

ORDINANCE NO. 2019-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES BY REPEALING AND REPLACING CHAPTER 18, "FLOODS"; ADOPTING FLOOD HAZARD MAPS, DESIGNATING A FLOODPLAIN ADMINISTRATOR, ADOPTING PROCEDURES AND CRITERIA FOR DEVELOPMENT IN FLOOD HAZARD AREAS, AND ADOPTING TECHNICAL AMENDMENTS TO THE FLORIDA BUILDING CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 166, Florida Statutes, confers 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 has identified special flood hazard areas within the boundaries of the Town of Cutler Bay (the "Town") and such areas may be subject to periodic inundation which may result 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 was accepted for participation in the National Flood Insurance Program on August 31, 2006 and the Town Council desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

WHEREAS, Chapter 553, Florida Statutes, was adopted by the Florida Legislature to provide a mechanism for the uniform adoption, updating, amendment, interpretation and enforcement of the *Florida Building Code*; and

WHEREAS, the Town Council previously adopted requirements to (1) require accumulation of cost of improvements and repairs of buildings in flood hazard areas, based on issued building permits, over a five year period; (2) require buildings that sustain repetitive flood damage over a 10-year period to be included in the definition of "substantial damage"; (3) establish a threshold of 44 percent for substantial improvement and substantial damage; (4) prohibit enclosed areas below elevated buildings for buildings and structures in flood hazard areas; (5) establish minimum attached garage slab elevations; (6) require minimum elevation of buildings outside of flood hazard areas; and (7) require elevation of critical facilities higher than required by the *Florida Building Code*, prior to July 1, 2010 and for the purposes of participating in the National Flood Insurance Program's Community Rating System; and

WHEREAS, for the purpose of participating in the National Flood Insurance Program's Community Rating System and in an effort to conform pursuant to Chapter 8, Article III of the Miami-Dade County Code and section 553.73(5), Florida Statutes, the Town Council is, among other things, adopting enhanced requirements and coordinating these requirements with the *Florida Building Code*; and

WHEREAS, the Town Council has determined that it is in the public interest to adopt the proposed floodplain management regulations that are coordinated with the *Florida Building Code*; and

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

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS:¹

Section 1. **Recitals.** The foregoing recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. **Repealing and Replacing Chapter 18 of the Town Code.** That Chapter 18, "Floods" of the Town of Cutler Bay Code of Ordinances is hereby repealed in its entirety and replaced as set forth in Exhibit "A" attached hereto and incorporated herein

Section 3. **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 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. **Inclusion in 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 6. **Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading on the _____ day of April, 2019.

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

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.

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: _____

Second by: _____

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 _____