

Review Date: February 20, 2026

Prepared by: Mike Struve, AICP, LEED Green Associate, Planning Team Coordinator

Recommendation: Approval

Request: Amend Articles 1, 3, and 5 of the Land Development Code (LDC), to modify height requirements for buildings and structures as follows:

1. Amend LDC, Section 1.15.H. to provide consistency between how building height is measured with respect to the City’s current definition of building height appearing in Article 11.
2. Amend LDC, Section 3.3.6. to establish a deviation process for allowing additional height of buildings and structures not to exceed 10% of the standard established in Article 4 or Article 5.
3. Amend LDC, 5.1.12. to add a new subsection on height. This subsection clarifies how the height of structures not meeting the definition of a building will be measured; exempts buildings and structures on City sites from height restrictions; and establishes a deviation process that includes criteria for evaluating modest requested increases in height.

<i>Positive aspects of the amendment</i>	<ul style="list-style-type: none"> • <i>Eliminates a current inconsistency in the LDC regarding the measurement of building height.</i> • <i>Provides clarity for how the height of structures not defined as buildings are to be measured.</i> • <i>Provides regulatory flexibility to maximum height requirements.</i>
<i>Negative aspects of the amendment</i>	<ul style="list-style-type: none"> • <i>Will allow for increases in height above the established standard in the LDC.</i>
<i>Mitigating factors</i>	<ul style="list-style-type: none"> • <i>Establishes criteria for evaluating height deviation requests.</i>

SUMMARY AND ANALYSIS OF PROPOSED CHANGES

Amendments to height requirements are proposed to Articles 1, 3, and 5 of the LDC.

Ordinance 10-26 proposes amending LDC, Section 1.15.H. that revises how building height is measured to bring this procedure into alignment with the City definition of building height that appears in Article 11. Building height is defined in Article 11 as “... the vertical distance measured from the lowest finished floor elevation to the lowest point of the highest horizontal eave or to the highest point of the highest parapet wall, whichever is higher.” This amendment will eliminate an existing inconsistency in the LDC and thus provide clarity on how building height is determined. The current definition of building height found in Article 11 describes how the City has measured building height dating back to when the former Land Use and Development Regulations were administered prior to 2019.

LDC, Section 3.3.6. is amended to add a new administrative deviation process for height, similar to that which exists for building setbacks. This process will allow for an increase in the height of

structures not to exceed 10% of the established standard appearing in Article 4 or Article 5. Changes to this section establishes a framework for allowing height deviations with those additional details, including standards, appearing in Article 5.

LDC, Section 5.1.12. is amended by adding Subsection D. A summary of these key changes includes the following:

- Specifying how the height of structures not meeting the City definition of a building will be measured. This language states how the height of poles, signs, tanks, towers and similar structures will be measured.
- Exempting buildings and structures constructed on City property from established height requirements. Several nonresidential districts including the Commercial, Commercial Corridor, Industrial, and Professional lack height requirements. In these districts, building heights are indirectly regulated by Floor Area Ratio or FAR.¹ All other zoning districts have established maximum height restrictions. A variety of governmental uses are allowed in most zoning districts because City facilities are needed throughout the City to provide critical services to residents. Exempting the City from maximum height requirements could expedite permitting and the construction of new City facilities that might otherwise require a future land use amendment and zoning change to comply with existing height restrictions.
- Adding standards for evaluating administrative height deviations. Height deviations will be subject to review by the Director and will be evaluated based on 1) whether a reasonable necessity for the requested deviation exists, and, 2) whether the deviation diminishes, impairs, or otherwise adversely affects the health, safety, or general welfare of the public.

COMPREHENSIVE PLAN ANALYSIS

The proposed amendment is consistent with Objective 4 found in the Economic Development Element.

Economic Development Element

Objective 4.: The City shall review and where possible, streamline land development regulations and permitting processes to shorten the review cycle time such that Cape Coral becomes measurably more efficient location for creating commercial development.

Staff analysis. This amendment will eliminate maximum height requirements for City projects. Absent of this proposed relief, the City may be required to request a future land use map amendment and zoning change, variance, or seek entitlements by requesting a Planned Unit Development to comply with a height standard. This amendment also includes a new deviation process that can provide for modest relief from height requirements that can be approved by the Director.

RATIONALE FOR LDC TEXT AMENDMENTS

LDC, Section 3.5.4. states text amendments shall be considered for one or more of eight stated reasons. This LDC amendment is consistent with Reasons #1 and #2 below.

1. The amendment clarifies the intent of the LDC.

Staff analysis. This amendment clarifies how the height of structures not defined as buildings are to be measured which is currently not addressed in the LDC.

¹ FAR is the ratio of the proposed amount of commercial or industrial floor area to the total land area shown for no-residential uses on the site.

2. The amendment corrects an error in the LDC.

Staff analysis. The amendment will eliminate an existing inconsistency in the LDC involving building height appearing in Article 1 and Article 11. Changes to how building height is measured are proposed to Article 1 to bring the description of building height into realignment with the current definition of building height appearing in Article 11, "Definitions."

REVIEW CRITERIA FOR PROPOSED LDC TEXT AMENDMENTS

LDC, Section 3.5.4. identifies four review criteria for proposed text amendments to the LDC. Each criterion is evaluated below.

1. Whether the proposed LDC text amendment is consistent with the goals, policies, and future land use designations of the City Comprehensive Plan.

Staff analysis. The amendment is consistent with Objective 4 of the Economic Development Element appearing in the Comprehensive Plan as outlined earlier within this report.

2. The amendment results in compatible land uses within a zoning designation.

Staff analysis. This criterion is not applicable as the amendment does not modify the schedule of uses for any of the City zoning districts.

3. The amendment protects the health, safety, and welfare of the community.

Staff analysis. By establishing criteria for evaluating deviation requests, the amendment will provide a basis for making decisions and will promote the health, safety, and welfare of the residents of the City. The elimination of an inconsistency that exists in the LDC will provide clarity and eliminate confusion on how building height is measured that will serve the public interest.

4. Other factors deemed appropriate by the Planning and Zoning Commission and City Council.

Staff analysis. This criterion is not applicable as this amendment was not initiated by either the Planning and Zoning Commission or the City Council.

RECOMMENDATION

The proposed amendment will eliminate an existing inconsistency appearing in the LDC regarding the measuring of building height, provide needed clarity on how structures not meeting the City definition of a building will be measured, and offer flexibility to property owners seeking minor relief from height requirements subject to the review and approval of the Director. This amendment will also exempt structures constructed on City properties from minimum height requirements where such standards currently exist. This ordinance is consistent with one objective appearing in the Comprehensive Plan. This ordinance is also consistent with applicable standards for proposed LDC text amendments. Staff recommends **approval** of Ordinance 10-26.

Staff contact information:

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