

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) PERTAINING TO SEC. 54-306, OLD CITY HEIGHT DISTRICTS. (**AS AMENDED – BOLD TYPE**)

BE IT ORDAINED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) as it pertains to Sec. 54-306, Old City Height Districts, is hereby amended to read as follows:

“Sec. 54-306. Old City Height Districts

The requirements of this Section have resulted from a contextual study of building height and architectural patterns in the Old City Height District. The requirements of this Section reflect the predominant building height trends of the areas to which they are applied, and reinforce the principles cited in the Downtown Plan, adopted in 1999, that higher structures be located along spine streets of the Peninsula, with heights of structures tapering down towards the waters’ edges. The requirements of this Section are intended to clarify acceptable heights of buildings in areas of the Old City Height District, subject to the right of the Board of Architectural Review to adjust heights in limited circumstances when based on architectural merit.

General Requirements

1. Heights shall be measured in stories or feet, as specified. Notwithstanding the foregoing, height shall be measured in feet in the following districts: 3X, 85/200, 85/125, 85/30, 100/30, 80/30, 55/30S, 55/30, 56/30V, 120/30, 50W, W and WP.
2. For maximum height specified in feet, the measurement shall be taken from the highest curb elevation adjacent to the site to the highest point of the structure. For maximum height specified in stories, the measurement shall be taken from the main floor finished elevation.
3. Where heights are specified in stories or feet, the measurement shall be from finished floor to finished floor.
4. If a building is required to be raised per FEMA requirements, that same height shall be added to the maximum height allowed, up to a maximum of 6 feet. **This measurement shall be taken from the highest curb elevation.**
5. Any area under a structure in excess of six feet shall be counted as a story.
6. The BAR is empowered to require a downward adjustment of one-half story in the number of stories based on the number of stories of structures that predominate in the

structure's immediate surroundings, as defined in Sec. 54-231.

7. Floors shall be measured in the following manner:
 - i. The maximum height of any residential floor shall be 12 feet, unless otherwise specified. Any dimension above this shall constitute a second floor. The BAR may grant a waiver up to 14 feet on the **first or second** floor, based on architectural merit and context.
 - ii. The minimum height of any residential floor shall not be less than 10 feet; however, there is no minimum height for floors in a single family residence, duplex or townhouse.
 - iii. The maximum height of any nonresidential story shall be 20 feet, unless otherwise specified. Any dimension above this height shall constitute a second floor. The BAR may grant a waiver up to 25 feet on the main floor based on architectural merit and context.
 - iv. The minimum height of any nonresidential floor shall not be less than 14 feet, unless otherwise specified.
 - v. The BAR is empowered to require downward adjustments to floor heights, based on context of the structure with its immediate surroundings, as defined in Sec. 54-231.
8. Half stories shall be permitted as specified by zone. Half stories shall constitute a maximum 50% habitable use of the attic space or 50% of the buildable area, whichever is less. For purposes of this section, **in nonresidential structures**, a half-story means an area no larger than 50% of the footprint of the structure, regardless of whether that area is under a roof or not. **For purposes of this section, in single family residences, duplexes or townhomes, a half-story means finished attic space under a sloping roof.**
9. Building height to roof eave shall not exceed twice the building width **of the primary façade of habitable space fronting the street**; provided Board of Architectural Review may waive this provision based on architectural merit and context.
10. There shall be no minimum building height requirement, unless required by the applicable height district.
11. Appurtenances to a building shall not be permitted to exceed the maximum height, unless otherwise specified.
12. If any portion of a structure subject to the jurisdiction of the BAR is within fifty (50) feet of an existing structure rated "exceptional" (Group 1) or "excellent" (Group 2) on the Historic Architecture Inventory, adopted by Section 54-235, or a structure in the Landmark Overlay district, such portion of that structure shall not exceed the height of such existing structures unless approved by the Board of Architectural Review based on architectural merit and context.
13. Mechanical equipment on a roof shall be visually screened from the street with parapets or other types of visual screens of the minimum height necessary to conceal the same.

