

ORDINANCE 1625

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2
3 AN ORDINANCE OF THE CITY OF COCOA BEACH, BREVARD COUNTY, FLORIDA,
4 PROPOSING AN AMENDMENT TO THE CHARTER OF THE CITY OF COCOA
5 BEACH,
6 TO REVISE THE CHARTER'S BUILDING HEIGHT LIMIT ACCOMMODATIONS,
7 ADDING AN ALLOWANCE FOR 10 FEET OF UNOCCUPIED BUILDING ELEMENTS
8 AND ATTACHMENTS ON THE TOP OF BUILDINGS, AND WHERE APPLICABLE,
9 SPECIFYING THAT THE 45-FOOT CHARTER BUILDING HEIGHT LIMIT SHALL BE
10 MEASURED FROM A PARCEL'S FEMA BASE FLOOD ELEVATION OR OTHER
11 LEGALLY REQUIRED MINIMUM ELEVATION FOR CONSTRUCTION OF HABITABLE
12 SPACE, RATHER THAN THE CROWN OF ABUTTING ROAD; PROVIDING FOR A
13 REFERENDUM ON THE QUESTION OF APPROVAL OF THE PROPOSED
14 AMENDMENT; PROVIDING FOR QUESTION NUMBERING; PROVIDING FOR FILING
15 THE REVISED CHARTER WITH THE FLORIDA DEPARTMENT OF STATE;
16 PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS OF
17 BREVARD COUNTY, FLORIDA; PROVIDING FOR CONFLICTS, SEVERABILITY AND
18 AN EFFECTIVE DATE.

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20 WHEREAS, the City Commission is authorized by City Charter Section 9.01 to propose
21 amendments to the City Charter; and

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23 WHEREAS, the City of Cocoa Beach Charter Review Committee was created for the purpose of
24 reviewing the Charter of the City of Cocoa Beach and making recommendations to the City Commission
25 as to whether any changes were needed; and

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27 WHEREAS, the Charter Review Committee met during 2017 and 2018 to review the Charter and
28 considered changes thereto; and

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30 WHEREAS, the Charter Review Committee has submitted to the City Commission its report and
31 proposed changes to the City Charter; and

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33 WHEREAS, the City Commission has reviewed the Charter Review Committee's proposed
34 changes to the City Charter relating to Article VI, and has chosen to prepare an alternative proposed
35 Question #1 relating to Article VI, which the City Commission has determined should be submitted to the
36 electors of the City of Cocoa Beach for their consideration at an upcoming election; and

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38 WHEREAS, public hearings on the proposed Charter amendments hereinafter described were
39 duly advertised and held by the City Commission of the City of Cocoa Beach, and at such hearings
40 interested parties and citizens for and against the proposed amendments were heard; and

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42 WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the
43 original text, *** shall constitute ellipses to the original text, and ~~strikethrough~~ shall constitute deletions to
44 the original text.

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46 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF
47 COCOA BEACH, FLORIDA:

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49 SECTION 1. CHARTER AMENDMENT. Upon approval of this charter amendment at
50 referendum, the foregoing portions of Article VI, Section 6.08 of the Cocoa Beach City Charter are
51 amended to read as follows:

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53 **Sec. 6.08. - Building height limit accommodation.**

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55 Where required to meet federal, state, or local law to provide a wash through or similar
56 grade level passage for storm surges, existing buildings lost to a casualty event may be

57 rebuilt to the existing height as previously provided plus up to the height of the wash
58 through if necessary to maintain the same density with the same habitable area or gross
59 square footage.

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61 Where a parcel or a portion thereof has been assigned a FEMA Base Flood Elevation, or
62 another minimum elevation for construction of habitable space has been applied to a
63 parcel pursuant to federal, state, or local law, the Charter building height limit in Section
64 6.04 shall be measured from the higher of the Base Flood Elevation or other minimum
65 elevation, rather than the crown of abutting road. On all parcels, up to 10 feet of
66 unoccupied building elements and attachments on the top of buildings shall not count
67 toward the Charter building height limit.

