

ORDINANCE NO. 19-2009

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AMENDING THE CITY OF COCOA CODE OF ORDINANCES, CHAPTER 3, ADVERTISING AND SIGNS; REVISING PURPOSE AND SCOPE; PROVIDING A PENALTY PROVISION; MODIFYING DEFINITIONS; AND REVISING EXISTING CODE PROVISIONS RELATED TO PROHIBITED SIGNS, OFF-SITE ADVERTISING, SIGNS EXEMPT FROM PERMITTING, TEMPORARY SIGNS, AND ADMINISTRATIVE PROCEDURES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under section 2(b), Art. VIII of the Florida Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, through the enactment of this Ordinance, the City Council desires to preserve and improve the quality of urban life and aesthetics within the City of Cocoa. *See Members of the City Council v. Taxpayers for Vincent*, 466 U.S. 789 (1984); *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490 (1981); and

WHEREAS, the City Council finds that the limitations on temporary signage and digital billboards within the City of Cocoa, as provided herein, are unrelated to viewpoint and the content of any message, and will further the City's legitimate and substantial government interest in minimizing sight pollution and traffic and safety hazards to persons and property during high winds; and

WHEREAS, the City Council finds that the goals of this Ordinance are unrelated to the suppression of free expression; and

WHEREAS, aesthetic interests are a legitimate basis for regulating signs. *See, e.g., Lake Wales v. Lemar Advertising Ass'n of Lakeland*, 414 So. 2d 1030 (Fla. 1982); *Messer v. City of Douglasville, Ga.*, 975 F.2d 1505 (11th Cir. 1992); and

WHEREAS, on September 9, 2009, the City's Local Planning Agency held a duly advertised public hearing on this Ordinance and recommended approval to the City Council; and

WHEREAS, the City Council of the City of Cocoa, Florida, hereby finds this ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by the reference as legislative findings of the City Council of Cocoa.

Section 2. Code Amendment. The City of Cocoa Code Chapter 3 is hereby amended as follows: (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Chapter 3. It is intended that the text in Chapter 3 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance).

CHAPTER 3. ADVERTISING AND SIGNS

ARTICLE I. IN GENERAL

Sec. 3-1. General scope; purpose and intent.

(a) The purpose of this chapter is to regulate the number, size, type, use, design, construction, location and character of all signs within the City. These regulations are established in order to promote the overall economic well-being of the city, while at the same time providing for the health, safety and welfare of the public by reducing the adverse effects of signs on safety, property values, traffic, and the enjoyment of the scenic beauty of the City. These regulations are intended to avoid excessive competition and clutter among sign displays in the demand for public attention, eliminate dangerous, dilapidated and unsightly signs and provide for adequate maintenance and inspection of signs within the corporate limits of the City, consistent with constitutional guarantees and while providing for adequate opportunities for effective means of communication.

(b) For purposes of this chapter, any lawful sign may display a noncommercial message in addition to, or in lieu of, any other message. All noncommercial speech shall be deemed to be on-premises. Nothing in this chapter shall be construed to regulate the content of the message displayed on any sign.

Sec. 3-2. Reserved.

Sec. 3-3. Penalty for Violation.

(a) Any person who knowingly violates or fails to comply with any of the sections of this chapter or any erector, owner or user of an unlawful sign or any owner of real property upon which an unlawful sign is located shall, upon conviction, be punished as provided in section 1-8 of this Code.

(b) In addition to the penalties provided above, a violation of this chapter shall be subject to enforcement under the City's code enforcement procedures provided within this Code and as established in accordance with Chapter 162, Florida Statutes.

Sec. 3-4. Short title.

This chapter, as may be amended from time to time, shall be known and cited as the "Sign Ordinance of the City of Cocoa, Florida."

Sec. 3-5. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign means any on-premises sign identifying a business or principle activity no longer present or active on site for a period of greater than 180 days. Abandoned signs shall include the sign face but not the sign structure.

Animated or flashing sign means any sign which uses lights that flash or alternate or which includes action, motion or illusion of motion, designed electronically, usually to give messages by means of slight progressive changes. This definition shall also include signs with rotating panels, generally referred to as tri-vision signs.

Attraction-getting devices means any gadget or mechanical contrivance, scheme, drawing, ruse or trick, symbol, emblem, insignia, regalia or motto, but excluding ornate architectural features of a building, selectively narrowing or focusing receptive consciousness.

Awning means any structure, fixed or capable of being raised or lowered, made of fire resistant cloth, wood, metal or plastic with or without a metal frame, which protrudes from a building facade as a roof-like structure and is supported entirely by the building without the use of ground supports.

Banner sign means any sign having the characters, letters, illustrations or ornamentation applied to cloth, plastic, vinyl, paper or fabric including animated, rotating and/or fluttering devices, flags and pennants which do not comply with the definition of flag or pennant under this chapter, but excluding government flags for the purposes of this ordinance, designated to attract attention.

Billboard means an off-site or off-premises sign as defined herein.

Canopy means any structure other than an awning, made of fire resistant cloth, wood, metal or plastic with or without metal or wood frames, attached or detached and supported, in part, or entirely, by the ground.

Community Development Director means the City of Cocoa Community Development Director, or his or her authorized designee.

Construction sign means any sign of a temporary nature placed at a construction site after the issuance of a building permit that may depict the name, address and state license number of the primary contractor or subcontractors, the property owners, agents, architects, and financial institutions.

