

**ORDINANCE NO. 20-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, COMPREHENSIVELY UPDATING AND REVISING CHAPTER 3, “LAND DEVELOPMENT REGULATIONS,” CHAPTER 14, “ENVIRONMENTAL PROTECTION,” AND CHAPTER 26, “PROPERTY MAINTENANCE AND CONTROL” OF THE TOWN CODE OF ORDINANCES RELATING TO ENVIRONMENTAL, RESILIENCY, AND SUSTAINABILITY REGULATIONS; DISSOLVING THE MORATORIUM IMPOSED BY ORDINANCE NO. 19-13 AS TO ENVIRONMENTAL, RESILIENCY, AND SUSTAINABILITY REGULATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay (the “Town”) has adopted land regulations to facilitate safe and orderly growth which forms an integral part of the community; and

**WHEREAS**, on July 17, 2019, the Town Council adopted Ordinance No. 19-13, providing for a moratorium on development within the Town (the “Moratorium”); and

**WHEREAS**, on January 15, 2020, the Town Council adopted Ordinance No. 20-03, extending the Moratorium through April 17, 2020; and

**WHEREAS**, this Ordinance and others were scheduled to be considered by the Town Council at its March 18, 2020 meeting, which was cancelled due to an emergency created by novel coronavirus/COVID-19 (“COVID-19”); and

**WHEREAS**, on April 22, 2020, due to the emergency created by COVID-19, the Town Council adopted Resolution No. 20-16, invoking the Zoning in Progress or pending ordinance doctrine for the adoption of comprehensive amendments to the Town’s Code of Ordinances; and

**WHEREAS**, the Moratorium provided the Town’s consultants the opportunity to study and recommend amendments to the Town’s Land Development Regulations, which serve to further guide land use and development, so that development within the Town will further the Town’s goal of creating a sustainable environment, establishing a unique character, and providing enhanced quality of life; and

**WHEREAS**, the Town Council desires to comprehensively update and revise the standards in Chapter 3, “Land Development Regulations,” Chapter 14, “Environmental Protection,” and Chapter 26, “Property and Maintenance Control,” as they relate to sea level rise and other environmental concerns to ensure sustainability and resiliency for the Town’s residents and future generations; and

**WHEREAS**, the Town Council, sitting in its capacity as the Local Planning Agency, has reviewed this Ordinance and has recommended approval; and

**WHEREAS**, after due notice and hearing, the Town Council finds that this Ordinance is consistent with the Town's Comprehensive Plan and Code of Ordinances; 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 MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:**<sup>1</sup>

**Section 1.** **Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference as the legislative intent of this Ordinance.

**Section 2.** **Amending Chapter 3 of the Town Code.** The Town Council of the Town of Cutler Bay hereby amends Chapter 3, "Land Development Regulations," of the Town Code as set forth in Exhibit "A" attached hereto and incorporated herein.

**Section 3.** **Amending Chapter 14 of the Town Code.** The Town Council of the Town of Cutler Bay hereby amends Chapter 14, "Environmental Protection," of the Town Code as set forth in Exhibit "B" attached hereto and incorporated herein.

**Section 4.** **Amending Chapter 26 of the Town Code.** The Town Council of the Town of Cutler Bay hereby amends Chapter 26, "Property Maintenance and Control," of the Town Code as set forth in Exhibit "C" attached hereto and incorporated herein.

**Section 5.** **Dissolving Moratorium as to Environmental, Resiliency and Sustainability Regulations.** Pursuant to Section 8 of Ordinance No. 19-13, the moratorium that was imposed on all properties in the Town to allow the Town to study, recommend, and adopt regulations to address environmental, resiliency, and sustainability issues pursuant to Section 2(b) of Ordinance No. 19-13 is dissolved. The moratoria on development imposed pursuant to Section 2(c) of Ordinance No. 19-13 shall continue in effect.

**Section 6.** **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 7.** **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.

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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 8.** **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 9.** **Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

**PASSED** on first reading on the 17<sup>th</sup> day of June, 2020.

**PASSED AND ADOPTED** on second reading on the \_\_\_\_\_ day of July, 2020.

\_\_\_\_\_  
TIM MEERBOTT  
Mayor

Attest:

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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 Coriat  
Second 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 \_\_\_\_\_