

TOWN OF CUTLER BAY

Mayor Paul S. Vrooman
Vice-Mayor Edward P. MacDougall
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Councilmember Peggy R. Bell

Town Attorney Mitchell Bierman
Town Attorney Chad Friedman
Town Clerk Erika Gonzalez-Santamaria
Town Manager Steven Alexander

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 (4) days prior to the meeting.

LOCAL PLANNING AGENCY AGENDA

Wednesday, February 17, 2010, 7:00 PM
South Dade Regional Library
10750 SW 211th ST, 2nd Floor
Cutler Bay, Florida 33189

I. CALL TO ORDER, ROLL CALL

II. ADDITIONS, DELETIONS, AND DEFERRALS

III. CONSENT AGENDA

A. Minutes – January 20, 2010

IV. ACTION ITEMS:

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE 5, SECTION B OF ORDINANCE 09-06 ENTITLED, "FLOODPLAIN MANAGEMENT REGULATIONS"; REVISING TOWN STANDARDS TO CONFORM TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

VI. 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.

**TOWN OF CUTLER BAY
LOCAL PLANNING AGENCY MEETING
MINUTES**

Wednesday, January 20, 2010, 7:00 PM
South Dade Regional Library
10750 Southwest 211th Street, 2nd Floor
Cutler Bay, Florida 33189

I. CALL TO ORDER/ROLL CALL OF MEMBERS: The meeting was called to order by the mayor at 8:25 p.m. Present were the following chartered officials:

Councilmember Peggy R. Bell
Councilmember Timothy J. Meerbott
Councilmember Ernest N. Sochin
Vice Mayor Edward P. MacDougall
Mayor Paul S. Vrooman

Town Attorney Mitchell Bierman
Town Clerk Erika Gonzalez-Santamaria
Town Manager Steven Alexander

II. PLEDGE OF ALLEGIANCE: There was no Pledge of Allegiance at this time.

III. ADDITIONS, DELETIONS, AND DEFERRALS: None at this time.

IV. CONSENT AGENDA:

Councilmember Meerbott made a motion approving the minutes of meeting of November 18, 2009. The motion was seconded by Councilmember Bell and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

V. ACTION ITEMS:

The clerk read the following ordinance by title:

- A. 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 SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

There was no public hearing at this time.

Councilmember Meerbott made a motion to approve the resolution. The motion was seconded by Councilmember Bell and approved by a 5-0 roll call vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

VI. ADJOURNMENT: The meeting was officially adjourned at 8:30 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Local Planning Agency
on this 17th day of February, 2010.*

Paul S. Vrooman, Mayor

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 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.



MEMORANDUM

To: Honorable Mayor, Vice Mayor and Town Council

From: Steven J. Alexander, Town Manager

Date: February 17, 2010

Re: **ORDINANCE ADOPTING REVISIONS TO THE TOWN'S FLOODPLAIN MANAGEMENT REGULATION**

REQUEST

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ORDINANCE 09-06 ENTITLED, "FLOODPLAIN MANAGEMENT REGULATIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BACKGROUND AND ANALYSIS

In order for the Town residents to be eligible for participation in the National Flood Insurance Program (NFIP), the Town initially adopted a Floodplain Management Ordinance # 06-10. Town staff and Consulting Engineers have met with the Federal Emergency Management Agency (FEMA) to determine how to improve the Town's initial rating under the NFIP's Community Rating System (CRS) program. As a result of the meeting, Town staff prepared the requested FEMA changes which, resulted in the adoption of Ordinance #09-06.

Inadvertently, one of the "required" changes to the Town's Floodplain Management Ordinance, was not included within Ordinance #09-06. As a result, the Town' CRS application is on hold. Town staff is recommending the following changes (changes are underlined and ~~struck through~~) to Article 5, Section (B) (3) (a):

(3) *Elevated Buildings*. New construction or substantial improvements of elevated buildings that include enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(a) Designs for complying with this requirement must be certified by a professional engineer or architect and meet or exceed the following criteria:

(i) Provide openings in each wall having a total net area of not less than 50% of the total wall area subject to flooding **and shall equal or exceed one square inch for each square foot of enclosed area.**





- (ii) **Provide A—at least one opening per wall, and the bottom elevation of all such openings shall be no higher than one foot above grade; and**

- (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.

RECOMMENDATION

It is recommended that the Town Council adopt the proposed ordinance revising Town Ordinance number 09-06.



ORDINANCE NO. 10 - ____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING ARTICLE 5, SECTION B OF ORDINANCE 09-06 ENTITLED, “FLOODPLAIN MANAGEMENT REGULATIONS”; REVISING TOWN STANDARDS TO CONFORM TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) GUIDELINES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in order to obtain coverage under the National Flood Insurance Program (“NFIP”) the Town must adopt Floodplain Management Regulations; and

WHEREAS, in consultation with the Federal Emergency Management Agency (“FEMA”), the Federal Agency which administers the NFIP, Town staff recommends additional changes to the Town’s regulations in order to fully comply with NFIP standards; and

WHEREAS, the Town Council wishes to make the following technical changes to Ordinance 09-06, which governs Floodplain Management; and

WHEREAS, the Town Council finds that this Ordinance is in the best interest of the health, safety and welfare of the residents of the Town.

NOW THEREFORE IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS¹:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Amendment to Article 5, Section B of Ordinance 09-06 of the Town Code. The Town Council of the Town of Cutler Bay hereby amends Article 5, Section B of Ordinance 09-06 of the Town Code of Ordinances as follows:

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION B. SPECIFIC STANDARDS.

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.

In all A-Zones where base flood elevation data have been provided (Zones AE, A1-30, and AH), as set forth in Article 3, Section B, the following provisions, in addition to those set forth in Article 5, Section A, shall apply:

- (1) *Residential Construction.* All new construction or substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, mechanical and utility equipment and ductwork, elevated to no lower than one foot above the base flood elevation, beginning March 1, 2009. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of Article 5, Section B (3).
- (2) *Non-Residential Construction.* All new construction or substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, mechanical and electrical equipment and ductwork, elevated to no lower than one foot above the base flood elevation, beginning March 1, 2009. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components (including mechanical and electrical equipment and ductwork) below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.
- (3) *Elevated Buildings.* New construction or substantial improvements of elevated buildings that include enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. ~~(Note changes to this section should provide for 300 CRS points, but could impact remodeling of buildings with garages below the BFE i.e. Cutler Cay)~~
 - (a) Designs for complying with this requirement must be certified by a professional engineer or architect and meet or exceed the following criteria:
 - (i) Provide openings in each wall having a total net area of not less than 50% of the total wall area subject to flooding and shall equal or exceed one square inch for each square foot of enclosed area.
 - (ii) Provide At least one opening per wall and the bottom elevation of all such openings shall be no higher than one foot above grade; and

- (iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.
- (b) Enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and
- (c) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

Section 3. Conflicts. All ordinances or Code provisions in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Severability. The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. 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 renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Effective Date. That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this _____ day of _____, 2010.

PASSED and ADOPTED on second reading this ____ day of _____, 2010.

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.L.
Town Attorney

Moved By:
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman _____
Vice Mayor Edward P. MacDougall _____
Councilmember Peggy R. Bell _____
Councilmember Timothy J. Meerbott _____
Councilmember Ernest N. Sochin _____