

# TOWN OF CUTLER BAY

Mayor Paul S. Vrooman  
Vice-Mayor Edward P. MacDougall  
Councilmember Timothy J. Meerbott  
Councilmember Ernest N. Sochin  
Councilmember Peggy R. Bell

Town Manager Steve Alexander  
Town Attorney Mitchell Bierman  
Town Attorney Chad Friedman  
Town Clerk Erika Gonzalez-Santamaria

This meeting is open to the public. In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (305) 234-4262 for assistance no later than four (4) days prior to the meeting.

## LOCAL PLANNING AGENCY AGENDA

Wednesday, July 18, 2007  
7:00 PM  
South Dade Regional Library  
10750 SW 211<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Cutler Bay, Florida 33189

1. **CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE**
2. **ADDITIONS, DELETIONS, AND DEFERRALS**
3. **CONSENT AGENDA**
  - A. June 20, 2007 – Minutes
4. **PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:**
  - A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING CHAPTER 33 “ZONING,” SECTION 33-304 “APPLICATIONS” BY PROVIDING FOR REGULATIONS FOR FILING OF APPLICATIONS; PROVIDING FOR REGULATIONS FOR RE-FILING OF APPLICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.
  - B. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR REGULATIONS OF “OPEN HOUSE” SIGNS; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.
5. **ADJOURNMENT.**

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

**TOWN OF CUTLER BAY  
LOCAL PLANNING AGENCY MEETING  
MINUTES**

Wednesday, June 20, 2007

7:00 PM

South Dade Regional Library  
10750 Southwest 211<sup>th</sup> Street, 2<sup>nd</sup> Floor  
Cutler Bay, Florida 33189

**I. CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the mayor at 7:00 p.m. Present were the following chartered officials:

Councilmember Peggy R. Bell  
Councilmember Ernest N. Sochin  
Vice Mayor Edward P. MacDougall  
Mayor Paul S. Vrooman

Town Manager Steven Alexander  
Town Attorney Richard Weiss  
Town Attorney Chad Friedman  
Town Clerk Erika Gonzalez-Santamaria

Councilmember Timothy J. Meerbott was absent.

**II. PLEDGE OF ALLEGIANCE:** There was no Pledge of Allegiance at this time.

**III. ADDITIONS, DELETIONS, AND DEFERRALS:** None at this time.

**IV. CONSENT AGENDA:**

**A.** Vice Mayor MacDougall made a motion approving the minutes of the meeting of May 16, 2007. The motion was seconded by Councilmember Sochin and adopted by a unanimous 4-0 voice vote. The vote was as follows: Councilmembers Bell, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

**V. PUBLIC HEARING: MOTION RECOMMENDING ADOPTION OF THE FOLLOWING ORDINANCE:**

**A.** AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, PROVIDING FOR COMPREHENSIVE REGULATIONS RELATING TO GARAGE SALES; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor MacDougall made a motion to adopt staff's recommendation to approve. The motion was seconded by Councilmember Bell and approved by unanimous 4-0 roll call vote. The vote was as follows: Councilmembers Bell, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

**VI. ADJOURNMENT:** The meeting was officially adjourned at 7:15 p.m.

*Respectfully submitted:*

---

*Erika Gonzalez-Santamaria, CMC  
Town Clerk*

*Adopted by the Town Local Planning Agency  
on this 18<sup>th</sup> day of July, 2007.*

---

*Paul S. Vrooman, Mayor*

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.



## Planning & Zoning Department

R. Don O'Donniley, AICP  
*Planning Director*

# MEMORANDUM

To: Steven Alexander, Town manager

From: R. Don O'Donniley, AICP, Planning Director

Date: July 18, 2007

Re: Proposed revisions to Section 33- 304(a) "Applications" of the Town Code

### **REQUEST:**

Amendment to Chapter 33-304(a) "Applications"; relating to the filing and re-filing of applications.

### **BACKGROUND AND ANALYSIS:**

#### **BACKGROUND**

Currently, the Town Code provides for certain types of applications to be filed on certain days of the week. In addition, the Code provides certain time limitations on the re-filing of applications if denied by the Town Council.

#### **ANALYSIS**

The Town Code currently provides for the acceptance of certain types of applications on specific days of the week. This limitation on filing applications may have been needed in the County given the County's time frames for review and the public hearing process but does not seem to be necessary for the Town of Cutler Bay. Town staff believes that such timeframes for filing are not necessary in the Town and removal of such timeframes would further streamline the development review process.

