

ORDINANCE NO. 19-_____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 3 OF THE TOWN CODE, “LAND DEVELOPMENT REGULATIONS”; AMENDING SECTION 3-30 “GENERAL REQUIREMENTS FOR APPLICATIONS” RELATING TO ADVERTISING AND NOTICE REQUIREMENTS; AMENDING SECTION 3-34 “SITE PLAN MODIFICATION; MINOR MODIFICATIONS” RELATING TO SETBACKS; AMENDING SECTION 3-60(4) “TC, TOWN CENTER DISTRICT” CORRECTING A SCRIVENER’S ERROR RELATING TO THE FLOOR AREA RATIO WITH GREEN BONUS; AMENDING SECTION 3-144 “MINIMUM PARKING RATIOS” RELATING TO HOUSING FOR OLDER PERSONS; AMENDING SECTION 3-155 “PROPERTY MAINTENANCE REQUIREMENTS” RELATING TO STORMWATER MANAGEMENT SYSTEM REQUIREMENTS; AMENDING SECTION 3-261, “DEFINITIONS” CREATING A DEFINITION FOR BUILDING FRONTAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (“Town”) has adopted land development regulations, which are codified in Chapter 3 of the Town’s Code of Ordinances (“Code”), to facilitate safe and orderly growth which forms an integral part of the community; and

WHEREAS, the Town Council desires to 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 AS FOLLOWS:¹

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

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

Section 2. Amending Section 3-30 of the Town Code. The Town Council hereby amends Section 3-30 of the Town Code as follows:

Sec. 3-30. - General requirements for applications.

* * *

(11) *Advertising and notice requirements.*

a. *General.* Upon determination of a complete application, the Town shall fix a date, time, and place for a public hearing(s) and require the applicant to publish public notice of such hearing(s). Each notice shall include in the following manner: ~~Each notice shall~~ (a) an adequately description of ~~describe~~ the property along with (b) the intent and purpose for the application; and (c) where additional information on the matter may be obtained. The applicant shall provide proof of advertised public notice to the Town Clerk at least five (5) days prior to the public meeting.

b. *Advertising requirements.* The ~~Town~~ applicant shall advertise in accordance with the provisions set forth below:

Development Application and Type of Meeting	Type of Advertisement Required
Comprehensive Plan (Growth Management Plan) Amendments	As required by state law for the Town Council Meeting.
Rezoning	As required by state law for the Town Council
Development of Regional Impact	As required by state law for the Town Council Meeting.
Any other development application not mentioned above which requires a public hearing	An advertisement shall be published in the non-legal section of a local newspaper selected by the Town at least seven (7) calendar days before the Town Council public hearing.

Zoning Workshops	An advertisement shall be published in the non-legal section of a local newspaper selected by the Town at least seven (7) calendar days before the Zoning Workshop meeting.
Local Planning Agency (LPA)	As required by state law for the LPA Meeting.
Administrative Variance	An advertisement shall be published in the non-legal section of a local newspaper selected by the Town at least ten (10) calendar days after the Director's decision.

c. *Posted notice.* A sign shall be prepared and posted on the subject property by the ~~Town~~ applicant setting forth a notice of public hearing at least five (5) business days before the Town Council meeting in which the item is scheduled to be heard. This notice shall remain posted on the subject property through the date of the public hearing and shall be removed within ten (10) business days following the Town Council's approval or denial of the application, or upon the application's withdrawal.

d. *Courtesy mailed notice.* The applicant shall mail ~~P~~property owners of record within a 1000-foot radius of the subject property scheduled for a zoning workshop and public hearing before the Town Council shall be mailed a courtesy notice. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken by the Town Council.

e. *Advertising and notice costs.* Unless specifically directed by the Town Council, advertisements shall be published in the Town ~~shall provide~~ the least expensive publication that is legally sufficient and, when applicable, multiple applications shall be combined into one (1) advertisement. All costs of required advertising, noticing, and posting shall be borne by the applicant.