14. Additional buildings that are not accessory buildings, additions to buildings, and accessory buildings that include dwelling units that are subject to the jurisdiction of the BAR shall be subordinate in height, scale and mass to the existing building; provided this provision may be waived by the Board of Architectural Review when it deems such appropriate based on architectural merit and context **or existing lot conditions**.
15. Parking garages shall not exceed the height of the principal building on the site. Parking garages shall not be constrained by floor to floor height requirements, but stand-alone parking garages shall appear from the street to conform to the number of stories permitted in the height district in which it is located.
16. In the height districts where additional height may be awarded on the basis of architectural merit and context, if the property is not subject to the jurisdiction of the Board of Architectural Review, the owner requesting the additional height must submit the plans to the Board of Architectural Review for review and approval.
17. An applicant seeking a height rezoning shall only be able to request a rezoning to the next higher height district.
18. **An** applicant requesting additional height as may be authorized per the applicable height district shall adhere to submittal requirements as adopted by the Board of Architectural Review.
19. Communication towers shall not exceed the maximum building height limits of districts that include a maximum height limit in feet, or a height limit equal to 10 feet per story for districts that do not specify a maximum height in feet.
20. “Architectural merit” means a project that reflects exemplary architectural and urban design, utilizes the highest level of materials and finishes and contributes to the public realm.

Sec 54-306.A: Height District 2.5

Maximum building height shall be 2.5 stories.

The Board of Architectural Review may permit an additional half story on buildings subject to its jurisdiction based on architectural merit and context.

Within residential zone districts, accessory buildings shall not exceed one and one-half stories and an eave height of eleven feet, except where applicable regulations of the Zoning Ordinance allow an additional dwelling unit in an accessory building.

Sec 54-306.B: Height District 3

Maximum building height shall be 3 stories.

The attic shall not be habitable.

The nonresidential ground floor shall not exceed 14 feet.

The Board of Architectural Review may waive the limitation on habitable attic space based on architectural merit and context.

Within residential zone districts, accessory buildings shall not exceed one and one-half stories and an eave height of eleven feet, except where applicable regulations of the Zoning Ordinance allow an additional dwelling unit in an accessory building.

Sec 54-306.C: Height District 2.5 - 3.5

On rights-of way greater than 50 feet, the building height shall be limited to a maximum 3 stories and a maximum height of 45 feet.

On rights-of-way between 35 feet and 50 feet, the building height shall be limited to a maximum of 3 stories, and shall also be limited by the ROW width of the street at a maximum 1:1 ratio. In no event, shall maximum building height exceed 45 feet. (i.e.: if a ROW is 40ft, the building shall not be taller than 40ft).

On rights-of-way less than 35ft the building height shall be limited to a maximum 2.5 stories.

For multi-family buildings subject to its jurisdiction and in PUDs, the Board of Architectural Review may permit up to 4 stories and up to a maximum 45 feet, based on architectural merit and context.

Any new structure that requires the main floor to be elevated more than 2 feet above the average sidewalk height as per FEMA requirements shall be allowed the equivalent in height up to a maximum of 50 feet overall.

The nonresidential main floor shall not be less than 12 feet in height and no more than 16 feet in height, unless a waiver is granted for additional height of the floor per the requirements of Sec. 54-306 (7) hereof.

Within residential zone districts, accessory buildings shall not exceed one and one-half stories and an eave height of eleven feet, except where applicable regulations of the Zoning Ordinance allow an additional dwelling unit in an accessory building.

Sec 54-306.D: Height District 3.5

Maximum building height shall be 3.5 stories.

The Board of Architectural Review may permit an additional half story, based on architectural merit and context, up to a maximum of 50 feet overall.

Sec 54-306.E: Height District 4

Maximum building height shall not exceed 4 stories.

