



Office of the Town Manager

Rafael G. Casals
Town Manager

MEMORANDUM

To: Honorable Mayor and Town Council

From: Rafael G. Casals, Town Manager

Date: July 15, 2015

Re: **Second Reading**
Amending Article I General Provisions Sec. 3-11 Nonconforming Development (G) Maintenance, repairs and renovations

REQUEST

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-11 OF THE TOWN CODE OF ORDINANCES RELATING TO MAINTENANCE, REPAIR AND IMPROVEMENT STANDARDS FOR NONCONFORMING BUILDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

GOAL

The goal of this ordinance is to amend subsection 3-11 Nonconforming Development of Article I “General Provisions” to provide clear and balanced regulations that reflect the vision of the Town while meeting the needs of the commercial businesses within the Town of Cutler Bay.

BACKGROUND AND ANALYSIS

On June 20, 2012, the Town Council adopted the Town of Cutler Bay Land Development Regulations. The intent of this Article of the Land Development Regulations is to provide the minimum regulations necessary to facilitate safe and orderly growth.

The purpose and intent of Subsection 3-11 is to provide procedures whereby nonconforming structures and uses may be maintained where such maintenance will not have a detrimental effect upon other persons or property within the vicinity, and in so doing to bring such uses and structures up to present standards to the maximum possible extent.

The scope of this analysis and recommendations should not be interpreted as a re-write of the existing General Provisions Article but rather an evaluation of the nonconforming development requirements.





ANALYSIS

The purpose of this analysis is to identify where the application of the Town's Land Development Regulations has raised concerns and questions from business owners regarding the repairs and renovations of existing nonconforming structures. Currently Section 3-11 (G) states:

Maintenance, repairs and renovations. Normal structural repairs, maintenance and renovations may be performed to allow the continuation of a nonconforming building. However, such cumulative work in any 12- month period shall not exceed 40 percent of the assessed value of such building. Assessed value for purposes of this section shall be determined by using the current assessed value as provided by the Property Appraiser's Office.

SUMMARY OF RECOMMEND CHANGES

Staff has found applying this section of Article I to have a detrimental effect on business owners. It has proven to be prohibitive to those small franchise businesses required to renovate by franchiser. Town Staff has determined that the nonconforming development threshold should not be determined based on cost of renovation, but by the increase of square footage to any nonconforming structure. The analysis included an in-depth review of the Town's Land Development Regulations; meetings with staff from the Town's planning consultant firm Calvin Giordano; and review and evaluation of other ordinances and literature.

Staff is recommending Section 3-11 Nonconforming Development be changed to:

(G) Maintenance, repairs and renovations. Any maintenance, repairs, alterations or improvements that do not increase the square footage of a nonconforming building shall be permitted. However, expansion of any square footage or complete demolition of a building shall comply with the provisions of the code.

RECOMMENDATION

Staff is recommending approval.

FIRST READING

Town Council passed the proposed Ordinance on First Reading June 17, 2015.

ATTACHMENT

- Attachment A – Newspaper Advertisement

