

ORDINANCE NO. 11-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTIONS 4A AND 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW FOR NEIGHBORHOOD COMMERCIAL, MIXED USE DEVELOPMENT, AND PUBLIC PARKING ON CERTAIN VERY LIMITED PROPERTIES WITHIN THE CONSENT DECREE AREA, ALSO KNOWN AS THE HEART OF COCOA, CONSISTENT WITH THE SUBSTITUTE CONSENT DECREE; AMENDING THE LIST OF PERMITTED AND SPECIAL EXCEPTION USES FOR THE CONSENT DECREE AREA; AMENDING THE BUILDING TYPES PERMITTED FOR THOSE CERTAIN PROPERTIES AUTHORIZED FOR NEIGHBORHOOD COMMERCIAL AND MIXED USE DEVELOPMENT WITHIN THE HEART OF COCOA SUBDISTRICT OF THE COCOA WATERFRONT OVERLAY DISTRICT AS MORE PARTICULARLY DEPICTED ON EXHIBIT “A” ATTACHED HERETO; AMENDING THE BULK REGULATIONS FOR SINGLE-FAMILY, DUPLEX, TRIPLEX, AND FOURPLEX DEVELOPMENT IN THE CONSENT DECREE AREA; AMENDING THE MINIMUM YARD SETBACKS IN THE CONSENT DECREE AREA; 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 § 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City of Cocoa is subject to the Substitute Consent Decree, approved by the United States District Court, Middle District of Florida, in *Houston, et. al. v. City of Cocoa, et. al.*, Case No: 6:89-CV-00082-PCF, which requires that the City maintain that certain area of the City referred to as the Consent Decree Area or the “Heart of Cocoa” as low density residential in character; and

WHEREAS, the low density residential zoning district RU-2-10, is a zoning designation only utilized by the City in the Consent Decree Area for the sole purpose of complying with the Substitute Consent Decree and implementing the requirements of the Substitute Consent Decree; and

WHEREAS, the Substitute Consent Decree requires that the City shall maintain zoning regulations that apply to the Consent Decree Area which are intended to (1) maintain the Consent Decree Area’s low density residential character; (2) continue to encourage the voluntary replacement of Wholesale Commercial uses, as defined and enumerated in the City Code, Appendix A, Zoning, Article XI, Section 15, with low density residential uses or less intensive

neighborhood commercial uses such as mixed use developments where residential serves as the primary use, while preserving rights to existing uses as provided by law; and (3) continue to encourage the production and development of affordable homes in the Consent Decree Area by the private sector through zoning incentives for the Consent Decree Area including, but not limited to, any incentives that are currently in place; and

WHEREAS, the Substitute Consent Decree provides that the City and the Cocoa Community Redevelopment Agency may enhance the residential character of, and neighborhood amenities within, the Consent Decree Area by supporting appropriate neighborhood commercial uses on Consent Decree Area lots currently utilized for Wholesale Commercial uses that are encouraged to be replaced and on lots located along the outermost perimeter of the Consent Decree Area and adjacent to Florida Avenue, US Highway 1, SR 520, or Rosa L. Jones Drive; and

WHEREAS, the City Council desires to amend the RU-2-10 zoning district and the Cocoa Waterfront Overlay District, Heart of Cocoa Subdistrict, to implement the provisions of the Substitute Consent Decree encouraging neighborhood commercial and mixed use development with neighborhood commercial and multi-family residential uses on those certain lots designated on the Regulating Plan attached hereto as “Exhibit A”; and

WHEREAS, given the recent increase in development along Florida Avenue adjacent to the Consent Decree Area and the likely increased neighborhood commercial and mixed-use development within the Consent Decree Area as a result of this ordinance, the City Council further desires to designate certain selected properties within the Consent Decree Area owned by the City of Cocoa for public parking uses in order to support such neighborhood commercial uses; and

WHEREAS, this Ordinance also amends the Zoning Ordinance of the City to effectuate the goal of encouraging neighborhood commercial and mixed use development on certain lots within the Consent Decree Area, consistent with the Substitute Consent Decree, by amending the list of permitted and special exception uses within the RU-2-10 District to include and specify certain neighborhood commercial uses that will be allowed and allow for certain mixed-use and single-story commercial building types to be constructed on such properties; and

WHEREAS, the City desires to further modify the setbacks within the Consent Decree Area to be consistent with the Cocoa Waterfront Overlay District regulations and encourage development on substandard lots within the Area and to clarify minimum lot sizes required for certain types of development to ensure consistency with the Low Density Residential Future Land Use requirements in the City’s Comprehensive Plan; 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, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

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

Section 2. Code Amendment. The City of Cocoa Code of Ordinances Appendix A, Article XI, Sections 4A and 22, are 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 Appendix A, Article XI. It is intended that the text in Appendix A, Article XI denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to the adoption of this Ordinance):

APPENDIX A – ZONING

ARTICLE XI. – SCHEDULE OF DISTRICT REGULATIONS

Sec. 4A. District and intent—~~RU-2-10~~, Low Density Single-Family and Multiple-Family District.