The Board of Architectural Review may permit an additional one-half story, based on architectural merit and context, up to a maximum of 50 feet overall.

Sec 54-306.F: Height District 5

Maximum building height shall not exceed 5 stories.

The Board of Architectural Review may permit an additional story based on architectural merit and context.

Additional height for ornamental appurtenances that exceed the maximum allowable height may be permitted by the Board of Architectural Review, based on architectural merit and context.

Utilitarian appurtenances related to mechanical equipment or structural systems (such as elevator and stair towers, exhaust fans, HVAC equipment) may exceed the maximum height, based on the following standards:

Appurtenances shall not exceed nine feet in height.

Appurtenances shall be placed to the rear or side of the buildings where possible.

Structures that are 5 stories or more shall be abutted by sidewalks no less than 10 feet in width.

Sec. 54-306 G. Height District 6

Maximum building height shall not exceed 6 stories.

The Board of Architectural Review may permit an additional story based on architectural merit and context.

Additional height for ornamental appurtenances that exceed the maximum allowable height may be permitted by the Board of Architectural Review, based on architectural merit and context.

Utilitarian appurtenances related to mechanical equipment or structural systems (such as elevator and stair towers, exhaust fans, HVAC equipment) may exceed the maximum height, based on the following standards:

Appurtenances shall not exceed nine feet in height.

Appurtenances shall be placed to the rear or side of the buildings where possible.

Structures that are more than 6 stories shall be abutted by sidewalks no less than 10 feet in width.

Sec 54-306.H: Height District 8

Maximum building height shall not exceed 8 stories.

The Board of Architectural Review may permit an additional story based on architectural merit and context.

Additional height for ornamental appurtenances that exceed the maximum allowable height may be permitted by the Board of Architectural Review, based on architectural merit and context.

Utilitarian appurtenances related to mechanical equipment or structural systems (such as elevator and stair towers, exhaust fans, HVAC equipment) may exceed the maximum height, based on the following standards:

Appurtenances shall not exceed nine feet in height.

Appurtenances shall be placed to the rear or side of the buildings where possible.

Structures that are 8 stories or more shall be abutted by sidewalks no less than 10 feet in width.

The provisions of Sec. 54-306 (12) do not apply in this height district.

Sec 54-306.I: Height District 4-12

Maximum building height shall not exceed 4 stories. Additional stories, up to a maximum of 12 stories shall be permitted based on meeting specific performance standards as defined in Sec. 54- 201.

Additional height for ornamental appurtenances that exceed the maximum allowable height may be permitted by the Board of Architectural Review, based on architectural merit and context.

Utilitarian appurtenances related to mechanical equipment or structural systems (such as elevator and stair towers, exhaust fans, HVAC equipment) may exceed the maximum height when their visual impact is minimized, based on the following standards:

Utilitarian appurtenances shall not exceed nine feet in height.

Utilitarian appurtenances shall be placed to the rear or side of the buildings where possible.

Structures more than 4 stories shall be abutted by sidewalks no less than 10 feet in width.

Sec. 54-306 J Height District 3X

In this district, no structure, including appurtenant parts of a structure, except for elevator penthouses, or mechanical penthouses, shall exceed a height equal to three (3) times the least dimension as measured from the center of the right-of-way to the face of the building. No structure fronting on any street shall be lower than the height of thirty (30) feet.

Sec. 54-306 K Height District 85/200

In this district:

1. No part of a structure, including elevator penthouses and mechanical penthouses, shall exceed the height of two hundred (200) feet, nor shall the principal structure be lower than thirty (30) feet.
2. All portions of a structure, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall be set back at least forty (40) feet from the center of the street right-of-way, and a minimum of fifty (50) percent of the building's street frontage shall occur at this set back line, subject to provisions of Article 3: Part 10.
3. All portions of a structure above eighty-five (85) feet including elevator penthouses and mechanical penthouses, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall be set back at least fifty-five (55) feet from the center of the street right-of-way. All such portions of a structure, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall occupy no more than fifty (50) percent of the building site coverage area.

