

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

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 15, 2009, 7:00 PM  
South Dade Regional Library  
10750 SW 211<sup>th</sup> ST, 1<sup>st</sup> Floor  
Cutler Bay, Florida 33189

### I. CALL TO ORDER, ROLL CALL

### II. ADDITIONS, DELETIONS, AND DEFERRALS

### III. CONSENT AGENDA

A. Minutes – May 20, 2009

### IV. ACTION ITEMS:

A. AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING GREEN LAND DEVELOPMENT REGULATIONS WITHIN THE TOWN; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.

### VI. 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, May 20, 2009, 7:00 PM  
South Dade Regional Library  
10750 Southwest 211<sup>th</sup> Street, 1<sup>st</sup> Floor  
Cutler Bay, Florida 33189

**I. CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the mayor at 7:05 p.m. Present were the following chartered officials:

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

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

**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:**

Vice Mayor MacDougall made a motion approving the minutes of meeting of January 21, 2009. The motion was seconded by Councilmember Meerbott and adopted by a unanimous voice vote. The vote was as follows: Councilmembers Bell, Meerbott, Sochin, Vice Mayor MacDougall and Mayor Vrooman voting Yes.

**V. ACTION ITEMS:**

The clerk read the following ordinance by title:

- A. AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, AMENDING SECTION 33-124 "STANDARDS" RELATING TO OFF STREET PARKING REQUIREMENTS FOR FURNITURE STORES; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.**

There was no public hearing at this time.

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

**VI. ADJOURNMENT:** The meeting was officially adjourned at 7:10 p.m.

*Respectfully submitted:*

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*Erika Gonzalez-Santamaria, CMC  
Town Clerk*

*Adopted by the Town Local Planning Agency  
on this 15<sup>th</sup> day of July, 2009.*

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*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.



## Community Development Department

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David Hennis, AICP  
Community Development Director

# MEMORANDUM

To: Steven J. Alexander, Town Manager

From: David G. Hennis, Community Development Director

Date: July 1, 2009

Re: Green Land Development Regulations

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The attached Green Land Development Regulations establish a program and procedure addressing sustainable and ecologically friendly design limitations to minimize the negative environmental impacts of development.

The overall goal of the regulations is to provide leadership to both the public and private sectors in the area of green building practices to create a more sustainable and environmentally-conscious community. The regulations were crafted to address the requirements expressed within the green development moratoriums enacted in 2008.

The regulations include mandatory requirements for the following green development initiatives within LEED and FGBC program parameters.

- Parking for alternatively-fueled vehicles
- Creating water-efficient Florida Friendly landscapes
- Utilizing recycling and environmentally sound solid waste practices
- Public buildings be constructed to meet LEED standards
- Bicycle parking and storage for all development
- Use of low emitting materials
- Lighting standards to limit glare and night sky illumination
- Heat island reduction strategies
- Density and height incentives for projects receiving LEED or alternate certification

### Recommendation

Adopt the Ordinance establishing a program and process for protecting, conserving, and enhancing the Town's resources and establishing community development standards for sustainable living practices.

**ORDINANCE NO. 09- \_\_\_\_\_**

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING GREEN LAND DEVELOPMENT REGULATIONS WITHIN THE TOWN; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Cutler Bay (the “Town”) recently adopted its first Growth Management Plan, which provides the blueprint for long term growth within the Town; and

**WHEREAS**, the Town has engaged highly qualified planning consultants to draft the necessary Land Development Regulations to implement the Growth Management Plan in order to provide for efficient and well conceived growth; and

**WHEREAS**, the Town recognizes the importance of becoming a sustainable community and environmental stewardship in a variety of media, which include, but are not limited to, water, energy, air, and waste; and

**WHEREAS**, the Town finds that a policy of sustainability incorporates the fundamental philosophy that the needs of the present generation must not compromise the needs of future generations; and

**WHEREAS**, the Town wishes to become a leader in setting policies and practicing service delivery innovations that promote environmental sustainability; and