Digital billboard means an off-site or off-premise electronic sign.

Directional sign means a sign, less than six (6) square feet in area, directing or guiding traffic or people to entrances, exits or parking and containing no commercial identification of any product or service.

Directory sign means a sign which gives the name and/or occupation of the occupants of the building or gives the use of the building, including office building directories, church directories and apartment directories.

Electric discharge lighting (neon or fluorescent) shall mean an illumination system using an electrified inert gas (such as neon), placed inside clear or colored transparent tubes, which can be bent into various letters, designs and shapes.

Electronic sign means a sign capable of displaying words, symbols or images that can be changed remotely or automatically by electronic or mechanical means. Electronic signs include, for example, digital billboards and light emitting diode (LED) signs.

Entrance sign means any sign identifying a subdivision or other large development and located at the main entrance point or points to such development.

Erect means to build, construct, raise, assemble, create, paint, draw, attach, hang, place, suspend, affix, or in any other way bring into being or establish; but it does not include any of the foregoing activities when performed incidental to the customary maintenance or repair of a sign.

Exempt signs means signs exempted from the normal permit requirements under this chapter.

Flag or pennant means a piece of fabric with a color or pattern representing a country, political subdivision, organization or business entity, including flags of states and municipalities.

Ground sign means a sign supported by poles, uprights or braces, visible or enclosed that are placed in or upon the ground. Ground signs include pole, pylon and monument signs.

Mural means a non-commercial painting or artistic work composed of pictures or arrangements of color and which is made directly onto, projected onto or attached to a building or wall.

Noncombustible material means a material, which, in the form and thickness in which it is used, meets any of the following:

(1) Materials which pass the test procedures for defining noncombustibility of elementary materials set forth in ASTM E136-04 as may be amended; or

(2) Materials having a structural base of non-combustible materials as stated in subsection (1) of this definition, with a surfacing not more than one-eighth (1/8) inch thick, which has a flame-spread rating not greater than 50 when tested in accordance with the method of test for surface burning characteristics of building materials set forth in ASTM E84, as may be amended.

Nonconforming sign means any advertising structure or sign which was lawfully erected and maintained prior to such time as it came within the purview of this chapter and any amendments hereto, and which fails to conform to all applicable sections and restrictions of this chapter, or any other applicable provision of the city code, or a nonconforming sign for which a special permit has been issued.

Off-site or off-premises sign means a sign identifying an activity which is not on the premises where the sign is located or products or services, including entertainment, which are not available on the premises where the sign is located.

On-site or on-premises sign means a sign (1) identifying an activity conducted or products or services available on the premises where the sign is located; or (2) displaying a noncommercial message; or (3) any combination of the first two. For purposes of this definition, common areas within a duly organized homeowner or condominium association shall be considered on-premises for each individual unit or lot within said association in recognition of any right the unit or lot owner has to use said areas under Florida law and the association's covenants and rules.

Owner means the person owning the fee simple title to the property upon which a permit is required.

Permittee means the person in possession or having the beneficial use of property upon which a sign is located for which a permit is required.

Person means a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Portable signs means signs that may be hauled or towed from one location to another, are self supporting, are designed to be temporarily placed without a permanent base or fastening.

Public interest means having a community, local, regional and/or national interest, including, but not limited to emergencies, charitable, educational or religious events or occasions. Public interests shall not pertain to advertisements for proprietary or personal gain.

Real estate sign means any sign used solely for the sale or lease of property on which the sign is located.

Roof sign means any sign erected upon, against or directly above a roof or on top of or above the parapet of a building.

Sign means any surface, fabric, device or display, whether illuminated or non-illuminated, designed to identify, announce, direct or inform, and that is placed in view of the general public. For purposes of this chapter, the term “sign” includes all structural members.

Sign erector or contractor means any person engaged in the construction, reconstruction, or erection of any sign requiring structural framework and support or using electric power or requiring a scaffold for erection or applications.

Sign, number means, for the purpose of determining the number of signs, a sign shall be considered to be a single display surface and/or display device containing elements organized, related, and/or composed to form a unit. Where material is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign. A double-faced sign shall be considered one (1) sign.

Sign surface area. The area of each sign surface computed by calculating the area of the circle, square, or other geometric design, including murals, required to enclose the letters, insignia, or other information placed upon a wall or freestanding sign, including the border, when designed as an integral part of that information. Only one (1) side of double-faced signs shall be calculated in the sign surface area.

Snipe sign means a small sign of any material, including but not limited to plastic, vinyl, paper, cardboard, wood or metal, attached to any object and having no application to the premises where located.

Street right-of-way means property, which is committed for use as a public access route and primarily intended for vehicular movement.

Temporary signs means a sign displayed before, during, or after an event or occurrence scheduled at a specific time and place or which is not designed or intended to be placed permanently, including, for example, for rent signs, for sale signs, construction signs, real estate signs, management signs, social or special event signs.

Total sign area means the sum total area of the separate sign surface areas.

Wall sign means a sign that is affixed to the wall of any building, when such sign shall project not more than 12 inches from the building. Wall signs may not extend above the roofline or facade.

Window sign means illuminated and non-illuminated signs placed in the exterior windows of a structure, and which can be viewed from the outside of the structure.

ARTICLE II. SIGN REGULATIONS

Sec. 3-21. Prohibited signs and features.