The provisions of this district are intended to apply to an area of mixed, low density multifamily, ~~and single-family residential~~, and neighborhood commercial development in close proximity to major collector and arterial streets and, after the effective date of Ord. 02-2021 [April 13, 2021], shall be specifically limited to the real property subject to the Substitute Consent Decree as ordered on January 28, 2009.

(A) PRINCIPAL USES AND STRUCTURES.

- (1) Multifamily dwellings of not more than four (4) units per building.
- (2) Single-family dwellings.
- (3) Multifamily dwellings of more than four (4) units, provided such use was in existence as of the date of adoption of this ordinance.
- (4) That specific use of land and structures legally existing as of March 8, 1988, provided such use was a permitted use in the CW district as of March 8, 1988, and certain other CW and CC permitted uses as follows:
 - (a) Any lot of record containing such a specific CW use legally existing as of March 8, 1988, may be converted to (1) warehousing or wholesaling in a completely enclosed structure as provided by article XI, section 15(A) (2), or (2) service or repair establishments limited to dry cleaning and laundry plants, business services, printing plants, welding shops, and light

assembly/manufacturing as provided by article XI, section 15(A) (3) and (10); and

- (b) Any lot of record containing such a specific CW use legally existing as of March 8, 1988, and any such lot of record subsequently converted to an alternative CW use as provided in subsection (a) may be converted to any use permitted in the CC district under article XI, section 18(a) (1)—(12) as of the date of adoption of this ordinance;

Provided that, once such specific CW use legally existing as of March 8, 1988, has been converted to a CC use pursuant to subsection (b) hereof, or has been converted to a residential use permitted in the RU-2-10 district, or has been abandoned as defined for a nonconforming use in article X, section 7, such lot of record may not return or be converted to such specific CW use or to any alternative CW use provided in subsection (a) hereof. Once any specific CW use legally existing as of March 8, 1988, or any CC use permitted pursuant to subsection (b) hereof has been converted to any residential use permitted in the RU-2-10 district, or has been abandoned as defined for a nonconforming use in article X, section 7, such lot of record may not return or be converted to any CC use permitted by subsection (b) of this section. The owner of a principal use set forth in this section shall have the right to continue such principal use on a lot of record until and unless such use is so converted or abandoned.

- (5) That specific use of land and structures legally existing as of the date sixty (60) days following the date of the adoption of this ordinance provided such use was a permitted use in the CC district as of the date of the adoption of this ordinance, and certain other CC permitted uses as follows: any lot of record containing such specific CC use or any lot of record containing a specific CC use legally existing as of the date of the adoption of this ordinance may be converted to any other use permitted in the CC district under article XI, section 18(a)(1)—(12) as of the date of the adoption of this ordinance, provided that, once any such CC use has been converted to any residential use permitted in the RU-2-10 district, or has been abandoned as defined for a nonconforming use in article X, section 7, such lot of record may not return or be converted to any CC use. The owner of a principal use set forth in this section shall have the right to continue such principal use on a lot of record until and unless such use is so converted or abandoned.

- (6) On those lots designated in Appendix A, Zoning, Article XI, Section 22, Regulating Plan, the following neighborhood commercial uses shall be permitted either in a single-story commercial building or on the ground floor in a mixed-use building in which residential is the primary use:

- (a) Professional services/office.

- (b) Gym and Fitness Facilities, less than 7500 square feet.

- (c) Personal service establishments, beauty, barber, laundry, dry cleaning, tailor shops and similar uses.

(d) Restaurants.

(e) Retail stores (except automotive) with no outside storage.

(f) Medical and dental clinics.

(g) Animal clinics.

(7) Public parking shall be permitted on those municipally-owned lots designated in Appendix A, Zoning, Article XI, Section 22, Regulating Plan.

(B) ACCESSORY USES AND STRUCTURES.

- (1) Customary accessory uses clearly incidental and subordinate to the principal use and in keeping with the intent and purpose of the district.
- (2) Television dish receivers and antennae as regulated by article XIII, section 21, Television dish receivers and antennae.

(C) SPECIAL EXCEPTIONS.

- (1) Public parks and playgrounds.
- (2) Noncommercial cultural centers, social service centers, museums, galleries, community centers.
- (3) Private clubs and lodges.
- (4) Reserved.
- (5) Sewer lift stations.
- (6) Churches, rectories, parish houses, temples, synagogues and associated buildings, including educational and recreational facilities.
- (7) Security mobile home located upon public property.
- ~~(8) Electronic communication/transmission facilities and exchanges.~~
- (8) Child care centers and daycare facilities.

