

**ORDINANCE NO. 16-\_\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, COMPREHENSIVELY UPDATING AND REVISING CHAPTER 3 “LAND DEVELOPMENT REGULATIONS” OF THE TOWN CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

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

**WHEREAS**, the Town Council desires to comprehensively update and revise the standards in the land development regulations; and

**WHEREAS**, the Town Council, sitting as the Local Planning Agency, has reviewed the ordinance and recommended approval; 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. Chapter 3 of the Town Code Amendments.** The Town Council hereby amends the following sections within Chapter 3 “Land Development Regulations” of the Town Code of Ordinances (*underlined text, except for existing Code headings, is to be added and text stricken-through deleted*):

\* \* \*

**Article IV  
DISTRICTS AND DEVELOPMENT STANDARDS**

\* \* \*

Sec. 3-61. INT, Institutional District

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<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text.

(3) Table of Standards

| Standard   | INT                     |
|--|-------------------------|
| Maximum Floor Area Ratio   | 1.4                     |
| Maximum Floor Area Ration Green Bonus  | 1.75                    |
| Maximum Height (feet)  | <del>25</del> <u>35</u> |
| Number of Stories  | 2                       |
| Maximum Height Green Bonus (feet)  | <del>38</del> <u>40</u> |
| Number of stories Green Bonus  | 3                       |
| Setbacks (feet)  |                         |
| Front  | 25                      |
| From District Edge   | 50                      |
| Maximum Building Coverage (percent)  | 50                      |
| Minimum Lot Area (acres)   | 5                       |
| Open Space (percent)   |                         |
| Landscaped in the form of courtyards, gardens, colonnade, balconies, plazas, squares and playgrounds | 25                      |

(4) Site Development Standards

- a. Height. Buildings may be a maximum of two (2) stories, 35-feet in height. Projects receiving Green Incentive Program designation per the requirements of Article VI, may be constructed up to three (3) stories, 40-feet in height.

\* \* \*

**Article V  
GREEN STANDARDS**

\* \* \*

**Sec. 3-71. Public Facilities**

Public facilities shall be constructed to meet the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiatives Green Globes rating system, the Florida Green Building Coalition standards, or a nationally-recognized, high performance green building rating system as approved by the Florida Department of Management Services and as agreed to or permitted by the Town Manager Director of Community Development. All such green building certifications must be at the 'Gold' or an equivalent level, and apply to all new Town facilities and/or substantial improvements.

\* \* \*

**Sec. 3-74. Green Building Program Designation**

The Green Building Program Designation may be granted, after a public hearing, by the Town Council.

\* \* \*

- (B) Available Incentives. In furtherance of environmental stewardship and creating a sustainable urban community, the green building incentives below are established for all new and redevelopment projects seeking and obtaining third party green building certification. No incentives provided under this section may exceed the development density, intensity and height limitations of the applicable future land use designation in the Comprehensive Plan for a parcel seeking green incentives.

\* \* \*

**Article VII  
LANDSCAPING AND TREE PRESERVATION**

\* \* \*

**Section 3-107. Rain Sensors on Automatic Irrigation Systems**

All automatic irrigation systems must have a functioning rain shut-off device. The Town will conduct inspections of all new irrigation systems and those submitted as part of a building renovation application for compliance with this provision.

\* \* \*

**Article VIII  
SIGN REGULATIONS**

\* \* \*

**Sec. 3-113.5. – Required Signage.**

(a) It shall be the duty of the owner of any building facing, abutting, opening or having its main entrance from any right-of-way in the Town to have affixed to such building suitable numbers composed of figures not less than three (3) inches in height, and/or panel upon glass or some metallic substance.

(b) It shall be the duty of the owner to maintain numbers of his buildings as herein provided in good condition and in a conspicuous place where same can be seen and read from the street.

(c) The word "owner" as used in this article shall include owners of the fee, lessee and "agent in charge."

\* \* \*

## **Article XI Supplemental Standards**

### **Sec. 3-151. Exterior Lighting Standards/Light Pollution Reduction.**

Exterior lighting intensities shall be controlled to assure that light spillage and glare are not directed onto adjacent properties or streets and all direct illumination is kept within property boundaries. Exterior lighting shall be controlled to not adversely affect adjacent properties, neighboring areas, and motorists.