The following signs and features are strictly prohibited as indicated:

- (a) *Animated or flashing signs*, except as otherwise authorized by this chapter.
- (b) *Exposed electrical discharge lighting (neon or fluorescent)*. Exposed electrical discharge lighting (neon or fluorescent) is strictly prohibited within residential districts, except for delivery, entrance, and exit signs at multi-family complexes.
- (c) *Traffic hazards*. Any sign which, in the opinion of the city engineer, constitutes a traffic hazard or detriment to traffic safety by reason of its size, location, movement, content, coloring, or method of illumination, or by obstructing the vision of drivers, or by obstructing or detracting from the visibility of any official traffic control device by unreasonably diverting or tending to divert the attention of operators of moving vehicles from traffic movement on streets, roads, intersections, or access facilities; no sign shall be erected in such a manner as to obstruct the vision of or constitute a hazard to pedestrians. The use of flashing lights or revolving lights is prohibited in any sign as constituting a hazard to traffic. Any sign which by glare or method of illumination, constitutes a hazard to traffic is prohibited. No sign shall interfere with, mislead, or confuse traffic.
- (d) *Obscenities*. Signs which are obscene, indecent, or immoral.
- (e) *Signs violating right-of-way*. Signs overhanging or infringing upon the right-of-way of any street, road, or public right-of-way, except as specifically provided by these regulations. Those signs erected in the Central Business District shall be exempt from this provision. (See Regulations--Central Business District)
- (f) *Public property*. Signs erected on public property, unless otherwise authorized by these regulations.
- (g) *Ingress or egress to building*. Signs so located as to prevent free ingress or egress from any door, passable window or fire escape. No sign shall be attached to a standpipe or fire escape.
- (h) *Merchandise displays on rights-of-way*. Permanent, temporary, portable or movable displays of merchandise located on any street, sidewalk, alley or right-of-way are prohibited, except when expressly permitted as part of a special event.
- (i) *Utility poles and trees*. Signs are prohibited on or from being attached to utility poles or trees, shrubs or plants.
- (j) *Outline or strip lighting*. Outline or strip lights on corners, eaves, ridges, facias, or other portions of buildings or structures whether electric discharge lighting or otherwise.

Notwithstanding this prohibition, outline or strip lighting may be displayed beginning on November 20 and ending on January 10 each year without a permit.

(k) *Window signs.* Signs, paper, cloth, plastic, etc., upon exterior ~~surfaces of the~~ windows, which obscure more than twenty (20) percent of the total transparent area of any window.

(l) *Roof signs.*

(m) *Off-premises or off-site signs,* except as authorized by this chapter.

(n) *Temporary signs,* except as authorized under this chapter.

(o) *Air inflated devices,* except as may be permitted by the City Code.

(p) *Attraction-getting devices,* except when expressly permitted as part of a special event.

(q) *Signs on vehicles.* Any vehicle or trailer with a sign or signs attached thereto, placed or painted thereon, visible from any public right-of-way, shall be prohibited, subject to the following exceptions:

(1) Any vehicle or trailer which is actively engaged in making deliveries, pick-ups or otherwise actively in use and such sign face does not protrude in excess of one (1) inch from the vehicle. Such vehicle or trailer, when not in use, shall be parked so as not to be visible from any public right-of-way; or

(2) When there is no parking available to meet the requirements of this subsection, vehicles or trailers may be parked at an alternate location that shall be as inconspicuous from the public right-of-way as possible.

(r) *Abandoned signs.*

(s) *Snipe signs.*

Sec. 3-21.5. Off-site advertising/billboard regulation.

(a) The terms “Off-Premises signs,” “off-site signs,” and “billboards,” as used in this section, shall be used interchangeably. For purposes of this section, these terms shall not include:

(1) Any residential subdivision sign, which is identifying the subdivision entrance; or

(2) Any sign, display or device erected as a directional or way-finding sign to assist with the location of historical, cultural, civic or other points of public interest or activities, which are maintained or operated as noncommercial attractions, public or religious sites, and are less than ninety-six (96) square feet in size.

(b) Other than as provided within this section off-site advertising/billboard signs are strictly prohibited within the city.

(c) Notwithstanding any other city Code provision to the contrary, from and after the effective date of this section, the total number of off-site advertising/billboard signs located in the incorporated areas, and not located along the below designated corridors, of the city shall be limited as hereafter specified.

(d) The initial limitation on off-site advertising/billboard signs is the nineteen (19) off-site advertising/billboard sign structures (hereinafter sometimes referred to as "existing structure(s)") currently existing in the incorporated areas of the city (the "existing structures"). An inventory of these existing structures dated October 27, 2009, is filed in the community development department and is incorporated herein by this reference.

(e) The limit stated in subsection (d) above may only be increased as follows:

(1) By the number of lawfully existing off-site advertising/billboard sign structures within unincorporated areas of the county which are annexed by the city. Contemporaneously with annexation the city shall conduct a survey of all legally existing off-site advertising/billboard sign structures within the annexed portions of unincorporated Brevard County; or

(2) By the permitting of new off-site advertising/billboard signs upon property which is currently zoned as either general commercial, wholesale commercial or light and heavy manufacturing and designated upon the future land use map as either commercial or industrial, and where such property is contiguous or adjacent to either Interstate 95 and/or State Road 528. There shall be no waivers granted from this provision of the city Code.