Sec. 54-306 L Height District 85/125

In this district:

1. No part of a structure, including elevator penthouses and mechanical penthouses, shall exceed the height of one hundred and twenty-five (125) feet, nor shall the principal structure be lower than thirty (30) feet.
2. All portions of a structure, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall be set back at least forty (40) feet from the center of the street right-of-way, and a minimum of fifty (50) percent of the building's street frontage shall occur at this set back line, subject to provisions of Article 3: Part 10.
3. All portions of a structure above eighty-five (85) feet including elevator penthouses and mechanical penthouses, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall be set back at least fifty-five (55) feet from the center of the street right-of-way. All such portions of a structure, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall occupy no more than seventy-five (75) percent of the building site coverage area.

Sec. 54-306 M Height District 85/30

In this district:

1. No part of a structure, including elevator penthouses and mechanical penthouses, shall exceed the height of eighty-five (85) feet, nor shall the principal structure be lower than thirty (30) feet.
2. All portions of a structure, except cornices, canopies, balconies, arcades and other non-habitable architectural elements, shall be set back at least forty (40) feet from the center of the street right-of-way, and a minimum of fifty (50) percent of the building's street frontage shall occur at this set back line, subject to provisions of Article 3: Part 10.

Sec. 54-306 N Height District 100/30

In this district:

1. The minimum height for a structure fronting on a street is thirty (30) feet, and the minimum height on the ground floor of a structure fifteen (15) feet.
2. The maximum height of a structure along north-south oriented streets is four (4) stories. The height along north-south oriented streets shall be maintained from the edge of the right-of-way into the interior of the lot for a distance of one hundred (100) feet, except as provided in part 5 hereof.
3. The maximum height of a structure along east-west oriented streets is five (5) stories. The height along east-west oriented streets shall be maintained from the edge of the right-of-way into the interior of the lot a distance of twenty-five (25) feet, except as provided in part 5 hereof.
4. Within the interior of lots (one hundred (100) feet from the edge of north-south oriented streets and twenty-five (25) from the edge of east-west oriented streets), the maximum height for a structure is one hundred (100) feet.
5. To enable the incorporation of distinct architectural features and improve pedestrian activity at the street level, the height limits of parts 2 and 3 may be exceeded by an additional occupied story within the step-back areas set out in parts 2 and 3 and occupied or unoccupied architectural features along the right-of-way may exceed the height limits of parts 2 and 3 upon findings by the Board of Architectural Review that:
 - a. The sidewalks widths along all streets abutting the project are widened by at least three (3) feet; and
 - b. At least seventy-five (75) percent of the ground floor street frontages is devoted to non-residential use; and
 - c. If applicable, the additional story and its proposed location in the step-back areas prescribed by parts 2 and 3 enhance the architectural approach of the project; and

- d. If applicable, proposed architectural features along the right-of-way that exceed the height limits of parts 2 and 3 enhance the architectural approach of the project and do not constitute, in the aggregate, more than twenty (20) percent of the square footage of the footprint of the structure at the street level.

Sec. 54-306 O Height District 80/30

In this district:

1. No structure, including appurtenant parts of a structure except for elevator penthouses, or mechanical penthouses, shall exceed a height of eighty (80) feet nor shall any structure fronting on any street be lower than the height of thirty (30) feet.
2. All portions of a structure above the fifty-five (55) foot level shall be set back at least twenty-five (25) feet from all street right-of-way lines.

Sec. 54-306 P Height District 50W

In this district:

1. No structure shall exceed a height of fifty feet (50').
2. All structures shall be set back from the high water mark a minimum of twenty-five feet (25'), except that water-dependent structures shall be allowed to encroach on the twenty-five foot (25') setback.
3. All structures shall be set back from the high water mark of manmade canals a minimum of ten feet (10'), except that water-dependent structures shall be allowed to encroach on the ten foot (10') setback.