**WHEREAS**, the Town finds that green building practices applied to the design, construction, and maintenance of buildings would achieve the following goals: (1) Encourage resource conservation; (2) Reduce the waste generated by construction projects; (3) Reduce water consumption; (4) Increase energy efficiency; and (5) Promote the health and productivity of residents, workers, and visitors to the Town; and

**WHEREAS**, the Town finds that this Ordinance is consistent with the Growth Management Plan and will promote the health, safety 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 AS FOLLOWS:**

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

**Section 2. Adoption of Green Land Development Regulations.** The Town Council of the Town of Cutler Bay hereby creates the “Town of Cutler Bay Green Building Program” as follows<sup>1</sup>:

**A. Definitions.**

The following words, terms and phrases, when used in this Ordinance, shall have the following meanings ascribed to them, except where the context clearly indicates a different meaning.

*Certification* means the final designation awarded by a third party certifying agency such as the USGBC or FGBC evidencing compliance with the certification requirements under the applicable program.

*Cut-Off type lighting fixture* means a luminaire that allows a minimum amount of light directed at a horizontal plane (ninety (90) degrees). Light above the horizontal plane is limited to less than 2.5% of the total lamp lumens.

*Construction and demotion debris* or *C&D* means used or commonly discarded materials removed from premises of a project during construction, remodeling, repair, demolition, deconstruction or renovation resulting from construction, renovation, remodeling, repair, deconstruction, or demolition operations on any pavement, house, residential building, non-residential building, or other structure, or from landscaping. Such materials include, but are not limited to, dirt, sand, rock, gravel, bricks, plaster, gypsum wallboard, aluminum, glass, asphalt material, plastic pipe, roofing material, carpeting, concrete, wood, masonry, rocks, trees, remnants of new materials, including paper, plastic, carpet scraps, wood scraps, scrap metal, building materials, packaging and rubble resulting from construction, remodeling, renovation, repair and demolition operations on pavement, house, residential building, non-residential building, and other structures.

*Director* means the director of the Town’s Community Development Department

*FGBC* means the Florida Green Building Coalition, Inc. a Florida 501(c)(3) not-for-profit corporation whose mission is to establish and maintain a Florida system of statewide green building standards and third party certification programs with environmental and economic benefits.

*Florida Friendly Landscaping* means guiding principles of the Florida Yard and Neighborhood programs which principles include locating the right plant in the right place, water efficiently, fertilize appropriately, mulch, attract wildlife, manage pests, responsibly recycle, reduce storm water runoff, and protect the waterfront.

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<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.

*Florida Yard And Neighborhoods* is a University of Florida Extension Service program that encourages homeowners and professionals to create and maintain Florida friendly landscapes that protect the natural environment for future generations.

*Full cut-off fixture* means a luminaire, as installed, that is designed or shielded in such a manner that no light is present at or above a horizontal plane.

*Fully shielded* means a light fixture constructed in such a manner that all light emitted by the fixture, whether directly from the lamp or a defusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed. Fixture shall be mounted such that no light is emitted above the horizontal plane.

*Glare* means a light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases to cause momentary blindness.

*Green building* is a structure that is designed, built, renovated, operated and reused in an ecological and resource-efficient manner.

*Green Globes*<sup>®</sup> means the most recent version of the Green Globes<sup>®</sup> Rating System which includes Green Globes for New Construction and Green Globes for Continual Improvements of Existing Buildings.

*LEED*<sup>®</sup> means the most recent version of the Leadership in Energy and Environmental Design<sup>®</sup> Rating System which is a third party certification system designed for rating various building types as developed by the U.S. Green Building Council.

*Light Pollution* means any adverse effect of manmade light including, but not limited to, discomfort to the eye or diminished vision due to glare, light trespass, uplighting, the uncomfortable distraction to the eye, or any man-made light that diminishes the ability to view the night sky.

*Light Trespass* means the shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

*Lumen* means a unit of luminous flux; used to measure the amount of light emitted by lamps.

