



TOWN OF CUTLER BAY

Mayor Edward P. MacDougall
Vice Mayor Ernest N. Sochin
Councilmember Peggy R. Bell
Councilmember Sue Ellen Loyzelle
Councilmember Mary Ann L. Mixon

Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Manager Steven Alexander
Town Clerk Esther B. Coulson

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (305) 234-4262 for assistance no later than four days prior to the meeting.

LOCAL PLANNING AGENCY AGENDA

Wednesday, March 16, 2011, 7:00 PM
South Dade Regional Library, First Floor
10750 Southwest W 211th Street
Cutler Bay, Florida 33189

I. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

II. PUBLIC COMMENTS

III. ADDITIONS, DELETIONS, AND DEFERRALS

IV. CONSENT AGENDA

Approval of Minutes – February 16, 2011

V. ACTION ITEMS

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING REGULATIONS RELATING TO THE USE OF TOWN BUILDING FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (Bell)

B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING OUTDOOR MARKET REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS, AND PROVIDING FOR AN EFFECTIVE DATE. (Bell)

VI. PUBLIC COMMENTS

VII. ADJOURNMENT

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

LOCAL PLANNING AGENCY MINUTES

Wednesday, February 16, 2011, 7:00 p.m.

South Dade Regional Library

10750 Southwest 211 Street

Cutler Bay, Florida 33189

Mayor Edward P. MacDougall
Vice Mayor Ernest N. Sochin
Councilmember Peggy R. Bell
Councilmember Mary Ann L. Mixon
Councilmember Sue Ellen Loyzelle

Town Attorney Mitchell Bierman
Town Manager Steven Alexander
Town Clerk Esther B. Coulson

I. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

The mayor announced the opportunity for the public to comment on items on this evening's Local Planning Agency's (LPA's) agenda to be heard again later at the regular council meeting.

The mayor called the meeting to order at 7:02 p.m., requested that Ms. Coulson call the roll and with a quorum present, led in the Pledge of Allegiance to the flag.

PUBLIC COMMENTS

There were no members of the public to come before the council at this time.

II. ADDITIONS, DELETIONS, AND DEFERRALS

At the mayor's request, Ms. Coulson addressed the additions, deletions, and deferrals on this evening's agenda to be: Item IV.A.(2), Revised title and Item IV.B CIE was withdrawn.

III. CONSENT AGENDA - Minutes

On motion of Vice Mayor Sochin, seconded by Councilmember Mixon and unanimously carried, the LPA approved the February 16, 2011 minutes as submitted.

IV. ACTION ITEMS

First Reading

A. (1) Urban Center District

Upon the Mayor's request, Ms. Coulson read into the record the title of the proposed ordinance, the substance of which is as follows:

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 06-06 RELATING TO THE URBAN CENTER DISTRICT; PERMITTING ENTERTAINMENT CENTER USES WITHIN THE DISTRICT; PROVIDING FOR SEVERABILITY;

PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE. (MacDougall)

A motion was made by Councilmember Bell and seconded by Councilmember Mixon that the LPA recommend the approval of the previously cited proposed ordinance.

The mayor called for a roll call vote on the motion with the LPA members voting as follows:

Councilmember Bell	Yes
Councilmember Loyzelle	Yes
Councilmember Mixon	Yes
Vice Mayor Sochin	No
Mayor MacDougall	Yes

The mayor declared the motion carried (4-1 vote).

(2) Lakes By-the-Bay South Commons Development

Upon the Mayor's request, Ms. Coulson read into the record the modified title of the proposed resolution, the substance of which is as follows:

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING THE DEVELOPMENT ORDER FOR THE LAKES-BY-THE BAY SOUTH COMMONS DEVELOPMENT GENERALLY LOCATED NORTH OF SOUTHWEST 232 STREET, SOUTH OF SOUTHWEST 216 STREET, EAST OF OLD CUTLER ROAD, AND WEST OF SOUTHWEST 87 AVENUE; DELETING A DEVELOPMENT ORDER ROADWAY CONDITION, AND PROVIDING FOR AN EFFECTIVE DATE.

~~A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE TOWN REGARDING THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM FOR LAKES BY THE BAY PARK; AUTHORIZING THE TOWN MANAGER TO TAKE ANY AND ALL STEPS NECESSARY TO EFFECTUATE THE INTENT OF THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.~~

On motion of Councilmember Bell, seconded by Councilmember Mixon and unanimously carried, the LPA recommended the approval of the previously cited proposed resolution as modified.

Second Reading

B. Capital Improvements Element

The CIE, titled below, was withdrawn at staff's request.