1. *Fixtures.* Exterior lighting shall be architecturally integrated with the character of the building. Full cut-off type lighting fixtures shall be used to illuminate all site areas, including pedestrian, parking, and circulation.

2. *Type and shielding standards.* Exterior lighting shall be fully-shielded to prevent glare. Any bright light shining onto adjacent property or streets which results in nuisance glare or disabling glare shall not be permitted. Light trespass beyond property boundaries or above the horizontal plane beyond the levels noted above shall be considered non-compliant. The shield or hood must mask the direct horizontal surface of the light source. The light must be aimed to insure the illumination is only pointing downward onto the ground surface, without any upward escaping light permitted to contribute to sky glow.

3. *Height.* Exterior lighting not attached to structures shall be designed, located and mounted at heights no greater than twenty-five (25) feet above grade.

4. *Illumination levels;*

a. *non residential.* Maximum illumination at the property line shall not exceed 0.3 foot candles and 0.01 foot candles ten (10) feet beyond the property line. The intensity of illumination for exterior lighting across the site shall not exceed an average of six (6) foot candles measured at grade. Fixtures shall be placed to provide uniform distribution of light and to avoid excessive glare. Lighting fixtures in scale with pedestrian activities shall provide for uniform distribution of lighting to produce minimal shadows.

b. *multi-family residential.*

(1) Open parking lots and access thereto shall be provided with a maintained minimum of 1.0 foot-candle on the parking surface from dusk until dawn. The uniformity ratio shall not exceed a twelve to one ratio (12:1) maximum to minimum foot-candles. Alleys shall be provided with a maintained minimum of one-third (1/3) foot-candle on the alley surface from dusk to dawn.

(2) Parking and nonenclosed areas under, or within buildings shall be provided with a maintained minimum of 1.0 foot-candle of light on the walking and parking surfaces from dusk until dawn, and the ratio of maximum to minimum illumination in foot-candles shall not exceed twelve to one (12:1).

\* \* \*

**Sec. 3-154. Sales within Public Right-of-Way.**

The sale and marketing of merchandise or goods within the right-of-way is prohibited except for fruits and/or plants grown on the owner's private residential property when the right-of-way is contiguous with the owner's property.

\* \* \*

**Sec. 3-155. Property Maintenance.**

~~The property maintenance requirements shall become effective upon adoption of these Land Development Regulations, however, no new enforcement proceedings shall commence under this section until 120 days after adoption. However, notices regarding any violations can be posted for informational purposes during this period. This 120 day period is to allow property owners time to make necessary improvements required under this section.~~

(1) Every foundation, exterior and interior wall, roof, floor, ceiling, window and exterior door shall be structurally sound and maintained in good repair.

(2) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint and other approved protective coating, applied in a workmanlike fashion.

~~(34)~~ A structure shall have no more than 20 percent of its exterior roofs, walls and other elements of the structure covered with disfigured, discolored, cracked, or peeling surface materials for a period of more than thirty (30) consecutive days.

~~(42)~~ A structure shall not be maintained with broken windows, holes in exterior surfaces including screens, roofs and walls, ripped awnings, loose materials, loose elements or other obvious exterior defects for a period of more than thirty (30) consecutive days.

~~(53)~~ Exterior materials shall form a weather tight surface with no holes, excessive cracks or decayed surfaces that permit air to penetrate rooms where such rooms are designed, used, permitted or intended for human occupancy or use.

(6) The roof of every accessory structure shall be well drained of rainwater.

~~(74)~~ An accessory structure, such as a shed, shall not have weeds, trees, vines, or other vegetation growing upon it greater than twelve (12) inches in height in an untended manner for a period of more than ten (10) consecutive days.

~~(85)~~ All site lighting, parking areas, fences, railings, driveways, curbs, wheel stops, sidewalks, gutters, storm water management areas and systems and other improvements and appurtenances shall be maintained in working order and reasonably free of defects.

~~(96)~~ The owner or tenant shall maintain all required landscape areas, trees and shrubs in a neat and healthy condition free of diseased, dead, or bare areas and free of debris and weeds.