(D) PROHIBITED USES AND STRUCTURES.

- (1) All uses not specifically or provisionally permitted herein.

(E) BULK REGULATIONS.

Minimum Lot Area	Minimum Lot Width	Minimum Lot Depth	Maximum Lot Coverage	Maximum Height
	<i>Single Family or Duplex</i>			
5,000 sq. ft.	50 ft.	100 ft.	40%	35 ft.
	<i>Triplex</i>			
7,500 sq. ft.	50 ft.	100 ft.	40%	35 ft.

	<i>Fourplex</i>			
10,000 sq. ft.	100 ft.	100 ft.	40%	35 ft.

Bulk regulations related to minimum lot area, minimum lot width, lot coverage, and maximum height shall be determined by referring to Appendix A, Zoning, Article XI, Section 22, Cocoa Waterfront Overlay District and the Regulating Plan therein. Such bulk regulations may vary based on the street location and building type selected. The maximum density shall be determined by referring to the Future Land Use Element of the City of Cocoa Comprehensive Plan.

(F) MINIMUM LIVING AREA.

- Single family*—One thousand (1,000) square feet.
- Duplex*—Seven hundred fifty (750) square feet each unit.
- Triplex*—Seven hundred fifty (750) square feet each unit.
- Fourplex*—Seven hundred fifty (750) square feet each unit.

(G) MINIMUM YARD REQUIREMENTS.

- Front setback*—Twenty five (25) feet.
- Side interior lot setback*—Eight (8) feet.
- Side corner lot setback*—Fifteen (15) feet.
- Rear setback*—Fifteen (15) feet

Minimum yard requirements shall be determined by referring to Appendix A, Zoning, Article XI, Section 22, Cocoa Waterfront Overlay District and the Regulating Plan therein. Such minimum yard requirements may vary based on the street location and building type selected.

* * *

Sec. 22. – Cocoa Waterfront Overlay District.

* * *

(F) *Uses*. The following table identifies, by zoning district and overlay sub district what uses are permitted (P), not permitted (blank) and/or requires a special exception (SE).

"Key: SE-Special Exception, Blank Cell- Not Permitted, P- Permitted, RP- as identified on the regulating plan"	Heart of Cocoa	*** [Remainder of Table unchanged]
	RU-2-10	

Office		
Professional Service/office	<u>RP</u> ²	

Community/Services Uses		
Child care centers, day nurseries, kindergartens	<u>SE</u>	
Clinic, Animal	<u>RP</u> ²	

Electronic communication/ trans facilities & exchanges	<u>SE</u>	

Medical & Dental Clinics & Labs	<u>RP</u> ²	

Commercial		

Gym and Fitness facilities less than 7500 square feet	<u>RP</u> ²	
* * *		
Parking, public or private	<u>RP</u> ³	
Personal Service Establishments, beauty, barber, laundry, dry cleaning, tailor	<u>RP</u> ²	
* * *		
Restaurants	<u>RP</u> ²	
Retail Stores (Except Automotive)	<u>RP</u> ²	
* * *		

¹ Parking uses shall be located either in a garage conforming to the requirements of subsection (L) or, except for municipal lots, in a surface lot shared with a commercial, institutional, or civic building in accordance with the on-site location requirements of subsection (I). Parcels solely occupied by a surface parking lot use existing upon the effective date of this Ordinance (August 14, 2019) and as further identified as Parcel Number 24-36-33-39-8-7 (unassigned address) and 24-36-33-77-* -1 (4 Church Street), shall be exempt from this requirement until such time as a parking garage or commercial, institutional or civic building is constructed on the parcel. Parking uses located on property with a commercial, institutional, or civic building shall not reduce the number of required parking spaces associated with the use of the building.

² Only in single-story commercial buildings and on the ground floor in mixed use buildings where residential is the primary use.

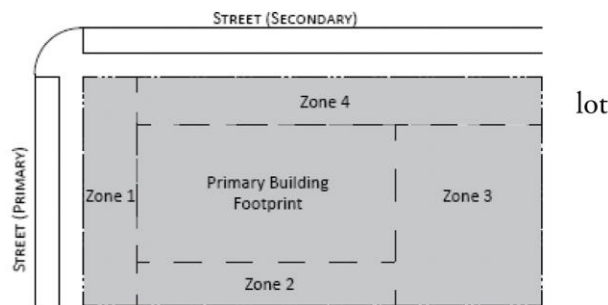
³ Public parking on municipally-owned lots only.

* * *

- (I) *Building Types.* Building types are permitted by Sub-district when any new and/or redevelopment occurs on any parcel within the Cocoa Waterfront Zoning Overlay. The building typologies are consistent with the size, scale and character desired within each sub-district.

