

ORDINANCE NO. 24-03

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, COMPREHENSIVELY AMENDING THE TOWN CODE TO ALLOW NOTICE BY PUBLICATION TO BE MADE IN ANY MANNER PERMITTED UNDER FLORIDA LAW, INCLUDING THROUGH PUBLICLY ACCESSIBLE WEBSITES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, provides municipalities with the authority to exercise any power for municipal purposes, except where prohibited by law, and to adopt ordinances in furtherance of such authority; and

WHEREAS, the Town Council of the Town of Cutler Bay (“Town”) finds it periodically necessary to amend its Code of Ordinances (“Code”) in order to update regulations and procedures to maintain consistency with state law, implement municipal goals and objectives, clarify regulations, and address specific issues and needs that may arise; and

WHEREAS, the Florida Constitution requires all meetings of a county, municipality, school board, or special district at which official acts are to be taken or at which public business is to be discussed or transacted to be open to the public and properly noticed; and

WHEREAS, various sections of the Town Code currently specify that certain notices must be published in a newspaper of general circulation in the Town; and

WHEREAS, in 2022, the State Legislature adopted House Bill 7049, amending the legal notice requirements in Chapter 50, Florida Statutes, to allow for publication of legal notices on a publicly accessible website, as specified in Section 50.0311, Florida Statutes; and

WHEREAS, the Town Council desires to comprehensively amend the Code to allow legal notices to be published in any manner permitted under Florida Law, including by publication on a publicly accessible website; 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 MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS¹:

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

Section 2. **Amending the Town Code.** That the Town Code of Ordinances is hereby amended as set forth in Exhibit “A” attached hereto and incorporated herein.

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 17th day of April 2024.

PASSED AND ADOPTED on second reading this 15th day of May, 2024.



TIM MEERBOTT
Mayor

Attested and Rendered May 16, 2024:

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.



MAURICIO MELINU, CMC
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: Councilmember Ramirez

Second Reading:

Moved By: Councilmember Ramirez
Seconded By: Councilmember Lord

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 Richard M. Ramirez | YES |

EXHIBIT "A"

Section 1-2. Definitions and rules of construction.

In construing the provisions of this Code, where the context will permit and no definition is provided herein, the definitions provided in F.S. § 1.01 shall apply.

Publication. Whenever the term "Publication" or "Publish" is used, it shall be construed to mean to publish a legal notice in accordance with Chapter 50, Florida Statutes. Publication may be achieved by one of the following:

- (1) Publication in a newspaper of general circulation;
- (2) Publication on a publicly accessible website, as defined under Section 50.0311, Florida Statutes; or
- (3) Publishing in any other manner authorized by Florida law and consistent with the Town Charter, Miami-Dade County Charter, or any other relevant authority.

Section 1-17. Advertisement and notice by publication on publicly accessible websites.

Notwithstanding any provision to the contrary in this Code, including under Chapter 3, "Land Development Regulations," of the Town Code, wherever an advertisement or notice is required to be published in a newspaper of general circulation or other print publication, such advertisement or notice may instead be provided on a publicly accessible website, as permitted by Chapter 50, Florida Statutes, provided that:

- (1) The cost of providing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper of general circulation;
- (2) Publication on such website conforms with the requirements of Section 50.0311, Florida Statutes; and
- (3) Publication on such website is made within the time frame required by this Code for the respective advertisement or notice, and includes all information required by the respective Code provisions.

Section 3-30. General requirements for applications.

Applications required under this article must be submitted in a form and in such numbers as specified below. Application forms and checklists of required submittal information are available from the department of community development.

(11) Advertising and notice requirements.

b. *Advertising requirements.* The applicant shall advertise in accordance with the provisions set forth below:

| Development Application and Type of Meeting | Type of Advertisement Required |
|---|---|
| Comprehensive plan (growth management plan) amendments | As required by state law for the town council meeting. |
| Rezoning | As required by state law for the town council meeting. |
| Development of regional impact | As required by state law for the town council meeting. |
| Any other development application not mentioned above which requires a public hearing | An advertisement shall be published in the non-legal section of a local newspaper selected by the town <u>posted in a Publication</u> at least seven calendar days before the town council public hearing. |
| Zoning workshops | An advertisement shall be published in the non-legal section of a local newspaper selected by the town at least seven calendar days before the zoning workshop meeting. |
| Local planning agency (LPA) | As required by state law for the LPA meeting. |
| Administrative variance | An advertisement shall be <u>posted in a Publication</u> published in the non-legal section of a local newspaper selected by the town at least ten calendar days after the director's decision. |

Section 3-82. - Modification of provisions.

The director may approve variations to this article provided similar materials, configurations, and/or techniques are used that fulfill the intent of the code. Notice of intent to approve variations shall be posted in a Publication ~~published one time in a newspaper of general circulation published~~ in the county and mailed to each contiguous parcel as shown by the current tax roll. The notice shall cite the property in question by street address, if possible, and describe the nature of the variation(s) granted. Within 15 calendar days of the date of publication, any person may object to the director's determination by filing a formal written appeal stating their name, nature of interest in the matter, and nature of the objection. Upon receipt of the written appeal, a public hearing before the town council shall be conducted. If after 15 calendar days of the publication no objection has been received, the variations are approved and shall be noted on the final approved plan.