* * *

(13) Appeal.

a. Administrative appeal. Any person aggrieved by an action of the community development department in granting, denying or revoking an administrative decision may appeal the decision to the ~~town~~ Council within 30 days of the decision. Such appeal shall be filed on a form provided by the department, and shall include the applicable fee. For an administrative variance, the person aggrieved may appeal the decision to the Town Council within 30 days from the date of public notice of the decision. Such appeal shall be filed on a form provided by the department, and shall include the applicable fee.

* * *

Section 3. Amending Section 3-34 of the Town Code. The Town Council hereby amends Section 3-34 of the Town Code as follows:

Sec. 3-34. - Site plan modification; minor modifications.

* * *

(7) The building setbacks are the same or greater distance from perimeter property lines or remain within the parameter of setback requirements listed in the table of standards of the underlying zoning district.

* * *

Section 4. Amending Section 3-60 (4) of the Town Code. The Town Council hereby amends Section 3-60(4) of the Town Code as follows:

Sec. 3-60. - TC, Town Center District.

* * *

(4) *Table of standards.*

Standard	TC subdistricts		
	Edge	Center	Core
Minimum lot area (square feet)	NA	NA	NA
Maximum floor area ratio	0.5	2.0	3.0
Maximum floor area ratio with green bonus	0.4 1.0	2.5	3.8
Maximum density (units per acre)	50	150	250
Minimum facade height (feet)	25	25	25
Number of stories (minimum)	2	2	2
Maximum height (feet)	96	180	216
Number of stories (maximum)	8	15	18
Setback of facade for height above fifth story at a minimum of 15 feet			
Building frontage (percent)			
Along primary street	75	100	100
Along secondary street	75	75	75
Principal structure setbacks (feet)			
Front (minimum/maximum)	10/20	10/20	10/20
Side street (minimum/maximum)	5/10	5/10	5/10
Interior side	0	0	0
Rear	20	20	20
Rear (abutting an alley)	0	0	0
Maximum impervious surface Coverage (percent)	100	100	100
Minimum lot width (feet)	NA	NA	NA

	TC subdistricts		
Minimum lot depth (feet)	NA	NA	NA
Nonresidential			
Open space (percent)	15	15	15
In the form of courtyards, gardens, colonnade, balconies, plazas and squares, medians and parking lot islands			
Residential			
Open space (percent)	0.5 acres/ 100 units	0.5 acres/ 100 units	0.5 acres/ 100 units
In the form of gardens, balconies, plazas and squares			
Encroachment into ROW (feet)			
Balcony	5	6	6
Awning	8	8	8
Detached accessory building	Not permitted	Not permitted	Not permitted

Section 5. Amending Section 3-144 of the Town Code. The Town Council hereby amends Section 3-144 of the Town Code as follows:

Sec. 3-144. - Minimum parking ratios.

Use

Parking Spaces Required

Residential

Single-family and two-family: 2.0 per home

Townhouses and multifamily: 2.0 per dwelling unit

Multifamily for older persons as defined by the Fair Housing Act, 42 U.S.C. § 3607:
1.0 per dwelling unit

Studio apartments and lofts: 1.5 per dwelling unit

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Section 6. Amending Section 3-155 of the Town Code. The Town Council hereby amends Section 3-155 of the Town Code as follows:

Sec. 3-155. - Property maintenance requirements.

* * *

(o) All stormwater drainage systems within private property must comply with Section 3-165 of the Town Code.

Section 7. Amending Section 3-261 of the Town Code. The Town Council hereby amends Section 3-261 of the Town Code as follows:

Sec. 3-261. - Definitions.

* * *

Frontage means the length of any one property line of a site, which property line abuts a legally accessible public right-of-way.

Frontage, building means the single side of a building approximately parallel or nearest to the frontage of the premises. The building frontage shall be measured along such building wall between the exterior faces of the exterior side walls.

* * *

Section 8. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 9. Conflict. 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 10. Inclusion in the Code. It is the intention of the Town Council, and it is hereby ordained that the provisions of this 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 or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 11. Effective Date. This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this 20th day of February, 2019.

PASSED AND ADOPTED on second reading this ____ day of March, 2019.

Attest:

TIM MEERBOTT
Mayor

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

First Reading

Moved By: Vice Mayor Loyzelle

Seconded By: Council Member Callahan

Second Reading

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 _____