means of egress from the uppermost levels (including "widow's walks" or observation decks) to the ground.

- (2) ***Captiva Island.*** No building or structure may be erected or altered so that the peak of the roof exceeds 35 feet above the average grade of the lot in question or 42 feet above mean sea level, whichever is lower. The provisions of section 34-2174(a) do not apply to Captiva Island. No variance or deviation from this height restriction may be granted.

- (3) ***San Carlos Island.*** The height of a structure may not exceed 35 feet above grade, except as provided for in section 34-2174. If seaward of the coastal construction control line, elevations may exceed the 35-foot limitation by three feet for nonconforming lots of record.

- (4) ***Gasparilla Island conservation district.*** No building or other structure may be erected or altered so that the peak of the roof is more than 38 feet above the average grade of the lot or parcel on which the building or structure is located, or is more than 42 feet above mean sea level, whichever is lower.

- (5) ***Greater Pine Island.*** No building or structure may be erected or altered so that the peak of the roof exceeds 38 feet above the average grade of the lot in question or 45 feet above mean sea level, whichever is lower. ~~The term "building or structure," as used in this subsection, does not include a~~

~~building or structure used for an industrial purpose.~~

- a. "Greater Pine Island" means the area that is affected by Lee Plan Goal 14 as depicted on the Future Land Use Map and as described in section 34-2 of this code.
- b. The provisions of section 34-2174(a) do not apply to Greater Pine Island.
- c. Structures without roofs will be measured to the highest point on the structure.
- d. No deviations from these height restrictions may be granted through the planned development process.
- e. Any variances from these height restrictions require all of the findings in section 34-145(3) plus these additional findings:
  - 1. The variance must be fully consistent with the Lee Plan, including its specific provisions for Greater Pine Island.
  - 2. The relief granted by the variance must be the minimum required to offset the specific exceptional or extraordinary conditions or circumstances that are inherent to the property in question. The only exception is where the relief is required to maintain or improve the health, safety, or welfare of the general public (not just the health, safety, or welfare of the owners, customers, occupants, or residents of the property in question).

(6) ***All other islands.*** The height of a structure may not exceed 35 feet above grade (base flood elevation). Except as provided in subsections 34-2175 (3), (4), and (5), the provisions of section 34-2174(a) do not apply to islands. No variance or deviation from the 35-foot height restriction may be granted.

(7) ***Airport hazard zone.*** Height limitations for the airport hazard zone are set forth in article VI, division 10, subdivision III, of this chapter.

**Secs. 34-2176-34-2190. Reserved.**