

## **Building Height and Fill Requirements**

### **Sec. 36-57. - Definition of specific terms and words.**

*Ground elevation, average*, means the average elevation of the finished grade or the original grade, whichever is lower, at the corners of the structure.

*Ground elevation, lowest*, means the lowest elevation of the finished grade or the original grade, whichever is lower, at the corners of the structure.

*Height, maximum*, means the vertical distance measured from the lowest ground elevation to the top of the tallest part of a structure.

*Height, top plate*, means the vertical distance measured from the average ground elevation to the top of the highest top plate.

*Top plate* means the point at which the structural wall framing and the structural roof framing join together at the top of the uppermost habitable floor. When a building is designed with top plates at more than one horizontal level, the uppermost plate is the one referred to and regulated by this chapter.

### **Sec. 36-90. - Height, bulk, density, lot coverage, yards and open spaces.**

After the effective date of the ordinance from which this chapter is derived, no building or other structure shall be erected or altered to exceed the height or bulk requirements of this article; nor to accommodate a greater number of families than allowed by this article; nor to have narrower or smaller front yards, side yards, rear yards, or other open spaces than required by this article; nor shall any building, structure or land be used in any other manner contrary to the provisions of this article.

### **Sec. 36-98. - Structures excluded from height limitations.**

Except for banks in the general commercial district, the board of adjustment may vary the height limits of these regulations up to four feet above the roofline of the building, for the following structures, providing such variances shall be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare:

- (1) Church spires or belfries.
- (2) Decorative cupolas that do not exceed five feet in width on any side or 25 square feet in cross section.
- (3) Flagpoles.
- (4) Communications masts (private TV antenna excluded).

### **Sec. 36-101. - Habitable floors.**

(a) For the purposes of this chapter, the area or space above the top plate of a habitable floor which is open, unrestricted, and unobstructed, such as used in an A-frame, cathedral ceiling or opposed shed roof type construction, shall not be considered as a part of such habitable space. (b)

The enclosed area above the top plate of a structure shall not be inhabited by any person or used for any purpose other than storage of personal effects or property.

**Sec. 36-171. - Lot disturbance and stormwater management.**

Subject to the requirements of G.S. 160A-417(b), if applicable, in all town zoning districts, including all areas within the extraterritorial jurisdiction, no grading, filling, or other alteration of the topography or elevation of any unimproved lot, or demolition and clearing of improved property, nor any manmade change to any improved real estate resulting in the discharge of stormwater onto adjacent property and requiring a building permit, shall be undertaken prior to the issuance of a lot disturbance-stormwater management permit by the zoning administrator.

(1) All applications for lot disturbance and stormwater management shall be accompanied by a survey and site plan of the proposed improvements prepared by a state licensed professional surveyor, engineer, architect or other person duly authorized by the state to prepare such plans showing the actual dimensions and shape of the lot, and showing the surveyed pre-disturbance ground elevation at the corners of the proposed structure referenced to mean sea level. The application shall also describe the disturbance or development activity which is proposed for the lot. The application and accompanying survey shall be sufficiently detailed for the zoning administrator to confirm that following construction of the proposed improvements the property will retain all stormwater generated by a one and one-half inch rain event and will not adversely affect any stormwater management system previously constructed by the town or on adjacent properties. No fill material may be placed on a lot in the side setback areas unless the final horizontal-to-vertical slope is equal to or less than 3:1. The burden shall be on the applicant to make such a showing, and the zoning administrator, in his discretion, may request reasonable additional information to make a decision on the application.

(2) Upon inspection, the zoning administrator shall confirm that the survey detail submitted conforms generally to the pre-disturbance condition of the lot with respect to its elevations, and that the proposed disturbance activity will not create any hazards or disturb land or lots other than that owned by the applicant or his agent. The zoning administrator shall make such notation or comments on the permit as needed to further establish the pre-disturbance topography and elevation of the lot for later use in determining the permitted height of any structures subsequently constructed on said lot. The zoning administrator may modify an existing lot disturbance and stormwater management permit requirement during the construction process.

(3) The zoning administrator is hereby authorized to include requirements in the permit which minimize the disturbance or damage of any adjacent lots or land, including any reasonable conditions meeting current best management practices for retaining all stormwater generated by a one and one-half inch rain event. All required stormwater improvements shall be maintained in a manner that ensures that the improvements will continue to satisfy all applicable requirements in the issued permit. When required by the

zoning administrator, a certification executed by the person duly authorized by the state to prepare such plans attesting to compliance with all applicable stormwater requirements shall be shown on the survey.

**Sec. 36-202. - RS-1 single-family residential district.**

(7) Height.

a. For properties that are not in a flood zone (X flood zone), maximum building height shall be 35 feet measured from the average of the corners using original grade. In those cases where the average grade of the corners is higher than seven feet mean sea level (msl), the use of fill or redistribution of fill shall not exceed the average elevation. In those cases where the average grade of the corners is lower than seven feet mean sea level (msl), the use of fill or redistribution of fill may be permitted up to seven feet above mean sea level (msl) which is then used as the starting point for calculating the elevation.

b. For properties that are in an AE flood zone, maximum building height shall be 35 feet measured from the average of the corners of original grade. The use of fill or redistribution of fill shall not exceed the average elevation. The use of fill or redistribution of fill may be permitted up to seven feet above mean sea level (msl) which is then used as the starting point for calculating the elevation.

c. For properties that are in a VE flood zone, maximum building height shall be 35 feet measured from the average of the corners of original grade (fill is regulated by FEMA).

**Sec. 36-203. - RS-8 multifamily residential district.**

(7) Height.

a. Height, top plate.

1. Single-family and duplex: 26 feet.

2. Multifamily: 28 feet.

b. Height, maximum: 35 feet.

**Sec. 36-204. - RS-10 residential district.**

(7) Height.

a. Height, top plate, for single-family shall be 26 feet.

b. Height, maximum: 35 feet.

**Sec. 36-205. - R-1 low-density residential district.**

(7) Height.

a. For uses other than country club, school facilities and churches:

1. Height, top plate, shall be 26 feet.

2. Height, maximum, shall be 35 feet.
- b. For country club use and churches, principal building only:
  1. Height, top plate, shall be 56 feet.
  2. Height, maximum, shall be 65 feet.
- c. For school facilities:
  1. Height, top plate, shall be 45 feet.
  2. Height, maximum, shall be 55 feet.

**Sec. 36-206. - Southern Shores zoning ordinance—Government and institutional district.**

(7) Height.

- a. Height, top plate, shall be 26 feet.
- b. Height, maximum, shall be 35 feet.

**Sec. 36-207. - C general commercial district.**

(6) Height:

- a. For uses other than a bank:
  1. Height, top plate, shall be 26 feet.
  2. Height, maximum, shall be 35 feet.
- b. For bank use:
  1. Height, top plate, shall be 26 feet.
  2. Height, maximum, shall be 35 feet with the exception of a single decorative cupola or ornamental watch tower that extends up to 15 feet above the roofline of the building, provided that it does not exceed 12 feet in width on any side or 144 square feet in cross section, is purely decorative in nature, and cannot be used for storage or occupancy.