In addition, the current Town Code provides certain limitations on the re-filing of applications if denied by the Town Council. Town staff believes that these re-filing limitations should be shortened from one (1) year to six (6) months for all applications, with the exception of district boundary changes (re-zonings), which should continue to have the one (1) year limitation.

The remaining amendments made by the proposed Ordinance are a continued effort by Town staff to tailor the County's Code to the Town Code.

**RECOMENDATION**

Town staff recommends approval.

10720 Caribbean Boulevard, Suite 110  
Cutler Bay, FL 33189  
(305) 234-4262 Office  
(305) 234-4251 Fax  
[www.cutlerbay-fl.gov](http://www.cutlerbay-fl.gov)

**ORDINANCE NO. 07-\_\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL  
OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING  
CHAPTER 33 “ZONING,” SECTION 33-304  
“APPLICATIONS” BY PROVIDING FOR REGULATIONS  
FOR FILING OF APPLICATIONS; PROVIDING FOR  
REGULATIONS FOR RE-FILING OF APPLICATIONS;  
AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, currently the Town of Cutler Bay (the “Town”) Code of Ordinances (the “Code”) provides for certain limitations on the filing as well as re-filing of applications; and

**WHEREAS**, Town staff recommends that these limitations be amended in order to better streamline the development review process; and

**WHEREAS**, the Town Council finds these changes to be in the best interest and welfare of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY AS FOLLOWS<sup>1</sup>:**

**Section 1. Findings.** The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Amendment to Chapter 33 of the Town Code of Ordinances.** Chapter 33 “Zoning,” Section 33-304 “Applications” of the Town Code of Ordinances is hereby amended as follows:

**Sec. 33-304. Applications.**

(a) All requests for a district boundary change, changes in the zoning regulations, appeals of administrative decisions, site plan approval, special exceptions or unusual uses, new uses, variances, approvals of or modifications to developments of regional impact (“DRI”), including substantial deviation determinations, and determinations that a DRI is essentially built out, shall be made by filing an application therefor with the Director on application forms prescribed by the Director ~~or by rule and regulation of the Developmental Impact Committee~~. Forms shall include, but not be limited to, disclosure forms for corporations, trusts, and partnerships, and disclosure of information regarding contract purchasers and their percentage(s) of interest. Disclosure shall not be required of: 1) any entity, the equity interests in which are regularly traded on an established securities market in the United States or another country; or ii) pension funds or pension trusts of more than five thousand (5,000) ownership interests; or iii) any entity where ownership interests are held in a partnership, corporation or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, and where no one (1) person or entity holds more than a total of five (5) percent of the ownership

---

<sup>1</sup> Coding: underlined words are additions to existing text, ~~struck through~~ words are deletions from existing text, **shaded** text reflects changes made from First Reading.

interest in the partnership, corporation or trust. Entities whose ownership interests are held in a partnership, corporation, or trust consisting of more than five thousand (5,000) separate interests, including all interests at every level of ownership, shall only be required to disclose those ownership interest which exceed five (5) percent of the ownership interest in the partnership, corporation, or trust. ~~Disclosure forms shall be established by administrative order to be approved by the Board of County Commissioners. Such disclosure forms shall be included in the agendas distributed in connection with the public hearing on the application. Where applicable, requests shall specify whether, and the extent to which, the requested change in land use or proposed development conforms to the Comprehensive Development Master Plan for Miami-Dade County, Florida.~~

All requests ~~for which authorizes or permits~~ development filed pursuant to this section shall include a boundary survey of the property which is the subject of the application performed in accordance with Chapter 61G17-6.0031, Florida Administrative Code as may be amended from time to time in the event any portion of the property is contiguous to or across the street from a municipal boundary. It is further provided that such survey shall depict the location of any municipal boundary on or across the property being surveyed. The boundary survey submitted shall have been updated within one year proceeding the date of an application filed pursuant to this section.

In the event that the Town Council denies any application filed pursuant to this section, except for a district boundary change, a period of six (6) months must run prior to the filing of the same type of application on the same property. In the event that the Town Council denies an application for a district boundary change, a period of one (1) year must run prior to the filing of a subsequent district boundary change on the same property. Notwithstanding the foregoing, the Town Council, upon a showing of good cause by the applicant, may provide for a different waiting period for the re-filing of an application on the same property.