~~(107)~~ The owner or tenant shall maintain all landscaped areas in a manner consistent with the requirements of this code. Dead landscape shall be replaced as necessary to maintain compliance with the regulations contained herein.

~~(118)~~ The property owner shall maintain the property and the exterior portions of any structures thereupon free of accumulations of debris, junk, garbage, or trash.

(12) Every accessory structure shall be kept in reasonably clean and sanitary condition, free from rodents, insects and vermin.

~~(139)~~ Hurricane shutters may remain up only during periods of weather emergencies issued by the National Weather Service for the area. During these weather emergency

events shutters may be erected but shall not remain up for more than four (4) weeks after the proclaimed event has passed, and the home is secure from damage.

(14) Shutters may remain up in cases when the house becomes uninhabitable or heavily damaged, as determined by the Director.

\* \* \*

### Sec. 3-159. Structures and Uses Limited in Yards.

\* \* \*

(F) Noncommercial pigeon lofts, for not more than twenty (20) carrier or racing pigeons kept for the purpose of engaging in the hobby of racing pigeons for sport, may be located in the rear of a property provided:

(1) such structure:

(a) meets all requirements of the Florida Building Code;

(b) meets all principal structure setback requirements;

(c) does not exceed a height of six (6) feet;

(d) is self supporting and not located on the top of the principal structure, a shed, or other accessory building or structure;

(e) is kept clean, odor free and free of debris;

(2) birds shall not be exercised later than two (2) hours after sunrise and more than two (2) hours before sunset.

\* \* \*

### Sec. 3-171. Recreational Vehicle Storage.

(a) The place of storage shall be to the rear of the front building line. Where the R.V. storage area is located between the residence and a side street property line, the R.V. shall be visually buffered by a six-foot wood privacy fence, masonry wall, trees or shrubs maintained to a height of six (6) feet. The front building line referred to shall be that portion furthest from the street.

(b) No more than one R.V. shall be parked on any given site.

(c) Only equipment owned or leased by the occupant-owner or occupant-lessee of the site concerned, or owned or leased by a bona fide out-of-town house guest of the occupant-owner or occupant-lessee of the site concerned may be parked on the site.

(d) Parking of such equipment by a guest shall not exceed a period of fourteen (14) days.

(e) Such equipment and the area of parking shall be maintained in a clean, neat and presentable manner and the equipment shall be in a usable condition at all times.

(f) Such equipment shall, at all times, have attached a current vehicle registration license plate.

(g) No major repairs or overhaul work on such equipment shall be made or performed on the site, (or any other work performed thereon which would constitute a nuisance under existing ordinances).

(h) When parked on the site, such equipment shall not be used for living or sleeping quarters, or for housekeeping or storage purposes and shall not have

attached thereto any service connections lines, except as may periodically be required to maintain the equipment and appliances.

(i) Such equipment shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the State of Florida; provided, however, the maximum length shall not exceed thirty (30) feet and the maximum height shall not exceed ten (10) feet.

(j) Such equipment shall be so secured so that it will not be a hazard or menace during high winds or hurricane

\* \* \*

**Sec. 3-178.4 Display of vehicles for sale.**

(a) No vehicle shall be displayed for sale in a residential district unless affixed to the vehicle is a valid state license plate issued for the vehicle, except that a vehicle affixed with a lost tag may be displayed for a period not to exceed ten (10) days. A vehicle with a lost tag shall have the vehicle registration affixed to the rear window so as to be easily readable by law enforcement and code enforcement officials. As used in this section, the term "vehicle" shall include an automobile, motorcycle, truck, or recreational vehicle, a utility trailer, or a trailer for transporting off-highway vehicles or boats.

(b) In residential districts no more than one (1) vehicle may be displayed for sale at any one (1) time on any one (1) premise and no more than two (2) vehicles may be displayed for sale at any one (1) premise for any one (1) calendar year, and the display shall only be permitted at the current address of the registered owner of the vehicle offered for sale on the subject premises.

(c) In addition to standard code enforcement provisions of this Code, the Town may lien the vehicle and any real property owned by the violator in Miami-Dade County until all fines, enforcement costs, and administrative costs are paid by the violator. Any vehicle in violation of this section shall be towed if not removed immediately by the owner. (Vehicle owners will be responsible for all fines, towing fees, storage fees, and any administrative and enforcement fees that result from the enforcement of this section.)

