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ORDINANCE NO. 1381

AN ORDINANCE OF THE CITY OF COCOA BEACH, BREVARD COUNTY, FLORIDA AMENDING THE COCOA BEACH CODE APPENDIX B, "THE CITY OF COCOA BEACH LAND DEVELOPMENT CODE" BY ADDING A DEFINITION OF FIREWORKS IN LDC CHAPTER II; CHANGING LDC SECTIONS 3-09F, 3-10F, AND 3-11F, FOR THE PURPOSE OF PROHIBITING RETAIL AND WHOLESALE SALE OF FIREWORKS IN THE CT-1 OCEANFRONT RESIDENTIAL AND TRANSIENT ZONING DISTRICT, CN NEIGHBORHOOD COMMERCIAL ZONING DISTRICT, AND CG GENERAL COMMERCIAL ZONING DISTRICT; AMENDING LDC SECTION 3-08D, FOR THE PURPOSE OF PROHIBITING RETAIL AND WHOLESALE SALE OF FIREWORKS AS AN ACCESSORY USE IN THE RM-2 MULTIFAMILY PROFESSIONAL ZONING DISTRICT; REPEALING OTHER CITY CODE PROVISIONS IN CONFLICT WITH REVISIONS TO THE LAND DEVELOPMENT CODE; PROVIDING FOR INCORPORATION OF RECITALS, SEVERABILITY, INTERPRETATION, CONFLICTS, AND AN EFFECTIVE DATE.

22 **WHEREAS**, the City Commission finds that the Land Development Code provisions relating to "Prohibited
23 Uses" in the CT-1 Oceanfront Residential and Transient, and CN, Neighborhood Commercial, and CG General
24 Commercial zoning districts are insufficient and are in need of revision; and,
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26 **WHEREAS**, Chapter 163, Florida Statutes requires that municipalities develop and implement Land
27 Development Regulations to regulate the use of land; and,
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29 **WHEREAS**, statutory regulations regarding the sale of fireworks in the State of Florida are enumerated in
30 Florida Statutes Section 791; and,
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32 **WHEREAS**, Florida Statutes Sections 791.04 and 791.07 allows the possession and use of fireworks by
33 certain agencies, including railroads and other transportation agencies for signal purposes, and by development
34 agencies for use in quarrying and industrial blasting, and by the Armed Forces of the United States, and by
35 agricultural agencies, as governed by the Department of Agriculture and Consumer Services, for agricultural
36 activities; and,
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38 **WHEREAS**, "industrial activities" are prohibited in the City of Cocoa Beach, pursuant to Comprehensive
39 Plan Policy I.4.7; and,
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41 **WHEREAS**, no bona fide agricultural land uses exist in the City of Cocoa Beach, nor are there any
42 agriculturally zoned lands in the City; and,

43 **WHEREAS**, the closest agricultural land uses to the City of Cocoa Beach lie in unincorporated Brevard
44 County, to the west of I-95, a distance of approximately 15 roadway miles, and it is unnecessary for agricultural
45 land owners to seek fireworks for sale in Cocoa Beach when other closer options exist for agricultural supplies;
46 and,
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48 **WHEREAS**, discharging fireworks for uses other than those identified in Florida Statutes Sections 791.04
49 and 791.07, is unlawful ; and,
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51 **WHEREAS**, the City Commission of the City of Cocoa Beach has determined that discharging fireworks
52 adversely affects the peace, tranquility and quality of life for persons residing nearby; and,
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54 **WHEREAS**, the Cocoa Beach Planning Board has reviewed this ordinance at duly noticed public hearing
55 held on March 1, 2004, and said Board has recommended adoption of the changes to the City Code; and,
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57 **WHEREAS**, the City Commission held duly noticed public hearings on April 1, 2004, and April 15, 2004,
58 to consider this amendment and has posted and provided public notice regarding this ordinance in accordance
59 with City Code and Florida Statutes; and,
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61 **WHEREAS**, the City Commission and the Planning Board both find that the ordinance is consistent with
62 the City's comprehensive plan, and promotes the public health, safety, welfare economic order and public
63 interest;
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65 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCOA**
66 **BEACH, FLORIDA:**
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69 **SECTION ONE:** The above recitals are true and correct and by this reference are hereby incorporated
70 herein and made an integral part hereof as though fully set forth herein.
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73 **SECTION TWO:** That the Code of Ordinances, City of Cocoa Beach, Florida, Appendix B, The City of
74 Cocoa Beach Land Development Code, Chapter II, Article II "Definitions", is hereby amended by adding the
75 following definition to read as follows:
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77 88.5 FIREWORKS. Any combustible or explosive composition or substance or
78 combination of substances or any article prepared for the purpose of producing a
79 visible or audible effect by combustion, explosion, deflagration, or detonation, as
80 defined by Florida Statutes Chapter 791.01(4)(a). The term "Fireworks" does not
81 include those devices and materials defined by Florida Statutes Chapter
82 791.01(4)(b) and (c).
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88 **SECTION THREE:** That the Code of Ordinances, City of Cocoa Beach, Florida, Appendix B, The City of
89 Cocoa Beach Land Development Code, Section 3-09, "CT-1 Oceanfront Residential and Transient District",
90 subsection 3-09F, "Prohibited Uses and Structures", is hereby amended to read as follows:
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92 F. PROHIBITED USES AND STRUCTURES. This shall be any uses not listed as permitted or allowed
93 by special exception and specifically:

- 94 1. Industrial uses and structures.
- 95 2. Facilities and services which create through objectionable noise, air pollution, obnoxious
96 odors, or other annoyances are considered incompatible and not in keeping with the
97 residential and family-oriented tourist-amenity intent of the district.
- 98 3. Wholesale and retail sale of fireworks.

