

**ZONING ORDINANCE AMENDMENT FIRST LOOK:
SECTION 350-42(H) HEIGHT EXCEPTIONS
ATTACHMENTS**

- 1. Memorandum**
- 2. Draft Ordinance Amendment**

TO: PLANNING COMMISSION
FROM: GREGG R. ADAMS, PLANNER
SUBJECT: ZONING ORDINANCE AMENDMENT FIRST LOOK:
SECTION 350-42(H) HEIGHT EXCEPTIONS
DATE: MARCH 10, 2023
COPIES: BOARD OF COMMISSIONERS, T. PETRUCCI, H. BENDER, D. MANHARDT,
L. HARRIER, J. ZATOR, ESQ., J. ALDERFER, ESQ, A. TALLARIDA, S. PIDCOCK

Background Information:

Through a recent Zoning appeal, staff discovered that Section 350-42(h) Height Exceptions is sufficiently ambiguous as to merit clarification. The current Section appears to be intended to permit certain features typically located on the roof or attached to the side of a building to exceed the Maximum Height permitted within a given Zoning District. The subsection requiring the clarification states: When attached to the roof of an existing or proposed Building, and not otherwise permitted as an Accessory Use, the height of the Building(s), Structure(s), or portion thereof, shall not exceed one hundred forty (140%) percent of the height of the Principal Building. The ambiguity stems from whether the 140% of the height of the Principal Building is measured from grade or from the roof. In a Zoning District wherein the Buildings are limited to 50 feet, an additional 140% could result in either a 70-foot total height (when measured from grade) or a 120-foot total height (when measured from the 50-foot-high roof). Obviously, the 70-foot Maximum Height of a Building within the IC-1 Zoning District further amplifies the possible maximum height (168 feet). Staff opines that the 140% stated in the Ordinance refers to a measurement from grade and would like to amend the Section to clarify that point.

During discussions on the matter, staff determined that a number of other clarifications could be made within the Section and within other associated Sections. Staff also opined that it may be prudent to allow certain features to achieve a height greater than the afore-mentioned 140% limit through a Special Exception review by the Zoning Hearing Board. Any additional height above the 140% limit would be capped by a height to be determined by the Public Safety Commission. ***The currently-listed 120 feet is simply a placeholder until that number is determined. The Public Safety Commission is scheduled to review the matter at their April 3, 2023 meeting.***

At their February 15, 2023 meeting, the Board of Commissioners directed staff to move forward with the proposed Zoning Ordinance Amendment.

The Township Solicitor's office reviewed the draft amendment, and their comments were incorporated into the current draft.

As with all Ordinance amendments:

This text indicates explanations of proposed amendments.

This text indicates existing Ordinance Sections when used for reference or as examples.

This text indicates existing text within proposed amendments.

~~This text~~ indicates proposed deletions within proposed amendments.

This text indicates proposed additions within proposed amendments.

The current Zoning Ordinance Section 350-42(h)

(h) Height Exceptions.

(1) When otherwise listed or interpreted as a permitted Use in this Ordinance, the following Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established elsewhere in this Ordinance:

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, enclosure for service equipment, elevator bulkhead, stage tower, and scenery loft.

(2) The following conditions shall be met:

(A) When attached to the roof, or the side of an existing or proposed Building, the base of the Building(s), Structure(s), or portion(s) thereof shall not cumulatively exceed twenty-five (25%) percent of the base width and depth of the existing or Principal Building.

(B) When attached to the roof of an existing or proposed Building, and not otherwise permitted as an Accessory Use, the height of the Building(s), Structure(s), or portions(s), thereof shall not exceed one hundred forty (140%) percent of the height of the Principal Building.

(3) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with Act 161, 1980, Pennsylvania State Legislature, amending the Airport Zoning Law of 1945 (2 P.S. 1550).

Proposed Changes

→ Staff recommends that Section 350-42(h) Height Exceptions be amended as follows:

(h) Height Exceptions. When otherwise listed or interpreted as a permitted Use in this Ordinance, ~~the following certain~~ Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established ~~elsewhere in this Ordinance~~ ***in the Zoning District Schedules of Section 350-24(c):***

(1) Permitted Exceptions

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, ***steeple, minaret,*** enclosure for service equipment, elevator bulkhead, stage tower, ~~and~~ scenery loft, ***or other similar features not otherwise regulated under this Ordinance. For the purposes of this subsection (h) Height Exceptions, these permitted exceptions shall be known as “Appurtenances”.***

(B) Such Appurtenances shall not be places intended primarily for human occupancy; they are to be unoccupied or occupied only occasionally and for short periods of time, typically for the maintenance of the structure or equipment therein.

(2) Zoning Officer Approval of Height Exceptions

(BA) ~~The following conditions shall be met~~ The Zoning Officer may approve exceptions to the Maximum Height of Building/Structure permitted in Section 350-24(c) (“Maximum Permitted Height”) for the Appurtenances listed in subsection (h)(1) above under the following conditions:

(i) When attached to ~~the roof, or the side of~~ an existing or proposed Building, the ~~base of the Building(s), Structure(s), or portions(s), thereof~~ ***width of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the base width and base depth of the existing or Principal proposed Building as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade.***

(ii) When attached to ~~the roof of~~ an existing or proposed Building, and not otherwise permitted as an Accessory Use, the ~~Height of the Building(s), Structure(s), or portions(s), thereof~~ ***Appurtenances*** shall not exceed one hundred forty (140%) percent of the ~~height of the Principal Building~~ ***Maximum Permitted Height, as measured in accordance with the definition of Height in Section 350-05(d).***

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot.