(3) The inventory of existing structures, on file with the community development department, shall be amended by resolution of the city council to include the addition of legally existing or permitted off-site advertising/billboard sign structures.

(f) The limit stated in subsection (d), and as potentially modified by subsection (e) above shall be correspondingly reduced upon the occurrence of any of the following:

(1) An existing structure is removed incident to a road widening or other public works project;

(2) An existing structure is removed incident to the development or redevelopment of the property upon which the existing structure is located;

(3) An existing structure is removed incident to the expiration of a lease or other agreement authorizing placement of the existing structure on the property;

(4) An existing structure which is non-conforming due to zoning is removed due to destruction, damage or other casualty and which is not replaced or repaired within six (6) months. For any structure so replaced or repaired the structure shall be replaced with a

monopole structure, which does not exceed the maximum height provided below in 3-21.5(h)(6), and the square footage of the sign display shall be equal to or less than the previously existing display area; or

(5) An existing structure which is conforming under the zoning code is removed, dismantled, or allowed to fall into disrepair, and which is not replaced or repaired within six (6) months.

(g) At any point in time the then current limit on the number of off-site advertising/billboard signs located in the incorporated areas of the city shall be the initial limit specified in subsection (d) and as amended by subsection (e) above less the total number of existing structures which have been removed as specified in subsection (f) above.

(h) For any off-site advertising/billboard sign which may be permitted under 3-21.5(e)(2) above, the following requirements must be met:

(1) The minimum lot size shall be seven thousand five hundred (7,500) square feet;

(2) The minimum lot width shall be seventy-five (75) feet;

(3) Signs shall have a minimum setback from all property lines of fifteen (15) feet or the set-back requirement of the applicable zoning district, whichever is greater;

(4) There shall be a minimum of one thousand five hundred (1,500) feet between property lines of lots used for off-site advertising by billboard or sign; there shall be a minimum of five hundred (500) feet between the property line of a lot used for off-site advertising/billboard and road-exits or on-ramps, intersections, or interchanges; and there shall be a minimum of two hundred (200) feet between the property line of a lot used for off-site advertising by billboard or sign and property lines of lots used for schools, churches, cemeteries, public parks, public playgrounds, historic sites, landmarks, or residentially zoned properties;

(5) The maximum display area shall not exceed fourteen (14) feet in height by forty-eight (48) feet in width, with a maximum square footage of six hundred seventy-two (672) square feet;

(6) Except for off-site advertising/billboard signs located on limited access highways, The maximum height of any such sign shall be thirty (30) feet measured from the crown of the road to the top of the display structure; off-site advertising/billboard signs located on limited access highways shall not exceed a maximum of forty-five (45), feet measured from the crown of the road to the top of the display structure;

(7) Only monopole structures shall be allowed;

(8) Power generation and delivery equipment, including solar power cells, shall be provided on separate pole structures and shall be located below the height of the sign;

- (9) The sign face shall be only:
- a. Single faced;
 - b. Double-faced or "V" signs; or
 - c. Back-to-back signs;

(10) All signs shall be maintained to be visually and aesthetically pleasing, i.e. pole and sign mainframe shall be freshly painted and rust free, the sign face shall be free of peeling paint or general disrepair; and

(11) If the sign is to be lighted, the lighting shall be installed, designed or adjusted to avoid interference with or a nuisance to the residences and businesses within the city.

(i) In addition to the limitation specified above, there is hereby imposed a limitation upon the number, size and orientation of the sign faces located upon the existing structures. From and after the effective date of this section, the number of sign faces on an existing structure may not be increased, either by adding an additional face oriented in a different direction or by changing the display mechanism to permit the display of multiple signs on a single sign face. From and after the effective date of this section, no sign face on an existing structure may be increased in size and the orientation of each sign face located upon an existing structure may not be changed. Digital billboards shall be exempt from this subsection.

(j) *Digital billboards.* Digital billboards may be permitted to replace lawfully existing off-site or off-premises signs in non-residential zoning districts subject to the following requirements:

(1) The maximum display area for digital billboards located on limited access highways shall not exceed fourteen feet in height by forty-eight feet in width (14' x 48'). The maximum display area for digital billboards located on non-limited access highways shall not exceed ten feet six inches in height by thirty-six feet in width (10'6" x 36').

(2) Digital billboards shall display static messages only as opposed to moving messages. Further, any structural component, design, or pictorial segment of the digital billboard shall remain static at all times. Digital billboards shall not contain messages with varying degrees of illumination, flashing or scintillating or varying light intensity.

(3) Messages on digital billboards shall be displayed for a minimum dwell time of eight (8) seconds and maximum transition time between messages shall not exceed one (1) second.

(4) Messages on digital billboards shall not operate at a brightness level of more than .3 foot candles above ambient light, as measured using a foot candle meter at a distance of 250 feet for 14' x 48' digital billboards and at a distance of 200 feet for 10'6 x 36' digital billboards. Documentation shall be provided to the City at the time of permitting

certifying the digital billboard as incapable of exceeding .3 foot candles above ambient light.

(5) Each digital billboard display shall have a light sensing device that will adjust the brightness of the billboard display as ambient light conditions change.

(6) Digital billboards shall be prohibited within 250 feet of residentially zoned properties.