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING THE ANNUAL UPDATE TO THE CAPITAL IMPROVEMENTS ELEMENT WITHIN THE TOWN'S COMPREHENSIVE PLAN; PROVIDING FOR THE ADOPTION OF THE ANNUAL UPDATE TO THE MIAMI-DADE COUNTY PUBLIC SCHOOLS FACILITIES WORK PROGRAM; PROVIDING FOR SEVERABILITY, AND PROVIDING FOR AN EFFECTIVE DATE.

V. MAYOR AND COUNCIL COMMENTS

There were no LPA comments to address at this time.

VI. OTHER BUSINESS

There was no other business to come before the LPA at this time.

VII. ADJOURNMENT

There being no further business to come before the council, and on motion made, seconded and unanimously carried, the meeting adjourned at 7:07 p.m.

The minutes were approved at the March 16, 2011 Local Planning Agency meeting.

Signed _____
Esther B. Coulson, Town Clerk

Signed _____
Edward P. MacDougall, Mayor

ORDINANCE NO. 11- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING REGULATIONS RELATING TO THE USE OF TOWN BUILDING FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) would like to make available to the public the use of rooms within town building facilities for recreational, cultural, civic, and educational events and activities; and

WHEREAS, in order to ensure that the town’s building facilities are used in an appropriate manner, the town council desires to adopt regulations relating to the use of town facilities; 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 FOLLOWS¹:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

Section 2. Use of Town Building Facilities. The town council hereby adopts the following ordinance:

- A. Use of Town Building Facilities. Individuals, groups, and organizations may use a town building facility for recreational, cultural, civic, and educational events and activities, subject to the issuance of a permit and compliance with the rules and regulations contained in the town code of ordinances. However, town building facilities shall not be used for political campaign related events and activities.
- B. Duration of Use. The use of a town building facility is restricted to the date and time listed in the permit, and the individual, group or organization using the facility. The town may issue an annual permit to an individual, group, or organization if there is an ongoing and regular use of a facility.
- C. Care of Town Building Facility.
 - 1. *Set Up and Clean Up.*

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

The individual, group, or organization using the town building facility shall be responsible for setting up for the permitted event or activity and cleaning up the facility at the conclusion of the event or activity, including, but not limited to, removing all materials, garbage, and debris from the facility. No materials may be stored within the facility, without the express written permission of the town.

2. *Damage to Town Building Facility.*

The individual, group, or organization using the town facility shall assume all liability for damage to or theft of town property, facilities, or equipment or property or equipment of the individual, group, or organization resulting from its use. No town building facility may be structurally altered or otherwise modified without the advance, written approval of the town.

3. *Cleaning or Damage Deposit.*

For certain events or activities or the use of certain building facilities, the town may require the individual, group, or organization to post a deposit with the town at the time of submission of a permit application to cover any cleaning or damage expenses. The cleaning and damage deposit will be refunded if the town building facility is not damaged and is left in an orderly condition.

D. Application for Use of Town Facilities. An application for a permit to use a town building facility shall be submitted to the town manager or designee not less than thirty (30) days prior to the proposed use. The following information and documentation shall be included with the application:

1. *Event Information.*

The applicant shall provide the following information relating to the event: (a) name of the individuals, groups, and organizations using the facility; (b) facility requested; (c) contact information, including address, phone, and email; (d) description/purpose of the event; (e) agenda for event; (f) date and time of the event; and (g) projected attendance.

2. *Permit fee.*

The town may charge a permit fee in an amount calculated to reimburse the town for the use of town personnel, equipment, and property in connection with the applicant's proposed use of the town building facility.

3. *Certificate of Insurance.*

The town may require an applicant to provide proof of insurance in an amount and in a form approved by the town and to submit a certificate of insurance with the application.

4. *Indemnification and hold harmless*

The application shall include a signed indemnification and hold harmless agreement, in a form provided by the town, providing that the applicant agrees to indemnify, defend, and hold the town, its officers, employees and agents, harmless from any loss, damage, expense, claim and cost of every nature and kind whatsoever, including attorney's fees, arising out of or in connection with the applicant's use of the town's building facility, during or in conjunction with the activity or event described in the permit.

- E. Renewal of Permit. Renewal of a permit to use a town building facility shall be contingent on the satisfactory care of town facilities, property, and equipment, and strict observance of all rules and regulations governing the use of town building facilities.
- F. Violation of this Ordinance. A violation of the provisions of this ordinance shall result in the revocation of the permit and a code enforcement violation enforced pursuant to the town's code enforcement procedures.

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. Effective Date. This ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2011.