(3) Zoning Hearing Board Approval of Height Exceptions

(A) The Zoning Hearing Board may approve exceptions to the Maximum Permitted Height for the Appurtenances listed in subsection (h)(1) listed above as a Special Exception Use subject to the General Standards and Criteria listed under Section 350-16(i) and the following specific standards and criteria:

(i) When attached to ~~the roof, or the side of~~ an existing or proposed Building, the ~~base of the Building(s), Structure(s), or portions(s), thereof~~ **width of the Appurtenance(s)** exceeding the height limitation **as measured at the Maximum Permitted Height** shall not cumulatively exceed twenty-five (25%) percent of the ~~base~~ width ~~and base depth~~ of the existing or ~~Principal~~ **proposed** Building **as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade.**

(ii) When attached to ~~the roof of~~ an existing or proposed Building, and not otherwise permitted as an Accessory Use, the **Height of the Building(s), Structure(s), or portions(s), thereof Appurtenances** shall not exceed ~~one hundred forty (140%) percent of the height of the Principal Building~~ **one hundred and twenty (120) feet, as measured in accordance with the definition of Height in Section 350-05(d).**

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot.

(iv) Applicant shall provide engineered or architectural drawings (as applicable) of the proposed Building or Structure that includes the Appurtenance(s).

(v) Applicant shall provide evidence of compliance with the Airport Zoning Law.

(vi) Applicant shall provide evidence that the Appurtenance(s) do(es) not adversely impact surrounding properties, including noise, light, light glare, solar access, and wildlife, and may be adequately serviced by local Emergency Services.

(4) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with **Act 164, 1984, Pennsylvania State Legislature, amending** Act 161, 1980, ~~Pennsylvania State Legislature,~~ amending the Airport Zoning Law of 1945 (2 P.S. 1550), **and Federal Aviation Regulation Part 77.**

Proposed Clean Version

(h) Height Exceptions. When otherwise listed or interpreted as a permitted Use in this Ordinance, certain Buildings, Structures or portions thereof may, under certain conditions, exceed the height limitation established in the Zoning District Schedules of Section 350-24(c):

(1) Permitted Exceptions

(A) Incinerator, chimney, vent pipe, antenna, public utility Structure, commercial radio and/or T.V. transmission tower, water tank, cupola, clock tower, dormer, spire, belfry, steeple, minaret, enclosure for service equipment, elevator bulkhead, stage tower, scenery loft, or other similar features not otherwise regulated under this Ordinance. For the purposes of this subsection (h) Height Exceptions, these permitted exceptions shall be known as “Appurtenances”.

(B) Such Appurtenances shall not be places intended primarily for human occupancy; they are to be unoccupied or occupied only occasionally and for short periods of time, typically for the maintenance of the structure or equipment therein.

(2) Zoning Officer Approval of Height Exceptions

(A) The Zoning Officer may approve exceptions to the Maximum Height of Building/Structure permitted in Section 350-24(c) (“Maximum Permitted Height”) for the Appurtenances listed in subsection (h)(1) above under the following conditions:

(i) When attached to an existing or proposed Building, the width of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the width of the existing or proposed Building as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade.

(ii) When attached to an existing or proposed Building, and not otherwise permitted as an Accessory Use, the Height of the Appurtenances shall not exceed one hundred forty (140%) percent of the Maximum Permitted Height, as measured in accordance with the definition of Height in Section 350-05(d).

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot.

(3) Zoning Hearing Board Approval of Height Exceptions

(A) The Zoning Hearing Board may approve exceptions to the Maximum Permitted Height for the Appurtenances listed in subsection (h)(1) listed above as a Special Exception Use subject to the General Standards and Criteria listed under Section 350-16(i) and the following specific standards and criteria:

(i) When attached to an existing or proposed Building, the width of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the width of the existing or proposed Building as measured at grade, and the depth of the Appurtenance(s) exceeding the height limitation as measured at the Maximum Permitted Height shall not cumulatively exceed twenty-five (25%) percent of the depth of the existing or proposed Building as measured at grade.

(ii) When attached to an existing or proposed Building, and not otherwise permitted as an Accessory Use, the Height of the Appurtenances shall not exceed one hundred and twenty (120) feet, as measured in accordance with the definition of Height in Section 350-05(d).

(iii) All portions of the Appurtenances that exceed the Maximum Permitted Height shall be set back from any property line the distance equal to the Height at that spot.

(iv) Applicant shall provide engineered or architectural drawings (as applicable) of the proposed Building or Structure that includes the Appurtenance(s).

(v) Applicant shall provide evidence of compliance with the Airport Zoning Law.

(vi) Applicant shall provide evidence that the Appurtenance(s) do(es) not adversely impact surrounding properties, including noise, light, light glare, solar access, and wildlife, and may be adequately serviced by local Emergency Services.

(4) It is the intent of this section to control the Height of Buildings and Structures, not only to fulfill the general purpose of Section 350-02, but to also comply with Act 164, 1984, Pennsylvania State Legislature, amending Act 161, 1980, amending the Airport Zoning Law of 1945 (2 P.S. 1550), and Federal Aviation Regulation Part 77.