



## Office of the Town Attorney

Mitchell A. Bierman  
Town Attorney

# MEMORANDUM

**To:** Honorable Mayor and Town Council

**From:** Mitchell A. Bierman, Town Attorney

**Date:** August 26, 2020

**Re:** Sign Regulations Proposed Amendments to the Land Development Regulations  
(*Second Reading*)

## REQUEST

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 3, "LAND DEVELOPMENT REGULATIONS," ARTICLE III, "SIGN REGULATIONS," OF THE TOWN CODE OF ORDINANCES TO PROVIDE FOR AMENDMENTS TO THE TOWN'S SIGN REGULATIONS RELATED TO INSURING CONTENT NEUTRALITY AND CONFORMANCE WITH APPLICABLE CASE LAW RELATING TO SIGN REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

## BACKGROUND AND ANALYSIS

The proposed Ordinance will modify and update the Town of Cutler Bay's (the "Town") Sign Code in response to recent caselaw, such *Reed v. Town of Gilbert*.

In the *Reed* case, the United States Supreme Court addressed the constitutionality of a local sign ordinance that had different criteria for different types of temporary noncommercial signs, and held that a local government has the right to regulate signs; however, the regulations must not treat signs differently based upon their content. As a result of the *Reed* case, it is recommended that the Town remove any regulations within the Town's Sign Code that regulate signs based on their content.

The proposed Ordinance includes specific findings which support the Town's ability to regulate commercial and non-commercial signs, and includes a substitution clause to permit non-commercial signs in lieu of commercial signs in all locations. Finally, in addition to the removal of any content-based regulations, the proposed Ordinance provides for some general "clean up" of the Town's sign code to insure consistent use of terms within the Ordinance itself.





The adoption of this Ordinance will provide for compliance with current constitutional requirements based upon current case law.

### **RECOMMENDATION**

It is recommended that the Town Council adopt at Second Reading the proposed amendments to Chapter 3, Land Development Regulations; more specifically, amending Article VIII, “Sign Regulations” of the Town Code.

### **ATTACHMENT(S)**

- Attachment “A” – Miami Herald Advertisement (*dated August 16, 2020*)