The following categories are included in the table provided for each building type. Each standard is labeled by a letter (A, example) which directly relates to the table provided on each building type. The categories are described as follows:

1. *Lot requirements:* Provisions for minimum and maximums; lot depth, lot size and the permitted lot coverage;
2. *Building envelope:* Provisions for the minimum and maximum setbacks permitted by front, side, and rear yards for Urban and Suburban development. There is a minimum and maximum setback for each lot type. The maximum and minimum frontage refers to the proportion of the lot width along which the primary building façade must be within the minimum and maximum front setback; and
3. *Accessory Structure Envelope:* Provides the setbacks and maximum building footprints permitted for accessory structures. In no case shall an accessory structure exceed the height of the primary structure on the parcel.
4. *Building height:* Provisions for permitted heights in stories (st). The maximum height for first floor residential development shall be fourteen (14) feet and twenty (20) feet for non-residential. The maximum height for second story and higher shall not exceed twelve (12) feet. Each building lot typology provides the range of height appropriate for the building type. Height shall be measured from finished floor.
5. *Parking provisions:* The amount of parking shall be determined by Article XII, Off street parking, of the Land Development Regulations. Parking provisions provide zones where parking is permitted. The parking zone refers to any uncovered parking area located on the parcel in accordance to Appendix A, Article 12. Driveways are permitted in any zone provided the frontage requirements have been met as required by building type. The diagram illustrates a Primary and Secondary street. Primary streets are streets that are addressed to the parcel of land. Secondary streets may or may not have access to the parcel. Zones are defined and illustrated by the lot area between the principal building frontage and:



Zone 1: The right-of-way of any primary street.

Zone 2: Any common interior lot line.

Zone 3: Any rear lot line.

Zone 4: The right-of-way of any secondary street.

6. *Private frontages*, refers to the area that is attached or integrated into the primary building. The building types are either required or preferred. If there are multiple frontages provided in the table, the applicant may choose what private frontage to provide per building. The private frontage area may count towards the calculation of the frontage build out requirement under the "Building Envelope" category.

Design Districts and Building Types Table

Design District	***	Commercial/Mixed Use Small (CS)	Commercial/Mixed Use-Medium (CM)	***	Single Story Commercial (SC)	***
Cocoa Village (CV)		P	P		RP	
Heart of Cocoa (HC)		(2) RP (2)	RP(2)		RP(2)	
King/Willard Corridor (KW)		P	P		P	
Uptown Neighborhood (UN)						
South of the Village (SV)		RP				
South End (SE)		P	P		RP	
Waterfront (WF)		P	P		RP	
North of Village (NV)		P	P		RP	

RP, permitted only where indicated on Regulating plan.

P, Permitted in the Design District.

Blank Cell, is not permitted.

* Commercial/Mixed Use is a mix of uses, ie. Office/retail, office/residential.

(1) Townhomes are permitted up to 4 units per building.

(2) Consistent with the Substitute Consent Decree as ordered on January 28, 2009 with no more than four multi-family units per building.

(3) Development of Commercial/Mixed Use-Large building types in this design district shall require a development agreement approved by the City Council after consideration of the

following factors: economic and social benefits to the City and Community Redevelopment Agency, aesthetic quality and character, architectural design, physical and visual scale, compatibility with the special and distinctive character of the Cocoa Village and respective subdistrict, and other similar relevant factors.

Section 2. Regulating Plan Amendment. Appendix A, Zoning, is hereby amended to delete the Regulating Plan set forth in Article XI, Section 22(G), City Code, and replace it with the Regulating Plan attached hereto as **Exhibit “A”** and fully incorporated herein by this reference.

Section 3. Building Type Amendment. Appendix A, Zoning, is hereby amended to delete the Building Type requirements for House (HS), Cottage (CO), Commercial/Mixed-Use – Small (CS), Commercial/Mixed-Use Medium (CM), and Single Story Commercial (SC) Buildings as set forth in Article XI, Section 22(I), City Code, and replace both with the Building Type requirement sheets attached hereto as **Exhibit “B,” Exhibit “C,” Exhibit “D,” Exhibit “E,” and Exhibit “F.”**

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of other ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Incorporation into Code. This Ordinance shall be incorporated into the City Code of the City of Cocoa 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 6. 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 7. 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 _____, 2024.

MICHAEL C. BLAKE
Mayor

ATTEST:

MONICA ARSENAULT
City Clerk

Legal Ad Published: _____
First Reading: _____
Legal Ad Published: _____
Second Reading: _____

EXHIBIT A
REGULATING PLAN

EXHIBIT B
Commercial/Mixed-Use Small (CS) Building Type

EXHIBIT C
Commercial/Mixed-Use Medium (CM) Building Type

EXHIBIT D
Single Story Commercial (SC) Building Type

EXHIBIT E
Cottage (CO) Building Type

EXHIBIT F
House (HS) Building Type