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101 **SECTION FOUR:** That the Code of Ordinances, City of Cocoa Beach, Florida, Appendix B, The City of
102 Cocoa Beach Land Development Code, Section 3-10, "CN Neighborhood Commercial District", subsection 3-10F,
103 "Prohibited Uses and Structures", is hereby amended to read as follows:
104

105 F. PROHIBITED USES AND STRUCTURES. This shall be any uses not listed as permitted or
106 allowed by special exception and specifically:

- 107 1. Single, duplex, triplex and multifamily structures, except those in existence on the date
108 (May 4, 2000) and considered and regulated as specified above.
- 109 2. Hotels, motels, or transient lodging establishments and uses, including time shares,
110 except those in existence of the date of adoption of this ordinance (May 4, 2000) and
111 considered and regulated as a special exception as specified above.
- 112 3. Storage and transfer facilities.
- 113 4. Industrial activities.
- 114 5. Commercial activities in dwelling units of apartments, motels and hotels.
- 115 6. Outside automobile sales.
- 116 7. Junkyards.
- 117 8. Any other use incompatible with the exclusive commercial character of the district and its
118 permitted uses.
- 119 9. Parking or display of any vehicle for sale.
- 120 10. Facilities and services which create through objectionable noise, air pollution, obnoxious
121 odors, or other annoyances are considered incompatible and not in keeping with the
122 residential and family-oriented tourist-amenity intent of the district.
- 123 11. Wholesale and retail sale of fireworks.

131 **SECTION FIVE:** That the Code of Ordinances, City of Cocoa Beach, Florida, Appendix B, The City of
132 Cocoa Beach Land Development Code, Section 3-11, "CG General Commercial District", subsection 3-11F,
133 "Prohibited Uses and Structures", is hereby amended to read as follows:
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135 F. PROHIBITED USES AND STRUCTURES. This shall be any uses not listed as permitted or
136 allowed by special exception and specifically:

- 137 1. Industrial uses and structures.
- 138 2. Facilities and services which create through objectionable noise, air pollution, obnoxious
139 odors, or other annoyances are considered incompatible and not in keeping with the
140 residential and family-oriented tourist-amenity intent of the district.
- 141 3. Wholesale and retail sale of fireworks.
- 142 ~~3.~~ 4. Any other use incompatible with the exclusive commercial character of the district
143 and its permitted uses.

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146 **SECTION SIX:** That the Code of Ordinances, City of Cocoa Beach, Florida, Appendix B, The City of
147 Cocoa Beach Land Development Code, Section 3-08, "RM-2 Multifamily Professional District", subsection 3-08D,
148 "Permitted Accessory Uses and Structures", is hereby amended to read as follows:
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150 D. PERMITTED ACCESSORY USES AND STRUCTURES. This shall be the uses and
151 structures which:

- 152 1. Are clearly ancillary and accessory to the principal use.
- 153 2. The following when customarily accessory to and clearly subordinate use within an
154 apartment, transient lodging structure of fifty (50) or more dwelling or rental units, or of an
155 office building exceeding twenty thousand (20,000) square feet in floor area, the following
156 accessory uses are permitted, provided they are located within the structure and together
157 do not exceed ten percent (10%) of the gross floor area of structure:
 - 158 a. Bar and lounges.
 - 159 b. Restaurants.
 - 160 c. Travel and car rental agencies.
 - 161 d. Retail shops, except that wholesale and retail sale of fireworks shall not be
162 permitted.
- 163 3. Offices with laboratories, provided no manufacturing is conducted.
- 164 4. Home occupations are permitted in accordance with Section 4-78 of these regulations.

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167 **SECTION SEVEN:** INTERPRETATION. In interpreting the body of Sections Two through Six of this
168 Ordinance, the following rules of interpretation shall be utilized:
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- 170 (1) Terms underlined are additions to existing text.
 - 171 (2) Terms ~~stricken through~~ are deletions from existing text.
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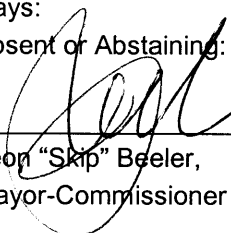
SECTION EIGHT: SEVERABILITY If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

SECTION NINE: REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances, and all resolutions and parts of resolution, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION TEN: EFFECTIVE DATE. This Ordinance shall be become in full force and effect upon adoption by the City Commission in accordance with the Charter of the City of Cocoa Beach, Florida.


Upon Motion by Commissioner Sasso and Seconded by Commissioner Pruett this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 15th day of April, 2004.

Ayes: 5
Nays: 0
Absent or Abstaining: 0



Leon "Skip" Beeler,
Mayor-Commissioner

ATTEST:


Loredana Kalaghchy, CMC
City Clerk

First Reading: 3/18/04 & 4/1/04
Date Posted: 3/10/04, 3/25/05 & 4/7/04
Date Published: 3/25/04 & 4/9/04