*Major renovation/remodel* is any design and construction project that alters the structure or other site improvements of an existing building where the cost of construction is equal to or exceeds 50% of the building's replacement cost.

*Nadir*. The direction pointing vertically down from the lowest light emitting part of the luminaire.

*Program* means the Town of Cutler Bay Green Building Incentive Program.

*Solar Reflective Index (SRI)* means a measure of a material's ability to reject solar heat, as shown by a small temperature rise. It is defined so that a standard black (reflectance 0.05, emittance 0.90) is 0 and a standard white (reflectance 0.80, emittance 0.90) is 100.

*Uplighting* means fully shielded lighting that is directed in such a manner as to shine light rays above the horizontal plane.

*USGBC* means the U.S. Green Building Council.

*Volatile Organic Compounds (VOCs)* mean carbon compounds that participate in atmosphere photochemical reactions (excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate). The compounds vaporize at normal room temperatures.

## **B. Intent and Purpose.**

To establish goals, programs and procedures which reduce the use of natural resources, create a healthier and more sustainable living environment; minimizes the negative environmental impacts of development; reduces green house gas emissions; promotes economic and environmental health through sustainable and environmental friendly design parameters; provides leadership to both the private and public sectors in the area of green building practices; and to minimize the negative environmental impacts of development in the Town.

The goals of the Town of Cutler Bay Green Building Program are:

1. Promote a sustainable future that meets today's needs of a stable diverse and equitable economy without compromising the ability of future generations to meet their needs by:
  - a. Protecting the quality of the air water land and other natural Resources
  - b. Conserving native vegetation fish wildlife habitat and other ecosystems
  - c. Minimizing human impacts on local and worldwide ecosystems; and
  - d. Reducing green house gas emissions;
2. Become a leader in setting policies and practicing service delivery innovations that promote environmental sustainability;
3. Create a sustainable municipality by delivering renewable energy and energy efficiency projects, alternatively-fueled vehicles, developing green buildings and water-efficient landscapes, resource education, and utilizing recycling and environmentally sound solid waste practices; and
4. Establish a green building program to:
  - a. Improve the economic and environmental health of the jurisdiction through measurable objectives

- b. Commit the jurisdiction to achieve green designations
- c. Provide incentives for voluntary compliance and
- d. Provide green building educational opportunities for the community.

### **C. Green Building Standards**

To assist in implementation of sustainable building practices and strategies that reduce green house gas emissions, a more efficient use of materials and a reduction in noxious chemicals, the following green building initiatives are required.

1. Public Facilities. Public facilities shall be constructed to meet the United States Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system, the Green Building Initiative's Green Globes rating system, the Florida Green Building Coalition standards, or a nationally recognized, high-performance green building rating system as approved by the Florida Department of Management Services.
2. Bicycle Parking/Storage. Non-residential development shall provide a minimum of 6 secure bicycle parking/storage spaces for each 50,000 SF of floor area or part thereof. Townhouse and Multi-family development shall provide secure bicycle parking/storage spaces for 20% of the residential units. The location of the space shall be indicated on the site plan and located in a prominent location near the main entrance of the building or development.
3. Exchange of Off-Street Parking for Bicycle Parking. Non-residential and multi-family development may reduce the amount of required parking in exchange for additional bicycle parking/storage on a 1 parking space to 6 bicycle parking/storage space ratio. No more than 5% of required parking shall be eligible for exchange. The bicycle parking/storage shall be in addition to required bicycle parking/storage space.
4. Showers Facilities. Non-residential development shall provide one accessible and private indoor shower facility for each building, greater than 10,000 SF in area, to accommodate employees traveling on bicycles.
5. Storage and Collection of Recyclables. Every building shall dedicate an accessible area, serving the entire building, for the collection and storage of non-hazardous recycling materials; including paper, corrugated cardboard, glass, plastics and metals. Such areas shall be a minimum of 100 SF for structures less than 15,000 SF in area; a minimum of 200 SF for structures larger than 15,000 SF in area. Such areas shall be excluded from floor area ratio calculation.
6. Low-Emission and Fuel-Efficient Vehicle Parking. Non-residential and/or Multi-family development requiring 20 or more parking spaces shall provide an area for parking low-emission and fuel-efficient vehicles, equal to 5% of the off-street parking required for the site. Such parking spaces shall be clearly marked and reserved for such vehicles.
7. Low Emitting Materials. Non-residential and/or Multi-family development shall incorporate low emitting materials and substances containing minimal or no levels of volatile organic compounds [low-VOC or no-VOC] for paints, coatings, adhesives, sealants, composite wood, and agri-fiber products. Alternate products and technologies shall be permitted upon written approval of the Director.

