

ORDINANCE NO. 07-10

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33, "ZONING," ARTICLE I, "IN GENERAL," SECTION 33-20(E), "BOAT STORAGE," OF THE TOWN CODE OF ORDINANCES, BY AMENDING THE LENGTH, WIDTH, AND HEIGHT OF BOATS THAT MAY BE PERMITTED TO BE STORED WITHIN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR THE STORAGE OF TWO BOATS WITHIN CERTAIN ZONING DISTRICTS WITHIN THE TOWN; PROVIDING FOR PERMITS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, currently one boat is permitted to be stored on property within certain zoning districts within the Town of Cutler Bay (the "Town"); and

WHEREAS, it is the intent of the Town Council to permit two (2) boats to be stored on property within certain zoning districts within the Town; and

WHEREAS, it is further the intent of the Town Council to modify the length, width, and height of boats that are permitted to be stored within certain zoning districts within the Town; and

WHEREAS, requiring a permit for a second boat will assist the Town in monitoring the amount of boats stored on property within the Town; and

WHEREAS, the Town finds that these changes are consistent with the Miami-Dade County's Comprehensive Development Master Plan, which now functions as the Town's Comprehensive Plan.

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

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

Section 2. Amendment to Boat Storage Regulations. The boat storage regulations contained in Chapter 33, "Zoning," Article I, "In General," Section 33-20(e) "Boat storage" are hereby amended as follows:

* * *

(e) *Boat storage.* Boats of less than thirty-one (31) feet in length, nine and a half (9.5) feet in width and thirteen (13) feet six (6) inches in height, may be stored or temporarily parked in the RU-1, EU, AU and GU Zoning Districts subject to the following conditions:

(1) The place of storage shall be to the rear of the front building line. Where the boat storage area is located between the residence and a side street property line, the boat shall be visually buffered by a six-foot wood privacy fence, masonry wall, trees or shrubs maintained to a height of six feet. The front building line referred to shall be that portion furthest from the street. In the event a second boat is permitted to be stored or parked on any one (1) premise, all sides of both the first and the second boats shall be visually buffered from the front and rear of the property as well as the neighboring property by a six-foot wood privacy fence, masonry wall, trees, or shrubs maintained to a height of six feet.

(2) No more than two (2) boats may be stored or parked on any one (1) premise. A permit shall be required to be filed with the planning director prior to the storage or parking of a second boat within the Town. The planning director shall take into consideration lot size and configuration as well as accessory uses, buildings, or other structures located on the property when determining whether to issue a permit for a second boat. The second boat shall be no larger than seventeen (17) feet in length, not more than eight and a half (8.5) feet in width, and six (6) feet in height. The resident shall submit the boat's title or registration with the permit application and shall verify that he or she owns both boats and has erected the visual buffering as required in subsection (1) above.

(3) Boats and place of storage or temporary parking shall be kept in a clean, neat and presentable condition.

(4) No major repairs or overhaul work shall be made or performed on the premises.

(5) The boats shall not be used for living or sleeping quarters, and shall be placed on and secured to a transporting trailer.

(6) The temporary parking of a boat in front of the front building line or in front of the side street building line for no more than 2 hours in any 24-hour period, while the boat is hitched to an operable motor vehicle with a valid permanent license tag, for the purposes of loading and unloading equipment and supplies shall be permitted, but under no circumstances shall a boat be parked in the public right-of-way, including the swale area of a right-of-way.

(7) For purposes of this section, the height of a boat shall be measured from the ground to the highest point of the boat including all extruding equipment.

(8) For purposes of this section the following shall be exempt from the term "boat:"

- a. non-motor-powered vessels;
- b. non-motor-powered vessels used exclusively on private lakes and ponds;

- c. vessels owned by the United States Government; and
- d. vessels used exclusively as a ship's lifeboat.

(9) Upon the application of a resident, any requirement in this subsection may be waived by a majority vote of the Town Council. The application shall include a survey or site plan showing the dimensions of the property and proposed location of the boat, the type and location of the visual buffering from the front and rear of the property as well as the neighboring property, and evidence of title and registration or in the event the boat has not been acquired a description of the boat to be stored, including dimensions.

The Town Council may grant such a waiver upon a showing by the applicant that the waiver maintains the basic intent and purpose of the zoning and other land use regulations, which is to protect the general welfare of the public, particularly as it affects the stability and appearance of the community. In the event that waiver is granted, such waiver shall not run with the land and shall not be transferable to any other boat.

Section 3. 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 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and made a part of the Town of Cutler Bay Code; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

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

PASSED on first reading this 21st day of February, 2007

PASSED AND ADOPTED on second reading this 11th day of April, 2007.

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.A.
Interim Town Attorney

Moved By: Councilmember Sochin
Seconded By: Councilmember Meerbott

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman	<u>YES</u>
Vice Mayor Edward P. MacDougall	<u>NO</u>
Councilmember Peggy R. Bell	<u>NO</u>
Councilmember Timothy J. Meerbott	<u>YES</u>
Councilmember Ernest N. Sochin	<u>YES</u>