Sec. 54-306 Q Height District W

In this district:

1. No structure shall be nearer to the nearest right-of-way lines of the street on which it fronts than a distance equal to the height of the building.
2. The ground coverage of all structures on a lot shall not exceed twenty-five (25) percent of the lot area; "ground coverage" being defined as the sum of the areas of the largest floors in each building.
3. No structure shall be nearer to an interior property line or side street right-of-way line than a distance equal to one-half-the height of the building.

Sec. 54-306 R Height District WP

In this district:

1. No structure shall exceed the height of sixty (60) feet.

2. The ground coverage of all structures on a lot shall not exceed twenty-five (25) percent of the lot area; "ground coverage" being defined as the sum of the areas of the largest floor in each building. Ground coverage shall not include paved parking areas or staging areas.

Sec. 54-306 S Height District 56/30 V

In this district:

1. FEMA Velocity Zone regulations impose significant restrictions on the developable volume of properties that fall within its influence, and are particularly restrictive regarding street-level development. The success of the traditional urban fabric of Charleston is highly dependent upon the activation of the public realm, and street-level uses are a key element of this activity. The 56/30V Height District is intended to encourage a continuation of Charleston's urban traditions by providing incentive for development of street-level activity within FEMA Velocity Zones.
2. No part of a structure shall exceed the height of fifty-six (56) feet unless permitted as a result of the following clauses, nor shall any principal structure be lower than thirty (30) feet.
3. Allowances for additional enclosed habitable space above fifty-six (56) feet but not to exceed a height of seventy (70) feet shall be permitted when the development in question provides for contributory occupation of the ground floor at the street frontage(s) of the property. Such contributory occupation must be designed to abide by FEMA requirements for development in Velocity Zones as approved by the city's Floodplain Administrator. For every square foot of approved contributory occupation of the ground floor, the development will be permitted an equivalent square foot of habitable space above fifty-six (56) feet, up to a limit of 25 percent of the total rooftop area. Contributory occupation is defined as any activity that is deemed by the Zoning Administrator to be consistent with and supportive of the goal of street-level activation within the FEMA V-Zone. Such activity might include, but is not limited to: outdoor dining (covered or open-air), temporary shops or merchant stands; manned vending carts; green spaces (physically open to the sky); building access stairs or lobbies, storefront displays, etc. In addition, the areas dedicated to contributory occupation must be located with a majority of its frontage on the street or public sidewalk, and must be specifically designed to support contributory occupation. Under no circumstances will parking, *mechanical* or storage areas be considered contributory occupation.
4. Allowances for additional height above fifty-six (56) feet but not to exceed seventy (70) feet may be permitted for architectural features such as parapets, towers, pergolas, or other roof elements, and mechanical rooms, elevator penthouses and stair towers. Mechanical rooms, elevator penthouses and stair towers must be designed as integrated architectural elements. The design of such features is further limited as follows: they shall not contain enclosed habitable spaces (unless such habitable spaces are permitted as a result of the previous clause); the total rooftop occupation (including allowed enclosed habitable spaces and uninhabitable

architectural features) shall not exceed 50 percent of the total rooftop area; the existence and design of any such features is subject to review and approval of the Board of Architectural Review.

5. Notwithstanding the above, no portion of a structure, which structure is within fifty (50) feet of an existing building rated "exceptional" (Group 1) or "excellent" (Group 2) on the Historic Architecture Inventory adopted by Section 54-235 shall exceed the height of such existing building unless approved by the Board of Architectural Review.

