

ORDINANCE NO. 19-_____

AN ORDINANCE OF THE MAYOR AND THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 36, "UTILITIES" OF THE TOWN CODE OF ORDINANCES TO PROVIDE FOR STORMWATER MANAGEMENT REGULATIONS AND A FACILITY INSPECTION PROGRAM; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida has, via Chapter 166 – Municipalities, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, the Federal Emergency Management Agency ("FEMA") has identified special flood hazard areas within the boundaries of the Town of Cutler Bay (the "Town") which may be subject to periodic inundation resulting in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, the Town is an active participant in FEMA's National Flood Insurance Program's ("NFIP") Community Rating System ("CRS"), which encourages communities to voluntarily implement standards, policies, and programs that go beyond the minimum NFIP regulations, leading to lower flood insurance premiums in the areas located within the community; and

WHEREAS, on May 20, 2015, pursuant to Resolution No. 15-27, the Town Council adopted the Revised Floodplain Mitigation Plan, which lowered the Town's CRS classification from a six (6) to a five (5), resulting in a twenty-five percent (25%) savings on all flood insurance premiums within the Town; and

WHEREAS, the Town desires to lower the CRS classification from a five (5) to a four (4), which will result in a thirty percent (30%) savings on all flood insurance premiums within the Town; and

WHEREAS, the Town seeks to achieve the lower CRS classification, in part by adopting this Ordinance, which amends Chapter 36, "Utilities" of the Town's Code by adopting additional stormwater management regulations and a facility inspection program (the "Stormwater Regulations"); and

WHEREAS, the purpose of this Ordinance is to protect, maintain and enhance public health, safety, environment and general welfare by establishing minimum requirements and procedures to control adverse effects of post construction stormwater runoff, illicit discharges, flood damage and sediment and erosion control; and

WHEREAS, proper management of stormwater runoff will minimize damage to public and private property and infrastructure along with providing safeguards to the public health, safety and general welfare and to protect water and aquatic life; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation and improvement of the environment, public health, safety and welfare of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA:¹

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

Section 2. Amending Chapter 36 of the Town Code. The Town Council of the Town of Cutler Bay hereby amends Chapter 36, “Utilities,” of the Town Code by creating Section 36-53 as follows:

Chapter 36 – Utilities

Article III – Stormwater Utility System

Sec. 36-53. Stormwater Management Regulations and Facility Inspection Program

(a) **Purpose and Intent.** **The purpose of this section is to protect, maintain and enhance public health, safety, environment and general welfare by establishing minimum requirements and procedures to control adverse effects of post construction stormwater runoff, illicit discharges, flood damage and sediment and erosion control. Proper management of stormwater runoff will minimize damage to public and private property and infrastructure along with providing safeguard to the public health, safety and general welfare and to protect water and aquatic life.**

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 ~~double-strikethrough~~ and double underline.

(b) Applicability. Beginning with and subsequent to its effective date, these regulations shall be applicable to all development and redevelopment within the Town, including, but not limited to, site plan applications, subdivision applications, unless exempt pursuant to the exemptions, below. In addition, these regulations shall apply to any new areas that may be annexed or otherwise incorporated into the limits of the Town in the future. No development or redevelopment shall occur except in compliance with the provisions of this section or unless exempted. No development for which a permit is required pursuant to this section shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(c) Stormwater Manual. The Town Manager or his designee shall use the September 2018 Town of Cutler Bay, FL Stormwater Manual (hereinafter referred to simply as the “Manual”) as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater best management practices (BMPs). The current Manual, may be amended from time to time, and includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. Stormwater treatment practices that are designed and constructed in accordance with the Manual will be presumed to meet minimum water quality standards. If the Manual is amended subsequent to the submittal of an application for approval pursuant to this section, but prior to approval of the application, the amended Manual shall control and shall be utilized in reviewing the application and in implementing this section with regard to the application.

(d) Stormwater Management Standards.

1. The Town Manager or his designee shall use the September 2018 Town of Cutler Bay, FL Watershed Master Plan (hereinafter referred to simply as the “Plan”) as the basis for decisions about stormwater permits and about the design, implementation and performance of developing stormwater facilities.

2. The Plan shall be used together with the Manual to ensure that each undeveloped basin or redeveloped basin reduces the quantity of downstream runoff and improves water quality.

3. The Town shall require that all post-development runoff does not exceed pre-development runoff conditions for parcels one acre or greater in size or adding increase in impervious area of 10,000 sq. ft. or more.

4. The runoff discharge rates shall be limited to the pre-development conditions based on the 10-year and 25-year design storm event.

5. Low Impact Design Techniques as described in the Manual shall be implemented, to the maximum extent possible, on parcels one acre or greater in size in order to control peak runoff (10 year and 25-year design storm event) and to maintain or restore a basin's hydrologic cycle and to improve water quality. A structural BMP will only be allowed as a last resort to control the peak runoff. The process for implementation of these development standards are outlined in Section 4 of the 2018 Manual, as may be amended from time to time.

The process for implementation of these development standards are outlined in the Manual, as may be amended from time to time.

(e) Annual Inspection. In order to protect the health, safety and welfare of the citizens of the Town and to reduce associated problems with the maintenance of stormwater facilities, all newly developed "private" storm water facilities and BMPs constructed after the effective date of these regulations shall be inspected each year, as specified herein, to ensure they are working as designed and to correct any functional problems found so the properties for which they serve are not adversely impacted by neglect. The property owner shall provide a certificate of inspection from a registered engineer each year on a form provided by the Town.

(f) Exemptions.

1. Development and redevelopment that cumulatively disturbs less than one (1) acre and is not part of a larger common plan of development or sale is exempt from the provisions of this section. However, development and redevelopment that disturb less than one (1) acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.
2. Development and redevelopment that consist only of a single-family residential lot is exempt from the provisions of this section.

Secs. 36-534 – 36-77. Reserved.

Section 3. **Codification.** 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 4. **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 5. **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 6. **Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading on the 20th day of March, 2019.

PASSED AND ADOPTED on second reading on the ____ day of _____, 2019.

TIM MEERBOTT
Mayor

ATTEST:

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: Council Member Callahan
Second by: Council Member Coriat

Second Reading:

Moved by: _____

Second 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 _____