(7) Digital billboards shall be prohibited within 250 feet of an intersection with a traffic light.

(8) Digital billboard permittees shall provide for public service and emergency announcements or alerts (e.g. Brevard Emergency Operations Center; Amber and Silver Alerts) to be displayed on the digital billboards at no charge and on an as-needed basis. Said permittees shall be required to submit contact information to the City as part of their permit application.

(k) An existing structure damaged or destroyed by flood, fire, earthquake, war, riot, act of God or other similar casualty loss may be reconstructed in the same location with the same (or smaller or fewer, as the case may be) size and number of sign faces, provided the reconstruction takes place within six (6) months from the date of the damage or destruction. An existing structure may not be relocated to another location, that is not within the exception provided above in 3-21.5(e)(2).

(l) Except as specifically authorized by permit issued by the appropriate jurisdictional agency, no non-invasive trees shall be removed or trimmed from the property upon which an off-site advertising/billboard sign is located or from property adjacent thereto or from the city's rights-of-way, in order to enhance the visibility of the off-site advertising/billboard sign.

(m) In connection with any off-site advertising/billboard signs which are erected or constructed in violation of the provisions of this section, each day that said sign remains erected in violation of this section shall constitute a separate violation and each person responsible for erecting or constructing such off-premises advertising/billboard, including but not limited to the real property owner, shall pay the city a penalty of \$500.00 per day until the off-premises advertisement/billboard is removed.

Sec. 3-22. Exempt Signs; restrictions on placement.

The following signs are permitted in all districts unless otherwise indicated and do not require permitting, subject, however, to all remaining requirements of this chapter:

(a) *Professional name plates* not exceeding four (4) square feet in area, except in single-family residential districts.

(b) *One non-illuminated reader board or identification sign* for each street frontage for public, charitable or religious institutions located on the premises of said institutions and not exceeding twelve (12) square feet in total area.

(c) *Occupational signs* denoting only the name, street number, and business of an occupant in a commercial building, or public institutional building, which do not exceed four (4) square feet in area except in single family residential districts.

(d) *Memorial signs or tablets*, names of building and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials which do not exceed four (4) square feet in area.

(e) *Nonadvertising direction signs* or symbols (e.g. "Entrance," "Exit," "Caution," "Slow," "No Trespassing," etc.) located on and pertaining to a parcel of private property, not to exceed four (4) square feet in sign surface area.

(f) *Legal notices*, identification, informational or directional.

Sec. 3-22.5. Temporary on-premises signs.

Temporary on-premises signs shall be permitted under the following conditions:

(a) Provided the temporary sign satisfies all the requirements of this section, no permit shall be required under section 3-25.

(b) Temporary signs shall be non-illuminated.

(c) Temporary signs shall be removed within three (3) days after the date upon which the sign has fulfilled its purpose (e.g., the scheduled event or occurrence has concluded.)

(d) Temporary signs shall be permitted for a period of fifteen (15) days, up to a maximum of four (4) times per calendar year. The display period for temporary signs may not run consecutive with another display period and must be separated by a period of no less than sixty (60) days. The display period limitations set forth in this subsection shall not apply during the thirty (30) days prior to or on federal, state or City of Cocoa local election days. Temporary signs erected to serve a public interest are exempt from this subsection.

(e) On residential property, no one (1) temporary sign shall exceed six (6) square feet in sign surface area and the total number of temporary signs on any one (1) residential property shall not exceed three (3).

(f) On non-residential property, no one (1) temporary sign shall exceed thirty-two (32) square feet in sign surface area and the total area of temporary signage on any one (1) non-residential property shall not exceed ninety-six (96) square feet in sign surface area.

(g) Temporary signs may be double faced (back-to-back) and only one side of a double faced sign shall be counted for sign area calculations.

(h) The maximum height of any temporary sign shall be four (4) feet on residential property, or eight (8) feet on non-residential property.

(i) Except for signs located in the Central Business District, minimum setbacks for any part of the temporary sign structure shall be a minimum of five (5) feet from any right-of-way and ten (10) feet from any other adjoining property line.

(j) No temporary sign shall be placed within the visibility triangle or posted on a tree or utility pole.

(k) The temporary sign shall be constructed of sturdy material such as wood, hard plastic, vinyl, aluminum, masonite or particle board of sufficient thickness so as to withstand the weather elements commonly experienced within the City. Cardboard and paper faced temporary signs are strictly prohibited unless it is safely fastened, in its entirety, to a backing made of material set forth in this subsection.

(l) If the temporary sign is promoting products or services available on the premises, the sign is exempt from subsections (c) and (d) above, but may only be displayed during the normal business hours of the business located on the premises.

(m) For areas under development such as shopping centers, apartments, condominiums and subdivisions, one (1) non-illuminated on-site temporary construction sign shall be permitted after a building permit is issued. Said sign shall not exceed sixteen (16) square feet in size on residential properties and thirty-two (32) square feet in sign surface area on nonresidential properties. One (1) "hard hat required" sign at each entrance to the area under development shall be permitted, not to exceed four (4) square feet in sign surface area. Signs permitted under this subsection shall be permitted for one (1) year. If the project is not completed within one (1) year, the community development director may grant an appropriate extension(s), but in no case may authorize an extension beyond the final removal date stated under this subsection (m). The final removal date for areas under development shall be within seven (7) days of the date on which the project is completed, suspended, or abandoned for at least three (3) months. All signs authorized by this subsection shall be exempt from subsections (c) and (d) above, and shall contain the primary contractor's licensing information.