Sec. 54-306 T 120/30

In this district:

1. No structure, including appurtenant parts of a structure, except for elevator penthouses, or mechanical penthouses, shall exceed a height of one hundred twenty (120) feet nor shall any structure fronting on any street be lower than the height of thirty (30) feet.
2. All portions of a structure above the seventy (70) foot height level shall set back at least thirty (30) feet from all street right-of-way lines.
3. All principal structures fifty (50) feet or less in height shall have no set back from street right-of-way lines, subject to provisions of Article 3: Part 10; except such structures may be set back from street right-of-way a distance no greater than the least such set back of the two adjoining buildings on either side.
4. Notwithstanding the above, no portion of a structure, which structure is within fifty (50) feet of an existing building rated "exceptional" (Group 1) or "excellent" (Group 2) on the Historic Architecture Inventory adopted by Section 54-235 shall exceed the height of such existing buildings unless approved by the Board of Architectural Review.

Sec. 54-306U 55/30 S

In this district:

1. No part of a structure shall exceed the height of fifty-five (55) feet, nor shall the principal structure be lower than thirty (30) feet.
2. All structures shall have no minimum set back from street right-of-way lines, subject to provisions of Article 3: Part 10.

Sec. 54-306V 55/30

In this district:

1. No part of a structure shall exceed the height of fifty-five (55) feet, nor shall the principal structure be lower than thirty (30) feet.

2. All structures shall have no set back from street right-of-way lines, subject to provisions of Article 3: Part 10.

Charleston Heights Proposed Districts				
New Zoning				Old HD's
Max Height (stories)	Min / Max Height (ft)	Max Attainable Height	Min Permitted Height	
2.5	Res: 10ft / 12ft	35ft	N/A	35
3 (3.5)	Res: 10ft / 12ft	45ft (14, 12, 12, 7)	32ft (12, 10, 10)	50/25, 55/30
	Ground Floor Retail: 12ft / 14ft			
2.5/3.5	Res: 10ft / 12ft	50ft (14, 12, 12, 12)	44ft (14, 10, 10, 10)	50/25
	Ground Floor Retail: 12ft / 14ft			
3.5 (4)	Res: 10ft / 12ft	56ft (20, 14, 12, 10')	40ft (16, 10, 10, 4)	50/25, 55/30
	Off: 10ft / 14ft			
	Ground Floor Retail: 16ft / 20ft			
4	Res: 10ft / 12ft	62ft (20, 14, 14, 14)	50ft (16, 10, 10, 10, 4)	50/25, 55/30, 80/30
	Off: 12ft / 14ft			
	Ground Floor Retail: 16ft / 20ft			
5	Res: 10ft / 12ft	76ft (20, 14, 14, 14, 14)	56ft (16, 10, 10, 10, 10)	55/30
	Off: 12ft / 14ft			
	Ground Floor Retail: 16ft / 20ft			
6	Res: 10ft / 12ft	90ft (20, 14 x5)	66ft (16, 10 x5)	55/30
	Off: 12ft / 14ft			
	Ground Floor Retail: 16ft / 20ft			
8	Res: 10ft / 12ft	118ft (20, 14 x7)	86ft (16, 10 x7)	80/30, 100/30, 100/30 urban,
	Off: 12ft / 14ft			
	Ground Floor Retail: 16ft / 20ft			
4/12	Res: 10ft / 12ft	174ft (20, 14 x11)	126ft (16, 10 x11)	55/30
	Off: 12ft / 14ft			
	Ground Floor Retail: 16ft / 20ft			

Section 2. The Old City Height District Map is replaced by the Old City Height District Map, attached to this Ordinance as Exhibit “A”, and incorporated herein by reference.

Section 3. The provision of this Ordinance, including the Old City Height Map, shall be reviewed by the Department of Planning, Preservation and Sustainability, in consultation with the Boards of Architectural Review, during the six month period immediately following ratification of this Ordinance. Should such review suggest modifications to this Ordinance to improve its efficacy or operation, such modifications shall be submitted to the Planning Commission and City Council for consideration.

Section 4. This Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of
_____ in the Year of Our Lord, 2017,
and in the ____the Year of the Independence of
the United States of America

John J. Tecklenburg
Mayor, City of Charleston

ATTEST:

Vanessa Turner Maybank
Clerk of Council