

ORDINANCE NO. 21-12

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-102 OF CHAPTER 3, "LAND DEVELOPMENT REGULATIONS," OF THE TOWN CODE OF ORDINANCES RELATING TO THE STORAGE OF SOLID WASTE AND RECYCLABLE FACILITIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on June 20, 2012, the Town of Cutler Bay ("Town") Town Council adopted Ordinance No. 12-03, adopting, among other things, land development regulations requiring future nonresidential, multifamily, and planned developments to provide for the central storage of solid waste and recyclable facilities or, where such facilities are kept outside, screened enclosures; and

WHEREAS, the solid waste and recyclable facility enclosure regulations protect the public health, safety, and welfare; facilitate the safe and orderly growth of the Town's neighborhoods, retail, and commercial centers; and foster civic beauty by improving the appearance, character, and economic value of the Town, consistent with the goals, objectives, and policies adopted in the Town's Growth Management Plan; and

WHEREAS, the Town desires to amend Chapter 3 of the Town Code of Ordinances to make solid waste and recyclable facility regulations applicable to all existing nonresidential properties; and

WHEREAS, the Town Council finds that expanding the Town's solid waste and recyclable enclosure and screening regulations to apply to existing nonresidential properties will protect the public health, safety, and welfare of the Town and further promote civic beauty by improving the appearance, character, and economic value of the Town, consistent with the goals, objectives, and policies of the Town's Growth Management Plan; and

WHEREAS, the Town Council, sitting as the Local Planning Agency, has reviewed the ordinance and recommended approval; and

WHEREAS, the Town Council finds that this Ordinance is necessary for the preservation of the public health, safety and welfare of the Town.

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

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.

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

Section 2. Amending Section 3-102 of Chapter 3 of the Town Code. The Town Council hereby amends Section 3-102 of Chapter 3, “Land Development Regulations,” of the Town Code of Ordinances as follows:

Sec. 3-102. - Types of landscaping.

The types of landscaping are enumerated below and shall meet the following performance requirements. Where applicable, the provisions of (subsections (5) and (6) of this section shall not apply to areas zoned town center (TC) and transit corridor (TRC).

- (10) a. Screening of central solid waste storage area. Nonresidential, multifamily and planned developments shall provide facilities for the central storage of solid waste and recyclables within the lot. Where such facilities are provided outside, they shall be screened by an enclosure constructed of materials congruous with the development's building materials. The enclosure shall exceed the height of any storage container, but shall not exceed the tallest building height proposed for the development. The exterior wall shall be screened with landscaping six feet in height at the time of planting.

b. Subsection 3-102(10)(a) shall be applicable to all existing solid waste and recyclable storage facilities located on nonresidential properties beginning November 1, 2022. Town staff shall engage in public education efforts to inform the public of the provisions of this subsection before they take effect.

- (11) Unoccupied lot areas. All areas reserved for open space for new and existing development shall be improved with ground cover, trees, shrubbery or mulch. No exposed soils shall be permitted.

Section 3. Severability. That the provisions of this Ordinance are declared to be severable, and, if any section, sentence, clause and/or phrase of this Ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, which shall remain in effect, it being the legislative intent that this Ordinance shall stand despite the invalidity of any part.

Section 4. 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 5. Codification. That it is the intention of the Town Council, and hereby ordained, that the provisions of the 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 and/or re-lettered to accomplish such intentions; and that the word, "Ordinance," shall be changed to "Section" or such other appropriate word.

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

PASSED on first reading this 27th day of September, 2021.

PASSED AND ADOPTED on second reading this 20th day of October, 2021.



TIM MEERBOTT
Mayor

Attest:



MAURICIO MELINU
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
Seconded By: Council Member Duncan

Second Reading:

Moved By: Council Member Coriat
Seconded By: Vice Mayor Callahan

FINAL VOTE AT ADOPTION:

Mayor Tim Meerbott	YES
Vice Mayor Michael P. Callahan	YES
Councilmember Robert "B.J." Duncan	YES
Councilmember Suzy Lord	YES
Councilmember Roger Coriat	YES