\* \* \*

**Section 3-178.5. Open Burning**

No person shall ignite, cause to be ignited, permit to be ignited or allow or maintain any open outdoor fire except as provided below.

(A) Fires used only for noncommercial cooking of food for human beings or for recreational purposes.

(B) Any fire permitted by the Miami-Dade County Director of Regulatory and Economic Resources, in the performance of official duty, if such fire is set or

permission given for the purpose of weed abatement, the prevention of a fire hazard, including the disposal of dangerous materials when there is no safe alternate method of disposal, or in the instruction of public employees in the methods of fighting fires, which fire is, in the opinion of such official, necessary.

(C) An agricultural fire set by or permitted by the Miami-Dade County Director of Regulatory and Economic Resources, if such fire is for the purpose of disease and pest prevention, or for frost protection.

(D) A fire set or permitted by the Miami-Dade County Director of Regulatory and Economic Resources, Miami-Dade Fire Department, and under his or her control for the purpose of non-recurrent clearing of debris from land, agricultural and silviculture.

(E) Smokeless flares or safety flares for the combustion of waste gases.

### **Section 3-178.6. Car Washes**

All self-service and automatic car washes installed after July 1, 2016, must utilize the water conservation best management practices required by Section 62-660.803, Florida Administrative Code.

### **Section 3-178.7. Fountains and Water Features**

Any fountains and water features proposed as part of development projects must incorporate all applicable water conservation best management practices to minimize evaporation and other water losses, and utilize stormwater and other non-drinking sources where possible.

\* \* \*

### **Sec. 3-179. Subdivision of Residence; Prima facie evidence of illegal multiple use or illegal subdivision of a residence.**

(a) It shall be presumed that a multi-family use has been established when one (1) or more of the following conditions are observed:

(1) There are two (2) or more electrical, water gas or other types of utility meters, or mailboxes on the premises.

(2) There is evidence of a liquid propane (LP) gas tank installed in an unauthorized detached structure on the premises.

(3) There is more than one (1) cooking area in the primary structure.

(4) All living areas in the dwelling are not interconnected.

- (5) Multiple paved numbered parking spaces.
- (6) An unauthorized detached building with air conditioning, interior cooking areas or utility meters.
- (7) Any detached building with unauthorized air conditioning, interior cooking areas or utility meters.
- (8) There is more than one (1) different house address unit number posted on the premises.
- (9) An advertisement indicating the availability of more than one (1) living unit on the premises.
- (10) An unpermitted exterior door.
- (b) For duplex or triplex structures, the terms "structure" and "dwelling" as used herein shall apply as to each unit.
- (c) The presumption may be rebutted by the submission of a current floor plan prepared by an engineer or architect, surveying the residence and accessory structures and showing all rooms are interconnected as a single-family dwelling accompanied by a notarized affidavit from the property owner attesting that the residence or accessory structure is being maintained for single-family occupancy and/or substantiated by an interior inspection of the dwelling by a compliance officer. If the compliance officer is able to enter the interior of the property and verify its use as a single-family dwelling, the property owner is exempt from the above submission.
- (d) Nothing contained in this section shall prevent the enforcement actions authorized by this Code independent of this section.

\* \* \*

**DEFINITIONS**

\* \* \*

**Sec. 3-251. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

*Outdoor sale*

The placement of goods, equipment, or materials for sale, rental, or lease in a location not enclosed by a structure consisting of walls and a roof. “Outdoor sale display” shall not mean yard sales as defined in the Town Code.

\* \* \*

**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.** 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 \_\_\_\_\_ day of March, 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

Moved by: \_\_\_\_\_  
Second by: \_\_\_\_\_

FINAL VOTE AT ADOPTION:

Mayor Peggy R. Bell \_\_\_\_\_

Vice Mayor Ernest N. Sochin \_\_\_\_\_

Councilmember Roger Coriat \_\_\_\_\_

Councilmember Sue Ellen Loyzelle \_\_\_\_\_

Councilmember Mary Ann Mixon \_\_\_\_\_