(n) Properties listed for lease or for sale may contain one (1) non-illuminated on-site temporary real estate sign for each street frontage. Real estate signs shall be removed immediately upon the sale or lease of the property. Real estate signs are exempt from subsections (c) and (d) above.

Sec. 3-23. General regulations.

(a) No sign, unless herein excepted, shall be erected, constructed, posted, painted, altered, or relocated, except as provided in this chapter.

(b) Signs extending or hanging over any public or private sidewalk or pedestrian way shall not be less than eight (8) feet above the surface of such way. Signs extending or hanging over any public or private vehicular way shall not be less than fifteen (15) feet above the surface of such way.

(c) Copy may be changed on any outside sign provided, however, that the device upon which the copy is located, must meet all the requirements of this chapter.

(d) All permitted illuminated signs in any zoning districts shall be designed in such a manner as to avoid undue glare or reflection of light on residential property in the surrounding area.

(e) Flags shall be permitted subject to the following:

(1) A maximum of four (4) flagpoles shall be permitted per parcel of land on a public street. No more than two (2) flags may be displayed on a flagpole.

(2) Flag size shall be in relation to the height of the flagpole, but in no case shall the maximum height of any flag or flags exceed 25 percent of the total height of the flagpole.

(3) No flagpole shall exceed 32 feet in height.

(4) Flagpoles shall maintain a 15-foot setback from all property lines and a 25-foot setback from any intersection.

(f) Banner and pennant signs are temporarily permitted for a period of fifteen (15) days, up to a maximum of four (4) times per calendar year, except for two (2) flag banners per model home or model apartment at the time the model home or model apartment is open for inspection and except the flying of the national, state and city flags and service and civic clubs and organization signs and banners during period of meetings and holidays. Flag banners for model homes or model apartment units shall be limited to an area of fifteen (15) square feet per flag.

(g) Circulars, throwaways and handbills require a City of Cocoa local business tax receipt for business operation within the city.

(h) Unless otherwise specified, the mansard roof portion of structure may be used for the mounting of a sign, provided such sign shall not extend above the highest point of the mansard roof line upon which the sign is mounted. A mansard roof sign is counted as one permitted wall sign; the regulations of the district as to number and total aggregate area of signs shall govern and include mansard sign (allowed one per sign per business.)

(i) Unless otherwise specified, no on-site ground sign shall be erected, constructed or maintained nearer the property line than the building line established by law, except that such on-site ground signs conforming to the following conditions, specifications and limitations may be placed between the building line and the property line in required minimum yard areas:

- (1) Ground signs/freestanding signs shall be set back a minimum of five (5) feet from the front and side property lines. Within a fifty (50) feet arc of any intersection, measured to the point of paving intersection, the sign shall be a minimum of eight (8) feet in height from the bottom of the sign to the grade level with only supporting members between the sign and ground. (This provision shall not apply to the Central Business District of the city.)
- (2) No more than one such on-site ground sign shall be erected, constructed, or maintained in any such required minimum yard area per one hundred (100) feet of street frontage of such yard area or per major fraction thereof provided that if a parcel of land is in one ownership shall have less than one hundred (100) feet of yard frontage on one street, one on-site ground sign may, nevertheless, be erected in the required minimum yard area for such parcel; provided further, that in the case of corner lots this paragraph shall be construed to permit at least one on-site ground sign in the minimum yard area on each street frontage of a parcel of land in one ownership, where the erection, construction and maintenance of such sign shall not conflict with other portions of the sign regulations or other ordinances of the City of Cocoa.
- (3) No such on-site ground sign shall be erected or constructed in any such required minimum yard area closer than five (5) feet to a side property line; provided, that in the case of corner lots, the minimum distance of a sign from the intersecting property lines at the corner shall be determined by both street frontages as front yards.
- (4) No sign shall be approved for use unless it has been inspected by the department issuing the permit and it found to be in compliance with all other applicable codes and ordinances, including the building code, electrical code and zoning ordinance.
- (5) Signs indicating points of local or public interest may be placed on public property only with the express consent and formal approval of city council.
- (6) All signs, together with all their support braces, guys and anchors shall be maintained in good repair and appearance.
- (7) The maximum height of such signs shall be as regulated in the attached Table I. Each sign shall provide a twenty-five (25) square foot landscaped area at the base to include shrubs, trees, sod and/or mulch.
- (8) An advertising sign placed on the side or rear of any building facing on a contiguous residential district shall not exceed six (6) square feet in sign surface area and not over eight (8) feet in height from ground level.
- (9) *Light Emitting Diode (LED) Signs* may be permitted under the following conditions:
 - a. LED signs are only permitted in the CBD, C-C, C-G, C-N, C-P, C-W, M-1, M-2 & UMD zoning districts where not located within 250 feet of residentially zoned properties. The Board of Adjustment may grant a

variance from this subsection where, owing to special conditions, a literal enforcement of the provisions of this subsection would result in unnecessary and undue hardship. A variance from this subsection shall not be granted by the Board of Adjustment unless and until a written application for variance is submitted pursuant to the procedures set forth in Article XVII, Section 3 of Appendix A, Zoning. In considering a variance from this subsection, the board of adjustment shall consider whether the applicant has properly demonstrated the criteria set forth in Article XVII, Section 3 of Appendix A. Additionally, any applicant for a variance from this subsection shall be required to demonstrate that the granting of the variance will not have a detrimental impact on the surrounding residentially zoned properties. In granting any variance from this subsection, the Board of Adjustment may impose reasonable terms and conditions upon the operation of LED signs in furtherance of preserving the character of the surrounding residentially zoned properties.