PASSED AND ADOPTED on second reading this ___ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER B. COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____
Vice Mayor Ernest N. Sochin _____
Councilmember Peggy R. Bell _____
Councilmember Mary Ann Mixon _____
Councilmember Sue Ellen Loyzelle _____

ORDINANCE NO. 11-

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL
OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING
OUTDOOR MARKET REGULATIONS; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CONFLICTS, AND
PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, outdoor markets within the Town of Cutler Bay allow residents to obtain locally grown, healthy, and affordable foods or other goods; and

WHEREAS, such markets help support local business as well as the local economy; and

WHEREAS, the town council finds it necessary to encourage outdoor markets, but also provide reasonable regulations in order to protect the residents of the town; and

WHEREAS, the town council, sitting as the Local Planning Agency, has reviewed this ordinance and recommends 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 FOLLOWS¹:

Section 1. Findings. The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this ordinance.

Section 2. Outdoor Market Regulations. The town council hereby adopts outdoor market regulations as follows:

1. **Outdoor market.** An “outdoor market” shall mean an open air market where food and handmade products from natural materials are sold, and animal rides are offered.
2. **Minimum lot size.** The minimum lot size for an outdoor market shall be two and one-half (2½) acres.
3. **Application and Approval.** An application, on a form provided by the town, shall be filed by the property owner or authorized agent prior to an outdoor market occurring within the town. Upon the filing of a complete application, including the applicable permit fee, town staff shall review the application for consistency with the requirements of this ordinance. After review, the town manager or designee may approve, approve with conditions, or deny the application.

¹ Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

4. Market Manager. Each outdoor market shall have a designated market manager who is in charge of running the market and enforcing all applicable health and safety regulations. The market manager shall provide his or her address, telephone number(s), and email address to the town prior to the event occurring.
5. Hours of Operation, Days, and Set Up Time.
 - a. Hours of Operation. An outdoor market may be operated within the town between the hours of 9:00 a.m. and 3:00 p.m.
 - b. Days. An outdoor market on a property shall occur only on a Saturday or Sunday but not on both days.
 - c. Set Up Time. An outdoor market shall be set up a maximum of two (2) hours prior to the event occurring.
6. Site Plan. A site plan shall be submitted, which depicts, at a minimum, the location of vendors, ingress and egress, parking, and setbacks.
7. Tables and Tents. All uncooked food, goods, or products shall be located on tables and under prefabricated tents. Tents shall be a maximum of ten (10) feet x ten (10) feet, unless otherwise approved by the town.
8. Setbacks. An outdoor market, including, but not limited to, vendors, tents, tables, and chairs shall have a minimum setback from the property line as follows: (a) Front: twenty (20) feet; (b) Side: ten (10) feet if side street, twenty (20) feet if adjacent to residential; and (c) Rear: twenty (20) feet.
9. Off-Street Parking. The minimum off-street parking requirements for an Outdoor Market shall be as follows: (a) 1 parking space per stall for customer parking; (b) 1 oversized space for truck/trailer parking per stall; and (c) 1 parking space for every 250 square feet of eating or seating or other areas used for additional activities. On-street parking shall be prohibited.
10. Music. Music may be permitted if the music is not capable of being heard beyond the outdoor market's property line.
11. Cooked food. An outdoor market may include cooked food upon the applicant demonstrating approval by all applicable county and state agencies, which may include, but are not limited to, the county health and fire department as well as the Florida Department of Business and Profession Regulation.
12. Pony rides. Pony rides may be permitted if located in a designated area, with a fence to contain the rides so that they are not going into or around the areas where food is served or consumed. The fenced areas should not be near the parking or driving areas.

Prohibitions. The following shall be prohibited at outdoor markets:

- a. alcoholic beverages (consumed or sold);
 - b. bandstand or stage;
 - c. animals or livestock, except for ponies used for pony rides; and
 - d. games, mechanical rides, or other amusement devices.
13. Clean Up. The market manager shall be responsible for the clean up of the outdoor market. The outdoor market shall be completely cleaned up within two (2) hours after the closing of the market, which includes, but is not limited to, the removal of all trash, tents, tables, and vendors.
14. Indemnification and Hold Harmless. If the outdoor market is to be held on town-owned or leased property, the person or entity organizing the outdoor market shall agree to enter into an indemnification and hold harmless agreement with the town in a form acceptable to the town attorney.
15. Enforcement. A violation of the provisions of this ordinance or any condition of approval shall result in the revocation of the permit and a code enforcement violation enforced pursuant to the town's code enforcement procedures.

Section 3. Sunset. The provisions of this ordinance shall sunset on December 31, 2011.

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. 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 6. Effective Date. This ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2011.

PASSED AND ADOPTED on second reading this ___ day of _____, 2011.

EDWARD P. MACDOUGALL, Mayor

Attest:

ESTHER B. COULSON
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE USE OF THE TOWN OF CUTLER BAY:

WEISS SEROTA HELFMAN PASTORIZA
COLE & BONISKE, P.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Edward P. MacDougall _____
Vice Mayor Ernest N. Sochin _____
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