

ORDINANCE NO. 07-06

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE I "IN GENERAL," SECTION 33-11 "FENCES, WALLS, BUS SHELTERS AND HEDGES" OF THE TOWN CODE OF ORDINANCES, TO PROVIDE THAT ALL FENCES BE ERECTED WITH THE FINISHED SIDE OUTWARD; PROVIDING THAT CHAIN LINK FENCES SHALL NOT BE LOCATED BEYOND THE FRONT FAÇADE OF THE BUILDING OR 25 FEET FROM THE FRONT PROPERTY LINE, WHICHEVER IS GREATER, AND SHALL BE PERMITTED ONLY ALONG INTERIOR SIDE PROPERTY LINES AND REAR PROPERTY LINES THAT ARE NOT ADJACENT TO A RIGHT-OF-WAY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the "Town") currently permits chain link fences in residential zoning districts behind the front building line; and

WHEREAS, in order to enhance the character and aesthetics of the Town, Town staff has recommended that all chain link fences should not be located behind the front building line, and that all fences be erected with the finished side outward; and

WHEREAS, Town staff has further recommended, that within residential zoning districts, chain link fences should not be located beyond the front façade of the building or 25 feet from the front property line, whichever is greater, and should be permitted only along interior side property lines and rear property lines that are not adjacent to a right-of-way; and

WHEREAS, public notice was provided in accordance with law; and

WHEREAS, this Ordinance was heard and recommended by the Town Council, in its capacity as the Town's Local Planning Agency; and

WHEREAS, after due notice and hearing, the Town Council finds this Ordinance to be consistent with the Miami-Dade County Comprehensive Development Master Plan, which now functions as the Town's Comprehensive Plan; and

WHEREAS, the Town Council finds these changes to be in the best interest and welfare of the Town.

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

Section 1. Findings. The foregoing "Whereas" clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Amendment to Section 33-11 of the Town Code. Article I “In General,” Section 33-11 “Fences, walls, bus shelters and hedges” of the Town Code is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 33-11. Fences, walls, bus shelters and hedges.

(a) *Permits; conformance to requirements; erection on property lines.* Permits shall be required for all walls and fences, and except as may be approved as a result of public hearings, walls, fences, which obscure or obstruct vision, and hedges shall be restricted to the height, location and type as indicated hereinafter, and except when a higher wall, fence or hedge is required as a visual screening buffer at the rear of double frontage lots under Chapter 28 of this Code. Except as hereinafter restricted, all walls, fences and hedges may be placed on the property lines. This section, however, shall not be construed to permit such walls, fences and hedges to extend beyond the official right-of-way lines or property lines. All fences shall be erected with the finished side outward. Notwithstanding anything in the code to the contrary, chain link fences in residential zoning districts shall not be located beyond the front façade of the building or 25 feet from the front property line, whichever is greater, and shall be permitted only along interior side property lines and rear property lines that are not adjacent to a right-of-way. Chain link fences lawfully existing prior to the effective date of this ordinance which as a result of this ordinance become nonconforming shall be exempt from Section 33-35(c).


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 AND ADOPTED on first reading this 17th day of January, 2007.

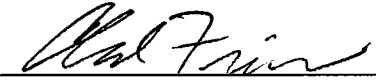
PASSED AND ADOPTED on second reading this 21st day of February, 2007.


PAUL S. VROOMAN, Mayor

Attest:


ERIKA GONZALEZ SANTAMARIA, CMC
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.A.
Interim Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	<u>YES</u>
Vice Mayor Edward P. MacDougall	<u>NO</u>
Councilmember Peggy R. Bell	<u>YES</u>
Councilmember Timothy J. Meerbott	<u>NO</u>
Councilmember Ernest N. Sochin	<u>YES</u>