- b. LED signs may only be permitted as part of a ground or wall sign that complies with all applicable sign regulations.
- c. The copy area of any LED message screen shall not exceed twenty-four (24) square feet per sign face, and LED copy area shall count toward the maximum allowable signage area permitted.
- d. LED messages shall not exceed three (3) lines of LED text per sign face.
- e. LED messages shall not operate at a brightness level of more than .3 foot candles above ambient light, as measured using a foot candle meter at a distance of 250 feet.
- f. LED signs shall only be amber in color.
- g. LED messages may scroll horizontally or vertically, but shall not blink, flash, flicker, scintillate or be otherwise animated.
- h. Portable signs using LED technology may be permitted in any zoning district authorized in subsection (9)a or by special event permit and shall comply with the temporary sign regulations set forth in subsection 3-22.5 herein. Additionally, any electrical extension cable used in conjunction with a portable LED sign shall be sized in accordance with the National Electrical Code, shall not consist of multiple cords plugged together, and in no case shall the cable exceed 100 feet in length.

(10) *Signs in the Central Business District.* The following requirements shall apply to all signs within the Central Business District.

- a. Wall and ground signs are permitted.

b. Signs may be allowed in the city right-of-way, if approved by the community development director or designee and meet the following requirements:

1. Maximum surface area--Six (6) square feet.
2. Maximum height--Four (4) feet.
3. Shall not impair the safety of motorized vehicles or pose any other safety hazard.

(11) *Signs for certain religious facilities.* Notwithstanding anything in this section to the contrary, the maximum sign square footage for property to which this subparagraph applies shall be fifty percent (50%) of the sign provisions allowed under the highest intense commercial zoning district to which the property is contiguous, provided that:

- a. The property owner provides the city council a plan showing the design, dimensions and location of the sign and the reasons why the additional signage should be allowed under this subparagraph.
- b. The city council determines that adequate reasons exist to allow the additional signage and the same will not adversely affect the public health, safety, moral or general welfare of the community.

For purposes of the foregoing, this subparagraph shall apply to property which has as its principal use of a church, synagogue or other religious facility or assembly, which is contiguous to a commercial zoning district along and fronting a roadway with a classification of a collector or higher.

[THIS AREA INTENTIONALLY LEFT BLANK]

TABLE I
X = permitted

<i>Signs Permitted and Regulated:</i> Unless otherwise specified, regulations shall be constructed to represent the allowance of one sign per each category for each lot.	R-E RA RR-1 RR-2 RU-1-7-a RU-1-7 RU-1-10 RM-3 RM-4	RU-2-10 RU-2-15 PUD RU-2-25	R-P P-S C-R	C-N	C-G C-C C	CBD	C-P	C-W	M-1 M-2	UMD
Real Estate Sign--	-	-	-	-	-	-	-	-	-	
Ground Sign/Freestanding	X a	X a	X a	X a	X a	X a	X a	X a	X a	a, d
Attached Sign	X b	X b	X b	X b	X b	X b	X b	X b	X b	b
Construction Sign--	-	-	-	-	-	-	-	-	-	
Entrance Sign	X c	X c	X c						X c	c, d
<i>Size of Sign:</i> Maximum size of sign in square feet/height of sign in feet.	Footnotes									
Real Estate Sign--	-	-	-	-	-	-	-	-	-	
Ground Sign/Freestanding	30/15	30/15	30/15	30/15	d/20	d/20		d/35	f-d/35	d/20
Attached Sign	e	e	e	e	e	e	e	e	e	e
<u>Entrance Signs</u>	100/35	100/35	100/35						100/35	150/35
Construction Sign--	-	-	-	-	-	-	-	-	-	
Portable Sign--	-	-	-	-	-	-	-	-	-	

FOOTNOTES:

- a. One freestanding sign per commercial structure or apartment complex on an interior lot or one sign facing each thoroughfare on a corner lot.
- b. One sign per apartment complex or business establishment on an interior lot or one sign facing each thoroughfare on a corner lot.
- c. Two signs per entrance for subdivisions, mobile home parks, apartment complexes, or planned industrial parks.
- d. The total sign surface area for each freestanding sign shall not exceed one square foot for each lineal foot of property frontage on an adjoining road or street. In no event shall the total aggregate surface area of the freestanding sign exceed 200 square feet of surface area.
- e. Attached signs shall in no case exceed 20% of the total surface area of the wall. Additional attached signage equal to 50% of that permitted on the front elevation may be distributed on the side and/or rear elevation of the structure.
- f. Height shall be measured from the center line of the adjacent right-of-way.

Sec. 3-24. Technical and structural requirements.

All signs within the City of Cocoa shall be constructed, modified, repaired, and maintained in accordance with the Florida Building Code.

Sec. 3-25. Administrative procedures.

