

ORDINANCE NO. 09-08

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 "ZONING" ARTICLE VI "SIGNS" SECTION 33-96.5 RELATING TO THE MAXIMUM HEIGHT FOR FLAG POLES IN RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 20, 2008, the Town Council adopted Ordinance 08-19 providing for certain regulations of signs within the Town; and

WHEREAS, such sign regulations include flag displays as well as a maximum height requirement for flag poles in residential zoning districts; and

WHEREAS, it is the desire of the Town Council to amend the height limit for flag poles in residential zoning districts, to allow for a maximum flag pole height of 25 feet within the Town's residential zoning districts; and

WHEREAS, the Town Council recognizes that Section 33-60 of the Miami-Dade County Code of Ordinances, which applies within the incorporated and unincorporated areas of the county, provides that flag poles exceeding 20 feet in height shall comply with construction and building permit requirements; and

WHEREAS, the Town Council finds and determines that this Ordinance is consistent with all applicable policies of the Miami-Dade County Comprehensive Plan; and

WHEREAS, the Town Council, sitting as the Local Planning Agency, has reviewed this Ordinance at a duly noticed meeting on November 19, 2008, and recommended its adoption; and

WHEREAS, the Town Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and advances the public interest.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That the recitals set forth above are true and correct and incorporated herein by this reference.

Section 2. Amendment to Chapter 33 of the Town Code. The Town Council hereby amends Chapter 33 "Zoning," Article VI "Signs" as follows:

* * *

Sec. 33-96.5. Flag display standards.

(a) *Maximum height.* Except as otherwise provided herein, flags shall be displayed on flag poles. Such poles in nonresidential zoning districts shall not exceed the allowed structure height of the zoning district or 60 feet, whichever is less. Flagpoles may not be placed on top of buildings or light poles. Flagpoles in residential zoning districts shall not exceed 25 feet. Flag poles shall be constructed in accordance with the construction and permitting requirements of Section 33-60 of the Miami-Dade County Code of Ordinances, as applicable.

(b) *Maximum number and size.*

(1) The maximum dimensions of any flag shall be proportional to the flag pole height. The hoist side of the flag shall not exceed 20% of the vertical height of the pole. In addition, flags are subject to the following dimensional limitations:

Pole Height	Maximum Flag Size
Up to 25 feet	24 total square feet
25 to 39 feet	40 total square feet
40 to 49 feet	60 total square feet
50 to 60 feet	150 total square feet

(2) Each property that is equal to or less than a lot area of 7,500 square feet shall be allowed a maximum of one (1) flag poles. For all other properties more than the total lot area of 7,500 square feet shall be allowed a maximum of two (2) flag poles. A maximum of two flags shall be allowed per flag pole. References to flagpole height in this division refer to vertical flagpoles. References to the number of flags and flag poles and flag dimensions refer to both vertical flagpoles and mast-arm flagpoles (for example, staffs extending at an angle from a building). On United States and Florida holidays, there shall be no maximum flag size or number or other limitations on manner of display.

(c) *Flags on permanent fixtures other than poles.* Flags that are attached to the side of a structure without a pole shall not, individually or cumulatively, cover more than the greater of 24 square feet or 10% of the facade of the structure on which the flag is mounted. One flag is permitted on up to two building facades.

(d) *Setback.* A vertical flag pole must be set back at least 5 feet from all property boundaries.

(e) *Condition of flag and pole or other permanent mounting.* The flag and flag pole or other permanent mounting shall be maintained in good repair. Flag poles with broken halyards shall not be used, and torn or frayed flags shall not be displayed.

(f) *Use of flags as attention-attractors prohibited.* The placement of flags upon merchandise or structures to draw the public's attention to such items shall be considered to render such flags prohibited "attention attractors" pursuant to Section 33-95(f) of the Code.

(g) Notwithstanding any provision of this ordinance, any flag pole that exists on the effective date of this ordinance that is not in an unsafe condition shall not be considered a violation.

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Section 3. Conflicts. All ordinances or Code provisions in conflict herewith are hereby repealed.

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 19th day of November, 2008.

PASSED and ADOPTED on second reading this 18th day of February, 2009.

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: Councilmember Meerbott
Seconded By: Vice Mayor MacDougall

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	<u>YES</u>
Vice Mayor Edward P. MacDougall	<u>YES</u>
Councilmember Peggy R. Bell	<u>YES</u>
Councilmember Timothy J. Meerbott	<u>YES</u>
Councilmember Ernest N. Sochin	<u>YES</u>