~~Upon the approval of a zoning application in whole or in part, a period of six (6) months must run prior to the filing of any subsequent application on the same property; provided that the appropriate board upon approving the application may provide for a different waiting period upon a showing of good cause. Applications approved for withdrawal without prejudice must wait a period of six (6) months prior to the filing of any subsequent application on the same property; provided that the appropriate board upon approving the withdrawal without prejudice may provide for a different waiting period upon a showing of good cause. Upon the final denial of a zoning application without prejudice, a period of one (1) year must run prior to the filing of a subsequent application on the same property; provided that the appropriate board upon denying the application without prejudice may provide for a different waiting period upon a showing of good cause. Upon the withdrawal or final denial of a zoning application with prejudice in whole or in part, a period of eighteen (18) months must run prior to the filing of a subsequent application. In the event an application in whole or in part has been twice or more denied or withdrawn, a period of two (2) years must run prior to the filing of any subsequent application. Such periods of limitation shall not commence to run until the decision has been rendered by the last Board to consider the application. Further, such periods of limitation shall not apply to applications filed by the Director or the Zoning Official.~~

~~Notwithstanding the provisions in the foregoing paragraph, it is expressly provided that, except for applications that have been twice or more denied or withdrawn, there shall be no period of limitation for either (1) a subsequent application that proposes a lesser total density or a less~~

~~intense use than the preceding application, as determined by the Director at the time of filing; (2) a subsequent application that proposes five (5) or fewer residential units; or (3) a subsequent application that proposes development in the "urban infill area," as that area is defined in the Comprehensive Development Master Plan.~~

~~An application may be withdrawn without prejudice by the applicant as a matter of right, provided the request for withdrawal is in writing and executed in the same manner as provided by Section 33-309 for the executing of application, and filed with the Department prior to the mailing of final notices, as provided by Section 33-310(c)(2); otherwise all such requests for withdrawal shall be with prejudice save and except that the Community Zoning Appeals Boards or the Board of County Commissioners may permit withdrawals without prejudice at the time the matter is considered by the Town Council such Boards; provided, further, no application may be withdrawn after final action has been taken.~~

~~(b) All zoning hearing applications delineated in this chapter may only be filed and accepted for filing (i) on the first Monday of each month and the following Tuesday and Wednesday of that week; or (ii) on the third Monday of each month followed by the Tuesday and Wednesday of that week. It is provided however that no zoning application will be accepted on a day set forth above which occurs on a legal holiday. Administrative variances may be filed at any time.~~

~~(c) At the end of each said time period set forth in subpart (b) the Director shall promptly identify and group those applications for district boundary changes, use special exceptions, unusual and new uses and use variances which relate to or affect any particular or immediate neighborhood or area as determined by the Director, and, to the extent possible, shall notice public hearings thereon, in accordance with Section 33-310 of the Code of Miami Dade County, so as to allow the appropriate board to consider and determine the effect of the said applications on the said neighborhood or area as a whole and their relation to and conformity with the Comprehensive Development Master Plan.~~

~~(d) All applications for zoning action which would permit, if granted, development activity that meets one (1) of the following criteria are hereby declared "developments of county impact":~~

- ~~(1) Residential apartment developments involving in excess of eight hundred (800) units;~~
- ~~(2) All planned developments (provided by article XXXIIB) or cluster developments (provided by article XXXIIIA) involving in excess of eight hundred (800) units;~~
- ~~(3) Business uses involving in excess of thirty (30) acres or one hundred fifty thousand (150,000) square feet of retail floor area, or one thousand five hundred (1,500) vehicle off street parking space capacity;~~
- ~~(4) Mobile home parks involving in excess of eight hundred (800) mobile home units;~~
- ~~(5) Townhouse developments involving in excess of one hundred (100) acres or eight hundred (800) units;~~
- ~~(6) Recreational, cultural, or entertainment facilities, exclusive of golf courses, involving in excess of one thousand five hundred (1,500) vehicle off street parking space capacity for single performances of fifty (50) acres;~~
- ~~(7) Office buildings or office complexes involving two hundred fifty thousand (250,000) square feet of floor space, or one thousand five hundred (1,500) vehicle off street parking space capacity;~~
- ~~(8) Industrial, processing or manufacturing activity involving in excess of one hundred (100) acres, or one thousand (1,000) vehicle off street parking space capacity;~~
- ~~(9) Hotel and/or motel developments involving in excess of five hundred (500) units;~~
- ~~(10) Detached single family development involving in excess of eight hundred (800) units.~~

~~If any applicant is in doubt as to whether his proposed development would be a development of County impact, he may request a determination from the Developmental Impact Committee. Within thirty (30) days of the receipt of such request, the Chairman, on behalf of the Developmental Impact Committee, shall issue a letter of interpretation with respect to the proposed development. Where an application seeks only a special exception for site or plot use plan approval, the Developmental Impact Committee may require completion of a site plan application on a form prescribed by rule and regulation.~~

