

**ORDINANCE NO. 19-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-40 OF THE LAND DEVELOPMENT REGULATIONS, RELATING TO GROWTH MANAGEMENT PLAN AMENDMENT APPLICATIONS; 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 to be consistent with the Town’s Growth Management Plan and Florida Statutes, particularly §163.3184; 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:<sup>1</sup>**

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

**Section 2.**     **Amending Section 3-40 of the Town Code.** The Town Council hereby amends Section 3-40 of the Town Code as follows:

“Sec. 3-40. - Growth Mmanagement Pplan amendments.

Applications to amend the Town’s Growth Mmanagement Pplan amendments may shall be considered ~~two times a year, unless otherwise exempted by the Florida Statutes~~, in a manner consistent with §163.3184, Florida Statutes and in accordance with the following procedure ~~procedural calendar and regulations~~:

(1) Initiation of application. Amendments to the Ttown’s ~~G~~growth Mmanagement Pplan may be initiated by the majority vote of the Ttown Ccouncil, motion of the majority vote of the LPA, Ttown administration, petition of the property owner or owner’s agent, or contract purchaser with the owner’s written consent, which is the subject of a proposed amendment.

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<sup>1</sup> Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words.

(2) Application filing. With the exception of Town-initiated amendments, ~~a~~Amendment applications shall be filed with the ~~D~~department of ~~C~~community ~~D~~development. The required application form must be completed and signed by the owner or owner's agent, or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment.

(3) Submittal requirements. All amendment applications shall be accompanied by the following items:

- a. An application, on a form provided by the Ttown, completed and signed by the applicant, the owner or owner's agent, or contract purchaser with the owner's written consent.
- b. When the proposal is an amendment to the Growth Mmanagement Plan text or map series, the applicant shall submit data in support of the request. A text amendment shall be submitted in a strikethrough and underline format.
- c. A disclosure statement by the parties with at least five percent (5%) interest in the project signed by the applicant and notarized. The applicant shall keep this information current at all times during the processing of the application.
- d. A survey, signed and sealed by a certified surveyor and mapper, completed not longer than six months in advance of the date of the application, that contains the following information:
  1. Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each existing and proposed land use classifications.
  2. Total area of the property and of each existing and proposed district classification presented in square feet and acres. Scale and north arrow, with north, to the extent feasible, oriented to the top of the survey.
  3. Location of all existing buildings and structures.
  4. Names of all boundary roads or streets, and the width of existing rights-of-way.

(4) Procedure.

- a. Applications shall be received by the Ttown in a form set by the Ttown and made available to the applicants.
- b. The Community Development ~~D~~department shall review all submitted applications for Growth Mmanagement Plan amendments and shall prepare a comprehensive written recommendation.
- c. The LPA shall hold a public hearing to consider applications for amendments to the Growth Mmanagement Plan and shall, upon conclusion of the public hearing, make a recommendation to the Ttown Council with respect to each application.

d. The Town Council shall hold public hearing(s) in accordance with state law to consider the adoption of the ~~the recommendations of the LPA with respect to applications for amendments to the growth management plan and shall, upon conclusion of the public hearing(s), adopt an ordinance expressing an intent to adopt those proposed amendments to the~~ Growth Management Plan.”

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

PASSED on first reading this \_\_\_\_ day of October, 2019.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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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: \_\_\_\_\_

Seconded By: \_\_\_\_\_

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 \_\_\_\_\_