

ORDINANCE 16-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-168 OF THE TOWN CODE OF ORDINANCES, ENTITLED “WALLS, FENCES AND HEDGES;” PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) has adopted land development regulations within its Code of Ordinances to facilitate safe and orderly growth which forms an integral part of the community; and

WHEREAS, the Town Council desires to amend Section 3-168 (the “Ordinance”) of its land development regulations, which relate to walls, fences and hedges; and

WHEREAS, the Town Council, sitting as the Local Planning Agency, has reviewed and approved the Ordinance; and

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

NOW, THEREFORE, BE IT ORDAINED 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. Amendment to Chapter 3. The Town Council hereby amends Chapter 3, Section 3-168 of the Town Code as follows:

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Sec. 3-168. Walls, Fences and Hedges

All walls, fences and hedges placed within required yard areas shall conform to the following regulations, except where special requirements are set forth for specific buffering or screening purpose elsewhere in this Article.

- (A) In residential districts the maximum height for walls, fences and hedges shall not exceed four (4) feet in height, measured from the final grade in front yards and six (6) feet in height in side and rear yards.
- (B) Walls and fences shall be erected with the finished side outward.
- (C) Chain link fences in residential zoning districts shall not be located beyond the front

façade of the building and shall be permitted only along interior side property lines and rear property lines that are not adjacent to a right-of-way. Any chain link fence that is visible from off-site shall be concealed by landscaping.

- (D) In non-residential districts walls or fences shall be constructed of brick, stucco, wrought iron, cast iron, stone or similar combination, and shall be a minimum of five (5) feet and not exceed a maximum height of eight (8) feet.
- (E) The use of barbed wire or similar is prohibited in all applications.
- (F) All walls, fences and hedges may be placed on the property lines, but may not extend into the right-of-way or beyond property lines. No wall, fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site. Any encroachment of a wall, fence or hedge into a utility easement shall be supported by a letter from the respective utility authorizing such encroachment, prior to obtaining the building permit.
- (G) Exterior finish of walls and fences. All walls and fences shall be maintained in good clean and finished condition. A continuous wall or fence that is owned by multiple property owners or held in common ownership shall be of uniform construction and materials and its exterior shall also be maintained in good, clean and finished condition for the entire length of said wall or fence. Each side of a CBS wall shall be completely finished with stucco and paint. Each side of a decorative masonry wall shall be completely painted in a neutral earth tone color, uniform with the entire length of said wall; However, walls comprised of decorative brick and natural stone may be left unpainted provided the cement and grout are finished on both sides.
- (H) If a wall is to be placed on a shared property line, consent for construction must be obtained from the adjoining property owner(s).
- (I) Chain link fences shall not have the application of cloth, fabric, canvas, silt screens, mesh, plastic cross mats or other such material unless permitted as a temporary construction fence by the Building Department.
- (J) A temporary construction fence is not permitted on a property without an active building permit.

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Section 3. Severability. That the provisions of this Ordinance are declared to be severable, and, if any section, sentence, clause and/or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand despite the invalidity of any part.

Section 4. Conflicts. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions, or parts of resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

Section 5. Codification. That it is the intention of the Town Council, and hereby ordained, that the provisions of the Ordinance shall become and be made a part of the Code of the Town of Cutler Bay; that the sections of this Ordinance may be re-numbered and/or re-lettered to accomplish such intentions; and that the word, "Ordinance," shall be changed to "Section" or such other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 18th day of May, 2016.

PASSED and ADOPTED on second reading this ____ day of _____, 2016.

PEGGY R. BELL
Mayor

ATTEST:

JACQUELINE N. WILSON
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

First Reading
Moved by: Council Member Coriat
Second by: Vice Mayor Sochin

Second Reading:
Moved by: _____
Second by: _____

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell _____

Vice Mayor Ernest N. Sochin _____

Council Member Roger Coriat _____

Council Member Sue Ellen Loyzelle _____

Council Member Mary Ann Mixon _____