~~(e) Amendments to an application shall be permitted; provided that, unless otherwise requested, suggested or concurred in by the Developmental Impact Committee, no substantial amendment shall be accepted by the Director within thirty (30) days prior to the first scheduled hearing on the application by the appropriate board or once the application has been heard and determined by the Community Zoning Appeals Board; provided further that an applicant may petition the appropriate board to permit such amendment at the time of hearing on the application and such amendment shall be accepted if approved by majority vote of those present upon good cause shown and provided it falls within the scope of the legal advertisement. In determining good cause, the appropriate board shall consider, among other factors, the timeliness of the amendment and the degree of inconvenience or surprise to objectors to the application.~~

~~(f) All planned area development applications shall adhere to the following procedures which shall be deemed exclusive notwithstanding any other section herein: The Department shall submit the required exhibits for the total development plan to the Developmental Impact Committee for review in accordance with standards and review procedures of the Developmental Impact Committee. At a public hearing held by the Community Zoning Appeals Board, the developer shall present the proposal. The Community Zoning Appeals Board shall have the recommendations of the Developmental Impact Committee. The Community Zoning Appeals Board shall consider the information presented by the applicant, the recommendations of the Developmental Impact Committee and viewpoints of the public expressed at the hearing. The Community Zoning Appeals Board shall take formal action either approving the plan as presented, approving it subject to certain specified modifications, or disapproving it. Upon approval, plans, documents and recordable development agreements shall be filed with the Department and recorded in the official records and shall thereby constitute the planned area development district. If the planned area development is approved with specific modifications, as incorporated in the Community Zoning Appeals Board resolution, those modifications shall be made by the applicant prior to filing documents and plans with the Department. Such filing shall be completed within sixty (60) working days from the date the action of the Community Zoning Appeals Board becomes final including all appeals. Failure to do so shall nullify the Community Zoning Appeals Board's action unless waived by the Community Zoning Appeals Board or if appealed, by the County Commission. The Director shall review all modifications in accordance with the Community Zoning Appeals Board's resolution. The approved planned area development shall be indicated on the zoning map as would any other district boundary change. Review at the development tract level may then be initiated pursuant to the provisions of the planned area development districts.~~

~~\*\*\*~~

**Section 3. Severability.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 4. Conflict.** 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. Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 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.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman \_\_\_\_\_  
Vice Mayor Edward P. MacDougall \_\_\_\_\_  
Councilmember Peggy R. Bell \_\_\_\_\_  
Councilmember Timothy J. Meerbott \_\_\_\_\_  
Councilmember Ernest N. Sochin \_\_\_\_\_



## Planning & Zoning Department

R. Don O'Donniley, AICP  
Planning Director

# MEMORANDUM

To: Steven Alexander, Town manager

From: R. Don O'Donniley, AICP, Planning Director

Date: July 18, 2007

Re: Proposed revisions to Section 33 of the Town Code relating to Open House signs

---

### **REQUEST:**

Staff has been requested by several members of the Town Council to review the standards for "Open House" signs. Following the review, staff was to make recommendations for standards for the Town of Cutler Bay.

### **BACKGROUND AND ANALYSIS:**

#### **BACKGROUND**

Town staff from the Code Compliance Division had found a number of companies and individuals selling property in Cutler Bay were confused as to the standards for "Open house" signs. As voluntary compliance was implemented, the confusion as to standards resulted in a number of inquires to Council members. Staff was requested to review County standards and research adjoining jurisdictions to consider current standards for "Open House" signs.

#### **ANALYSIS**

County standards consist of general regulations and administrative policies. Several jurisdictions have either adopted revised standard or are in the process of considering new standards. Generally the type of regulations being adopted continues the prohibition against placing signs within rights of way due to safety and liability concerns. In addition, these new standards permit signage at the location of the property for sale and at other locations to guide potential buyers to the open house.

Staff has developed a number of proposed standards that are designed to permit adequate signage to support open house events. These include:

- (a) The ability to place a sign on the property for sale and with permission from an owner, up to three off site signs guiding potential clients to the site.
- (b) The ability to place signage announcing an open house one day prior to the open house on the site and off site.
- (c) Clarifying that placement of an “Open House” sign does not require a permit but also providing for penalties if signs are not placed correctly, within the designated time frame, or within right of ways..

