

## **ORDINANCE 20-\_\_**

### **AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-164 RELATING TO ALTERNATIVE MATERIALS AND PAVERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND 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**, one of the areas that was studied was the ratio of pervious (penetrable to the ground) vs. impervious (non-penetrable) area of a lot; and

**WHEREAS**, within the last several years the Town has experienced an increase in home renovations, which has included replacement or expansion of existing driveways; and

**WHEREAS**, more recently the Town is experiencing a construction practice which pours concrete pavers in place on-site; and

**WHEREAS**, the maximum amount of impervious front yard coverage permitted under Section 3-54. ER, Estate Residential District is 25% and is not dependent on the type of material utilized; and

**WHEREAS**, the maximum amount of impervious front yard coverage permitted under the Section 3-55. SR, Single-Family Residential District is 40% and is not dependent on the type of material utilized; and

**WHEREAS**, Section 3-164, - Impervious Area subsections (b) and (c) allow for additional discounts/allowances for alternative materials or pavers further reducing the front yard coverage; 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: <sup>1</sup>**

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<sup>1</sup> 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 **yellow highlighted double strikethrough** and double underline.

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

**Section 2.**      **Section 3-164 Amended.** The Town Council hereby amends Section 3-164 of the Town Code of Ordinances as follows:

Sec. 3-164. - Impervious area.

- (a) Impervious area coverage provides a control of the intensity of development of land, by controlling the amount of the land which may be covered by any type of impervious area. The impervious surface ratio is calculated by dividing the total impervious area by the gross site area.
- (b) ~~Alternative materials. If porous paving materials (grasserete, gravel or other like materials) are used in accordance with the state building code, then only 20 percent of the area covered with porous paving materials shall be counted as impervious area unless manufacturer information indicates a higher percentage of pervious penetration.~~
- (b) In the event a property has been granted a permit which utilized the previously authorized allowances for alternative materials or pavers, such credits shall be permitted to continue as long as said alternative materials or pavers remain located on the property.
- (c) ~~If pavers are used in accordance with the state building code, then only 35 percent of the area covered with pavers shall be counted as impervious surface unless manufacturer information indicates a higher percentage of pervious penetration.~~

**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.

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**PASSED** on first reading this 20<sup>th</sup> day of May, 2020.

**PASSED and ADOPTED** on second reading this \_\_\_\_ day of June, 2020.

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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: Council Member Callahan

Seconded By: Vice Mayor Loyzelle

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 \_\_\_\_\_