

ORDINANCE NO. 20-__

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-169, “SPECIAL EVENTS,” OF THE TOWN CODE OF ORDINANCES RELATING TO SPECIAL EVENT PERMIT PROCEDURES AND SPECIAL EVENTS FOR NOT-FOR-PROFIT ORGANIZATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) issues permits to property owners that wish to host special events in the Town that provide the community with activities, live music, food trucks, tents, inflatables, or similar attractions; and

WHEREAS, pursuant to Section 3-169 of the Town Code, after hosting three special events within a year, applicants are required to obtain Town Council approval to host additional special events; and

WHEREAS, the Town Council desires to amend Section 3-169 of the Town Code to allow applicants to host up to four (4) additional special events that benefit not-for-profit organizations designated as charitable organizations under Section 501(c)(3) of the Internal Revenue Service Code without requiring special event permit approval by the Town Council; and

WHEREAS, the Town Council finds that this Ordinance will promote the health, safety, and welfare of the Town.

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

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

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 by amending Section 3-169, “Special Events,” as follows:

Chapter 3 – Land Development Regulations

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 yellow highlighted double strikethrough and double underline.

Article XI. – Supplemental Standards

Section 3-169. Special Events.

(a) *Application.* Any property owner who desires to have a special event shall apply for a permit, ~~including any applicable fee,~~ with the department on a form provided by the town and pay any applicable fees. The director shall transmit the application to the police department, building official, and public works director for review and approval. The director or the town council, as applicable, may approve, approve with conditions, or deny the application ~~except as otherwise provided within this section.~~ Town council approval of a special event permit application will be required if the applicant seeks to conduct an additional special event and:

- (1) the applicant has applied for and received three (3) special event permits within a calendar year; and/or
- (2) the applicant has applied for and received four (4) special event permits within a calendar year to host special events benefitting not-for-profit organizations designated as charitable organizations under Section 501(c)(3) of the Internal Revenue Service Code.

In no case shall more than seven (7) special events be conducted at a property within a calendar year without Town Council approval.

(b) *Permit conditions.* The director may impose conditions on an event permit as is necessary to protect the public health, safety, and welfare and minimize impact to adjacent uses. Conditions ~~which~~ that may be imposed ~~may~~ include, but are not limited to:

- (1) Yard, setback, open space, and visibility triangle limitations;
- (2) Temporary fences, walls, or other screening;
- (3) Signage;
- (4) Vehicular and pedestrian ingress and egress;
- (5) Property maintenance during and after the course of the activity;
- (6) Control of illumination, noise, odor, vibration, or other nuisances;
- (7) Hours of operation; and
- (8) Exterior lighting.

(c) ~~General~~ Permit criteria. The following criteria shall be used by the director or the town council to review ~~the~~ an application for a special event permit:

- (1) Whether the event must be is compatible with the surrounding land uses;
 - (2) Whether If the event is not sponsored by the property owner will be hosted on the applicant's property, or if not, whether then permission from the property owner will be is provided in writing;
 - (3) Whether the The event must have applicant has provided a plan to accommodate the expected number of vehicles at the event in an efficient a manner that is efficient and will not result in a parking problem lack of parking for the surrounding area, and If if off-site parking is to will be utilized, whether permission must be in writing from the owner of the property to be utilized is provided in writing;
 - (4) Whether the applicant's has not requested a special event permit application on the same property more than three times within a calendar year, unless requires approved by the town council; and
 - (5) Whether the event must not endangers the public health or safety of the citizens or businesses of the town.
- (d) *Termination.* At the end of the time period for which the special event permit was issued, the special event shall be discontinued and all temporary structures and signs shall be removed within 24 hours. Failure to comply with this requirement shall be a violation of this code.
- (e) *Violations.* The director may revoke ~~the~~ a special event permit or discontinue the use if the conditions imposed ~~on~~ by the special event permit are violated.
- (1) *Revocation of permit.* The director may revoke ~~an~~ a special event permit at any time upon the failure of the owner or applicant of the use covered by the permit to observe all requirements of the special event permit, this section, and other relevant provisions of law, including failure to obtain appropriate business licenses. Notice of such revocation shall be given in writing by the director to the owner or operator of the use, by hand delivery or certified mail, setting forth the reasons for the revocation, the date and time upon which the revocation is effective and the appeals procedure. This provision shall not preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this code.
 - (2) *Enforcement of permit.* The director may discontinue a use special event if the conditions imposed on the permit are violated, and such violation(s) creates an environment where the health, safety and welfare of the residents are compromised.

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 this 17th day of June, 2020.

PASSED AND ADOPTED on second reading on the ____ day of July, 2020.

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: _____

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 _____