(a) *Permit required.* Except as otherwise provided in this chapter, it shall be unlawful for any person to erect, structurally modify (other than normal maintenance), replace or relocate within the City of Cocoa, any sign, without first obtaining a permit to do so from the building official, or an authorized designee. A person may not apply for a permit unless he or she has first obtained the written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign in the application for the permit. No permit for a sign shall be issued except in conformity with the provisions of this chapter.

(b) *Required application information.*

(1) All applications for the sign permit required by this chapter shall be made to the community development department, upon forms provided by the City and shall obtain, or have attached thereto, the following information:

- a. The name, address and telephone number of the applicant (sign owner).
- b. The name of the person or company erecting and responsible for the sign structure.

c. Blueprints or drawings including a site plan showing the location of the proposed installation, with particular dimensional reference to any adjacent streets, walks, and existing structures.

(2) Ground signs/freestanding signs and sign structures exceeding fifty (50) square feet in area shall, in addition to the previous requirements, submit the following information to obtain the sign permit:

a. Two (2) copies of a sketch, blueprint, blueline print or similar presentation drawn to scale showing all pertinent structural details, pressure requirements, electrical specification and display materials in accordance with the requirements of the Florida Building Code.

b. In addition to the above required data the building official may require such additional information as the building official may deem necessary for making a determination as to the acceptability of a sign under this chapter.

(c) *Issuance of permit.*

(1) Upon the receipt of a completed building permit application and upon payment of the appropriate building permit fee by the applicant, the building official shall promptly conduct an investigation of the application, the proposed sign and the premises.

(2) If, after review and investigation as required herein, the building official determines that the application meets the requirements contained in this chapter and determines the proposed sign will not violate any building, electrical or other adopted codes of the City, the building official shall issue the permit. If the work authorized by the permits has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(3) If, after review and investigation as required herein, the building official determines that one or more reasons for denial exist, the permit shall be denied and the building official shall make a written report of the denial and the reasons therefore. A copy of the report shall be sent by certified mail to the designated return address of the applicant on the application. The application for a permit shall be denied if one or more of the following conditions are found to exist:

a. The application does not comply with the requirements of this chapter; or

b. The application would violate any building, electrical or other adopted codes of the city.

(4) Any person denied a building permit for signs may file as a matter of right a written notice of appeal with the community development director within ten (10) calendar days of the date of the written report of denial pursuant to the provisions of this section. The board of adjustment shall hold a hearing and decide the appeal within thirty

(30) calendar days from the date the notice of appeal is received by the community development director. The appellant shall be afforded minimum due process including, but not limited to, the right to notice of the hearing, a fair opportunity to be heard in person or through counsel, to present evidence, and to cross-examine witnesses. The decision of the board of adjustment shall be final. No further exhaustion of administrative remedies shall be necessary for judicial review of the administrative action. Any person aggrieved by a final decision of the board of adjustment may appeal the decision to a court of competent jurisdiction.

(d) *Revocation of permit.* The community development director is authorized and empowered to revoke any permit issued under this chapter for failure of the permittee to comply with any of the sections of this chapter. Such revocation shall be in writing and shall show cause for the revocation notice. Within seven (7) days after the mailing of notice, the permit holder may request in writing, to the community development director, a hearing before the board of adjustment to show cause why the permit should not be revoked. The board of adjustment shall hold a hearing and decide the appeal within thirty (30) calendar days from the date the notice is received by the community development director. The permittee shall be afforded minimum due process including, but not limited to, the right to notice of the hearing, a fair opportunity to be heard in person or through counsel, to present evidence, and to cross-examine witnesses. The decision of the board of adjustment shall be final. No further exhaustion of administrative remedies shall be necessary for judicial review of the administrative action. Any person aggrieved by a final decision of the board of adjustment may appeal the decision to a court of competent jurisdiction.

(e) *Permit fees required.* Except signs expressly exempt from permitting pursuant to this chapter, it shall be unlawful for any person to post, display, alter or erect within the city, a sign or sign structure without first having paid the building permit fee as established by resolution by City Council.

Sec. 3-26. Inspection by building official.

The building official is empowered to enter or inspect any building, structure or premises in the City upon which, or in connection with, a sign, its structural details or electrical connections are located to ensure compliance with this chapter. Such inspections shall be carried out during business hours, unless an emergency exists.

Sec. 3-27. Severability.

(a) *General.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter.

(b) *Severability where less speech results.* Without diminishing or limiting in any way the declaration of severability set forth above in subsection (a), or elsewhere in this chapter, this

Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this article, even if such severability would result in a situation where there would be less speech, whether by subjecting previously exempt signs to permitting or otherwise.

(c) *Severability of provisions pertaining to prohibited signs* Without diminishing or limiting in any way the declaration of severability set forth above in subsection (a), or elsewhere in this chapter, this Code, or any adopting ordinance, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter or any other law is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter that pertains to prohibited signs, including specifically those signs and sign-types prohibited and not allowed under section 3-21 of this chapter. Furthermore, if any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 3-21 is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of section 3-21.

(d) *Severability of prohibition on off-premise signs.* If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter and/or any other Code provisions and/or laws are declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the prohibition on off-premise signs as contained in this chapter and Code.

Section 3. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. Incorporation Into Code. This ordinance shall be incorporated into the Cocoa City Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2009.

Michael C. Blake, Mayor

ATTEST:

Joan Clark, City Clerk

First Legal Ad Published: _____

First Reading: _____

Second Legal Ad Published: _____

Effective Date: _____