

**RESOLUTION NO. 20-\_\_**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, INVOKING THE ZONING IN PROGRESS OR PENDING ORDINANCE DOCTRINE FOR THE ADOPTION OF COMPREHENSIVE AMENDMENTS TO THE TOWN'S CODE OF ORDINANCES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay (the "Town") has adopted regulations to facilitate safe and orderly growth which forms an integral part of the community; and

**WHEREAS**, on July 17, 2019, the Town Council adopted Ordinance No. 19-13, providing for a moratorium on development within the Town (the "Moratorium"); and

**WHEREAS**, on January 15, 2020, the Town Council adopted Ordinance No. 20-03, extending the Moratorium through April 17, 2020; and

**WHEREAS**, the Moratorium provided the Town's Consultants the opportunity to study and recommend amendments to the Town's Code of Ordinances (the "Town Code"), which serve to further guide land use and development, so that development within the Town will further the Town's goal of creating a sustainable environment, establishing a unique character, and providing enhanced quality of life; and

**WHEREAS**, the Town Council desires to comprehensively update and revise the standards in the Town Code as they relate to architectural and landscape standards, mobility, sea level rise and other environmental concerns to ensure sustainability and resiliency for the Town's residents and future generations; and

**WHEREAS**, the Town's Staff and Consultants have drafted three ordinances, attached hereto and incorporated herein as Exhibits "A," "B," and "C," (collectively, the "Proposed Ordinances") which would comprehensively update and revise the standards in Chapter 3, "Land Development Regulations," and other parts of the Town Code; and

**WHEREAS**, the Proposed Ordinances were scheduled to be considered by the Town Council at its March 18, 2020 meeting, which was cancelled due to an emergency created by novel coronavirus/COVID-19 ("COVID-19"); and

**WHEREAS**, in late 2019, a new significant outbreak of COVID-19 emerged worldwide and was declared a Public Health Emergency of International Concern by the World Health Organization; and

**WHEREAS**, on March 9, 2020, Florida's Governor Ron DeSantis declared a state of emergency due to the risks presented by COVID-19; and

**WHEREAS**, on March 13, 2020, the Town Manager issued a “Declaration of State of Emergency” due to the risks posed by COVID-19 and the fact that extraordinary and immediate actions by the Town could be needed in order to protect the public health, safety, and welfare; and

**WHEREAS**, the Town Council’s meeting on April 15, 2020 was rescheduled to April 22, 2020 because of the risks posed by COVID-19; and

**WHEREAS**, COVID-19 has significantly interrupted Town functions, including the consideration and adoption of the Proposed Ordinances; and

**WHEREAS**, on April 10, 2020, as a result of the above referenced interrupted functions, the Town Manager executed Emergency Order 20-02 imposing a zoning in progress relating to the Proposed Ordinances; and

**WHEREAS**, on April 22, 2020, pursuant to Section 12-23 of the Town Code, the Town Council has confirmed Emergency Order 20-02; and

**WHEREAS**, the Mayor and Town Council are also concerned that the acceptance, processing and approval of applications for development during the term of the declared state of emergency due to COVID-19 would be premature and result in development inconsistent with the Town’s development goals and regulatory framework; and

**WHEREAS**, pending the adoption of the Proposed Ordinances, the Town Council desires to also invoke the zoning in progress or pending ordinance doctrine as referenced in *Smith v. City of Clearwater*, 383 So. 2d 681 (Fla. 2nd DCA 1980), requiring all proposed developments to comply with the Proposed Ordinances as further provided herein; and

**WHEREAS**, the Town Council finds that this Resolution is in the best interest and welfare of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2. Invocation of Zoning in Progress/Pending Ordinance Doctrine.** The Town Council hereby invokes the zoning in progress or pending ordinance doctrine with respect to the Proposed Ordinances attached hereto as Exhibits “A,” “B,” and “C.” All applications not filed as of the effective date of this Resolution shall comply with the Proposed Ordinances.

**Section 3. Authorization.** The appropriate Town Officials are authorized to take all actions necessary to implement the intent and purpose of this Resolution.

**Section 4.**     **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED and ADOPTED this \_\_\_\_ day of April, 2020.

\_\_\_\_\_  
TIM MEERBOTT  
Mayor

Attest:

\_\_\_\_\_  
DEBRA E. EASTMAN, MMC  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE  
SOLE USE OF THE TOWN OF CUTLER BAY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN  
COLE & BIERMAN, P.L.  
Town Attorney

Moved By: \_\_\_\_\_  
Seconded By: \_\_\_\_\_

FINAL VOTE AT ADOPTION:

Mayor Tim Meerbott \_\_\_\_\_

Vice Mayor Sue Ellen Loyzelle \_\_\_\_\_

Council Member Robert "BJ" Duncan \_\_\_\_\_

Council Member Michael P. Callahan \_\_\_\_\_

Council Member Roger Coriat \_\_\_\_\_