### **RECOMENDATION**

Staff recommends adoption of the revised standards for “Open House” signs.

10720 Caribbean Boulevard, Suite 110  
Cutler Bay, FL 33189  
(305) 234-4262 Office  
(305) 234-4251 Fax  
[www.cutlerbay-fl.gov](http://www.cutlerbay-fl.gov)

**ORDINANCE NO. 07-\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL  
OF THE TOWN OF CUTLER BAY, FLORIDA,  
PROVIDING FOR REGULATIONS OF “OPEN HOUSE”  
SIGNS; PROVIDING FOR PENALTIES; PROVIDING FOR  
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE  
DATE.**

**WHEREAS**, it is the intent of the Town Council of the Town of Cutler Bay (the “Town”) to permit the display and use of “Open House” signs to advertise residential property for sale or lease on premises other than the premises where the residential property for sale or lease is located; and

**WHEREAS**, by regulating “Open House” signs, the Town will encourage fair competition and uniform business practices while minimizing the secondary impacts of such signs on residential neighborhoods, endangering the public safety, or otherwise destroy or impair aesthetic or visual qualities of the Town; and

**WHEREAS**, the Town Council finds the regulations contained herein to be in the best interest and welfare of the Town.

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

**Section 1. Findings.** The foregoing “Whereas” clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. Open House Signs.**

**(A) Definition.**

An “Open House sign” shall mean a sign directing individuals toward a house that is open for inspection for the purpose of selling said property. The wording on the Open House sign shall be limited to the words “Open House,” the name of the residential property owner or the name of the real estate agent, and the residential property address.

**(B) Number and Location.**

1. **On-premises.**

One (1) Open House sign may be located on the premises of the residential property that is open for inspection. Open House signs shall not be permitted in the public right of way or swale. Such signs shall be located no less than five (5) feet from the edge of the public right-of-way or swale.

2. Off-premises.

A maximum of three (3) Open House signs may be located on private property off-premises from the residential property that is open for inspection. However, no more than one (1) off-premises Open House sign shall be permitted along the frontage of a private property. Open House signs shall not be permitted in the public right-of-way or swale. Such signs shall be located no less than five (5) feet from the edge of the public right-of-way or swale.

**(C) Size.**

1. On-premises.

An Open House sign located on-premises shall not be larger than four (4) square feet. The maximum height of an Open House sign on-premises shall not exceed five (5) feet measured from grade to top of sign.

2. Off-premises.

An Open House sign located off-premises shall not be larger than 22 inches by 28 inches. The maximum height of an Open House sign off-premises shall not exceed three (3) feet measured from grade to top of sign.

**(D) Permit not required.**

No permit shall be required from or fee paid to the Town prior to displaying an Open House sign in any residential district. However, written consent from the property owner shall be required if the Open House sign is located off-premises on private property. A copy of said consent shall be available upon demand for inspection by Town staff.

**(E) Time.**

Open House signs may be displayed on Saturdays or Sundays during the hours of 9:00 AM to 6:00 PM. If an open house is to occur on a Saturday or Sunday, Open House signs may be displayed on the day preceding the open house from 9:00 AM to 6:00 PM. The display times shall be extended to 7:00 PM during daylight savings time. All Open House signs shall be removed immediately following the end of these designated display times.

**(F) Balloons, streamers, flags, or illumination or other attention attracting devices.**

Balloons, streamers, flags, illumination or other attention attracting devices shall be not permitted to be used in conjunction with an Open House sign.

**(G) Penalties.**

Failure to comply with the provisions of this Ordinance shall subject the violator to the provisions of Chapter 8CC of the Code. In the event that a violation of the Ordinance is not

provided for in Chapter 8CC of the Code, the failure to comply with the provisions in this Ordinance shall result in a fine of fifty dollars (\$50.00) for the first offense; one hundred dollars (\$100.00) for the second offense; and one hundred and fifty dollars (\$150.00) for the third offense.

**Section 3. Severability.** If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

**Section 4. Conflict.** 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. Effective Date.** This Ordinance shall be effective immediately upon adoption on second reading.

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 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.L.  
Town Attorney

Moved By:  
Seconded By:

FINAL VOTE AT ADOPTION:

Mayor Paul S. Vrooman \_\_\_\_\_

Vice Mayor Edward P. MacDougall \_\_\_\_\_

Councilmember Peggy R. Bell \_\_\_\_\_

Councilmember Timothy J. Meerbott \_\_\_\_\_

Councilmember Ernest N. Sochin \_\_\_\_\_