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70 **SECTION 2. REFERENDUM.** The question of amendment of the Charter of the City of Cocoa
71 Beach, Florida, as provided in this Ordinance shall be submitted to a vote of electors of the City at a
72 referendum election to be held in the City of Cocoa Beach on November 6, 2018.

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74 **SECTION 3. BALLOT TITLE AND BALLOT SUMMARY.** The ballot title and ballot summary that
75 shall appear on the referendum election ballot for this proposed charter amendment are as follows:

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77 **COCOA BEACH CITY CHARTER AMENDMENT**
78 **REVISING BUILDING HEIGHT ACCOMMODATIONS**

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80 Shall the City Charter be amended to revise the Charter's building height
81 limit accommodations, adding a 10-foot allowance on the top of buildings
82 for unoccupied building elements and attachments, and where
83 applicable, specifying that the 45-foot Charter building height limit shall
84 be measured from a parcel's FEMA Base Flood Elevation or other legally
85 required minimum elevation for construction of habitable space, rather
86 than the crown of abutting road?

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88 _____ Yes
89 _____ No

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91 **SECTION 4. QUESTION NUMBERING.** The aforementioned ballot title and ballot summary
92 shall appear on the ballot designated as "Question No. 1".

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94 **SECTION 5. COORDINATION WITH SUPERVISOR OF ELECTIONS.** The City Clerk is hereby
95 authorized and directed to instruct and coordinate with the Supervisor of Elections of Brevard County,
96 Florida, to include the ballot question set forth in Section 3 on the ballot of the General Election to be held
97 in the City of Cocoa Beach and Brevard County, Florida, on November 6, 2018.

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99 **SECTION 6. CONFLICTS.** All Ordinances or parts of Ordinances insofar as they are
100 inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any
101 conflict.


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103 **SECTION 7. SEVERABILITY.** In the event that any word(s), phrase(s), portion(s), sub-sub-
104 section(s), sub-section(s), or section(s) of this Ordinance, is contrary to law, or against public policy, or
105 shall for any reason whatsoever held to be invalid, illegal or unconstitutional, by any court of competent
106 jurisdiction, such word(s), phrase(s), portion(s), sub-sub-section(s), sub-section(s), or section(s) of this
107 Ordinance shall be null and void, and shall be deemed severed, and a separate, distinct, and
108 independent provision from the remaining provisions of this ordinance, and such holding shall in no
109 manner affect the validity of the remaining words, phrases, portions, sub-sub-sections, sub-sections, or
110 sections of this Ordinance, which shall remain in full force and effect. This ordinance shall be construed
111 in a manner to accomplish, to the greatest extent legally possible, the purposes of this ordinance as
112 expressed herein. It will be presumed that the City Commission for the City of Cocoa Beach did not intend

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to enact any invalid or unconstitutional provision. It shall further be presumed that the City Commission would have enacted the remainder of this Ordinance without any invalid or unconstitutional provision, thereby causing said remainder to remain in full force and effect.

SECTION 8. EFFECTIVE DATE. Upon adoption of the proposed Charter amendment by a majority of the electors voting in the referendum, the City Commission shall have said amendments incorporated into the City Charter and shall file the revised Charter with the Florida Department of State as provided by Chapter 166, Florida Statutes, at which time the revised Charter provision will go into effect.

Upon Motion by Commissioner Woulas, seconded by Commissioner Martinez, this Ordinance was duly adopted at a Regular Meeting of the City Commission of the City of Cocoa Beach, Florida, held on the 2 day of August, 2018.

Ayes: 5
Nays: 0
Absent or Abstaining 0

Ben Malik,
Mayor-Commissioner

ATTEST:

Loredana Kalaghchy, MMC
City Clerk

First Reading: July 19, 2018
Date Posted: July 16, 2018
Date Published : July 23, 2018

