

ORDINANCE NO. 22-01

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 3-102, "TYPES OF LANDSCAPING," RELATING TO ALLOWABLE TYPES OF LANDSCAPE ELEMENTS IN PERVIOUS FRONT YARDS AREAS; CREATING SECTION 3-108, "ARTIFICIAL TURF," TO PROVIDE ARTIFICIAL TURF PERMITTING PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, under Chapter 3 of the Town of Cutler Bay (the "Town") Code of Ordinances ("Code"), the front yard area of single-family residential properties may only contain a limited impervious surface area; and

WHEREAS, currently, certain types of landscaping, such as artificial turf and gravel, river rock, shell, and similar materials ("Decorative Gravel") are considered pervious materials under the Code; and

WHEREAS, the Town Administration has become aware of single-family residential properties that replace all or a majority of living plant material located in front yard areas with Decorative Gravel to satisfy pervious surface area requirements; and

WHEREAS, although the use of Decorative Gravel does not pose significant environmental risks when used as a minor landscape element, extensive use of Decorative Gravel increases the need for herbicide use, negatively affects habitat value, reflects heat, replaces oxygen producing vegetation, and is inconsistent with the Town's aesthetic; and

WHEREAS, additionally, the Town Administration has noted increasing utilization of artificial turf as a replacement for natural grass due to its less-intensive maintenance requirements; and

WHEREAS, while the utilization of certain artificial turf products can be a safe replacement for natural grass under certain circumstances, use of artificial turf within the front yards of single-family residential properties is inconsistent with the Town's community aesthetics; and

WHEREAS, the Town Council desires to amend existing landscaping regulations under Chapter 3 of the Town Code to require that pervious areas of front yards in single-family residential properties are primarily composed of living plant material, while also permitting the use of Decorative Gravel as a minor landscape element; and

WHEREAS, the Town Council desires to create new permitting regulations under Chapter 3 of the Town Code that govern the installation, maintenance, and repair of artificial turf for properties in any zoning district except the estate residential (ER), single-family (SR) residential, conservation (CON), and water use (WU) zoning districts; 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 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

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

Section 2. Amending Chapter 3 of the Town Code. That Chapter 3, “Land Development Regulations,” of the Town Code of Ordinances is hereby amended to read as follows:

CHAPTER 3 – LAND DEVELOPMENT REGULATIONS

Section 3-102. – Types of landscaping.

(12) Allowable Types of Landscaping Elements in Pervious Front Yard Areas. The pervious front yard areas of single-family residential properties shall be composed of at least 85% living plant material, including, but not be limited to, grass, ground covers, bushes, shrubs, hedges, or other similar living plant materials. Notwithstanding the foregoing, pervious front yard areas of single-family residential properties may contain:

(a) Up to 15% decorative gravel, river rock, shell, or similar materials commonly used for landscape purposes.

Section 3-108. – Artificial Turf.

(a) Permit Required. No person shall install artificial turf without first obtaining a permit from the Town Community Development Department.

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.

(b) Permissible Locations. Artificial turf may be installed in any zoning district except the estate residential (ER), single-family (SR) residential, conservation (CON), and water use (WU) zoning districts.

(c) Artificial Turf Minimum Requirements. Artificial turf shall comply with the following installation, maintenance, and repair requirements:

- (1) All artificial turf shall be installed according to the manufacturer's specifications and shall be lead-free and designed for the intended use.
- (2) All seams shall be nailed and glued, or sewn, and edges shall be trimmed to fit against all regular and irregular edges to resemble a natural look.
- (3) All artificial turf installations shall be anchored to ensure that the turf will withstand the effect of wind.
- (4) An appropriate solid barrier device (e.g., concrete mow strip, bender board) is required to separate artificial turf from soil and live vegetation.
- (5) Precautions for installation around existing trees shall be provided to ensure that tree roots are not damaged with the installation of the base material and that the overall health of the tree will not be compromised.
- (6) All artificial turf must be replaced if it falls into disrepair with fading or holes or loose areas. Replacement and repairs shall be done with like materials from the same manufacturer and done so in a manner that results in a repair that blends in with the existing artificial turf.
- (7) Artificial turf shall not be installed within permanent drainage features (e.g., ponds, swales, and etc.).
- (8) All artificial turf shall be installed on a permeable backing or subbase system that is pervious and contributes to stormwater drainage and groundwater recharge, except that rubber infill may be utilized with artificial turf for institutional and recreational uses.
- (9) All artificial turf shall be maintained to ensure ground permeability, retention of a green fadeless condition, and proper cleanliness free of dirt, animal waste, mud, stains, weeds, debris, tears, holes, and impressions. Maintenance shall include, but not be limited to cleaning, brushing, debris removal; repairing of depressions and ruts to maintain a visually-level surface; elimination of any odors, flat or matted areas, weeds, and evasive roots; and all edges of the artificial turf shall not be loose and must be maintained with appropriate edging or stakes.
- (10) Artificial turf shall be visually level, with the grain pointing in a single direction.

Sec. 3-261. – Definitions.

Artificial turf means an artificial product manufactured from synthetic materials that effectively simulates the appearance of natural turf, grass, sod or lawn.

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 19th day of January, 2022.

PASSED AND ADOPTED on second reading this 16th day of February, 2022.



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: Vice Mayor Callahan

Seconded By: Council Member Coriat

Second Reading:

Moved By: Vice Mayor Callahan

Seconded By: Council Member Duncan

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