

ORDINANCE NO. 21-11

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING ARTICLE V OF CHAPTER 4, “BUSINESSES,” RELATING TO AUTOMATED EXTERNAL DEFIBRILLATORS (AED); PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) is committed to promoting and protecting the public health and safety of residents and visitors; and

WHEREAS, the Town Council has previously adopted legislation promoting safe physical exercise opportunities, including legislation supporting local youth sports and recreational programs and legislation urging the State Legislature to adopt enhanced K-12 physical education curriculum that incorporates emergency CPR training; and

WHEREAS, although engaging in physical activity provides long-term health benefits, sudden strenuous exercise can lead to a temporary increase in the risk of cardiac arrest; and

WHEREAS, automated external defibrillators (“AEDs”) are lifesaving devices designed to stop cardiac arrest by administering a controlled electric shock that reverses arrhythmias caused by cardiac arrest; and

WHEREAS, in order to ensure that businesses offering physical exercise opportunities, such as indoor gymnasiums, fitness centers, dojos, exercise or dance studios, or similar facilities (“Indoor Recreational Facilities”), are as safe as possible, the Town Council recognizes that installation and maintenance of onsite AEDs is necessary to save individuals in the event of cardiac arrest; and

WHEREAS, the Town Council desires to create Article V of Chapter 4, “Businesses,” of the Town Code of Ordinances to require the installation and maintenance of AEDs at businesses and commercial premises featuring Indoor Recreational Facilities larger than 1,500 square feet; 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, FLORIDA, AS FOLLOWS: 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. Creating Article V of Chapter 4 of the Town Code. That Article V, “Businesses,” of Chapter 4, of the Town Code of Ordinances is here by created to read as follows:

CHAPTER 4 – BUSINESSES

ARTICLE V. – AUTOMATED EXTERNAL DEFIBRILLATORS (AED)

Section 4-111. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automated External Defibrillator means a lifesaving device that:

- (1) Is commercially distributed in accordance with the Federal Food, Drug, and Cosmetic Act;
- (2) Is capable of recognizing the presence or absence of ventricular fibrillation, and is capable of determining without intervention by the user of the device whether defibrillation should be performed; and
- (3) Upon determining that defibrillation should be performed, is able to deliver an electrical shock to an individual.

Indoor Recreational Facility means any indoor gymnasium, fitness center, dojo, exercise or dance studio, or similar facility where individuals engage in regular activities that include exercise, sports, or similar active recreational activities which are intended to or may result in an elevated heart rate. The term does not include indoor playgrounds or play areas primarily designed for children.

Section 4-112. – Automated External Defibrillators Required.

- (1) All businesses or commercial premises featuring an ~~gymnasium, fitness center, or other indoor recreational area~~ indoor recreational facility that exceeds 1,500 square feet must install and maintain an automated external defibrillator. Automated external defibrillators must be:
 - (a) Conspicuously located in plain view of the primary public entrance, with unobstructed access;

- (b) Housed in a cabinet with a clear window in the door, an audible alarm signaling the opening of the door, permanently affixed to a wall, and whose top is no more than 48 inches above the floor;
 - (c) Located below a sign having a minimum area of 70 square inches and containing the letters "AED" and the universally recognizable automated external defibrillator device symbol, which shall be placed no more than 60 inches, on center, above the floor;
 - (d) Readily accessible and immediately available when needed for on-site employees and the general public, including disabled persons;
 - (e) Placed near the elevator in the first-floor lobby, if the business or commercial premise contains an elevator; and
 - (f) Supplied with adult and pediatric pads and bandage scissors.
- (2) Businesses or commercial premises featuring an ~~gymnasium, fitness center, or other~~ indoor recreational facility that exceeds 1,500 square feet must:
- (a) Provide all necessary training for appropriate use of the automated external defibrillator to designated employees in accordance with the manufacturer's guidelines;
 - (b) Maintain automated external defibrillator devices in accordance with manufacturer's guidelines; and
 - (c) Provide a temporary replacement automated external defibrillator when an automated external defibrillator is being serviced, tested, repaired or recharged.

Section 4-113. – Damage or Modification to Automated External Defibrillators.

It shall be unlawful for any person to:

- (1) Render an automated external defibrillator device inoperative, except during such time as the automated external defibrillator device is being serviced, tested, repaired, or recharged;
- (2) Obliterate the serial number on an automated external defibrillator device for purposes of falsifying service records; or
- (3) Improperly service, test, repair, recharge, or inspect an automated external defibrillator device.

Section 4-114. – Enforcement; Penalties.

- (1) Following the adoption of this article, the town shall engage in public education efforts to inform the public of the provisions of this article.
- (2) Beginning February 1, 2022, the town code enforcement department shall enforce all provisions of this article.
- (3) Violations of the provisions of this section shall be enforced through chapter 8 of the town Code of Ordinances and shall be subject to a \$250 fine. Notwithstanding, the town may provide a courtesy warning for a violation of the provisions of this article.
- (4) Each day in violation of these regulations within a 365 day period, beginning with the date of the first violation, shall constitute a separate offense. The town council may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this section.

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.

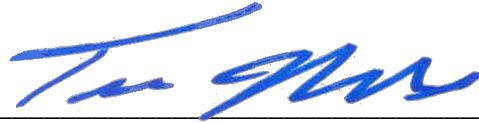
Section 4. **Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all ordinances or parts of ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

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 Duncan
Seconded By: Council Member Coriat

Second Reading:

Moved By: Council Member Duncan
Seconded By: Council Member Coriat

FINAL VOTE AT ADOPTION:

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