8. Exterior Lighting Standards / Light Pollution Reduction. Exterior lighting intensities shall be controlled to assure that excessive light spillage and glare are not directed onto adjacent properties or streets and all direct illumination is kept within property boundaries. Exterior lighting shall be controlled to not adversely affect adjacent properties, neighboring areas, and motorists.
- (a) Fixtures. Exterior lighting shall be architecturally integrated with the character of the building. Full cut-off type lighting fixtures shall be used to illuminate all site areas, including pedestrian, parking, and circulation.
  - (b) Type and Shielding Standards. Exterior lighting shall be fully-shielded to prevent glare. Any bright light shining onto adjacent property or streets which results in nuisance glare or disabling glare shall not be permitted. Light trespass beyond property boundaries or above the horizontal plane beyond the levels noted above shall be considered non-compliant. The shield or hood must mask the direct horizontal surface of the light source. The light must be aimed to insure the illumination is only pointing downward onto the ground surface, with no upward escaping light permitted to contribute to sky glow.
  - (c) Height. Exterior lighting not attached to structures shall be designed, located and mounted at heights no greater than 25 feet above grade and located at least 10 feet from property lines.
  - (d) Illumination Levels. Maximum illumination at the property line shall not exceed 0.3 foot candles and 0.01 foot candles 10 feet beyond the property line. The intensity of illumination for exterior lighting across the site shall not exceed 6 foot candles measured at grade. Fixtures shall be placed to provide uniform distribution of light and to avoid excessive glare. Lighting fixtures in scale with pedestrian activities shall provide for uniform distribution of lighting to produce minimal shadows.
  - (e) Existing Fixtures. Existing fixtures may be adapted to comply with this Ordinance by adding a properly designed hood or shield, or by pointing any upward-mounted, shielded fixture downward toward the ground surface.
  - (f) Flood or Spot Lamps. Flood or spot lamps shall be aimed no higher than 45 degrees from nadir when the source is visible from any off-site residential property or public roadway. Depending upon the fixture selected, these flood or spot lamps shall be required to include a glare shield to prevent glare. Any lamp installed on a residential property must be fully shielded such that the lamp itself is not directly visible from any other residential property.
  - (g) Security Lighting. Exterior lighting for non-residential areas shall be reduced to a maximum of 1 foot candle from dusk until dawn. This level may be reduced to .5 foot candle on non-business days.
  - (h) Landscape and Accent Lighting. Uplighting may be utilized for landscape lighting so long as direct light emissions shall not be visible above the roofline or beyond the building edge. Accent lighting shall be directed downward onto the building or object and not toward the sky or onto adjacent properties.

- (i) Parking Lots, Pedestrian Areas, and Street Lights. Due to their high energy efficiency, long life and spectral characteristics, Pulse-Start Metal Halide or LED lamp sources shall be the illumination sources for outdoor lighting throughout the Town.
  - (j) Prohibitions. The use of laser source light or any similar high intensity light for point of sale or entertainment and the operation of searchlights for advertising purposes are prohibited.
  - (k) Exemptions. Outdoor lighting fixtures on, in or in connection with the following facilities and land use types are exempt from the standards of this section, but voluntary compliance with the intent and provisions is encouraged.
    - i. Land owned or operated by the government of the United States of America or the State of Florida.
    - ii. Lights used by police, firefighting, or medical personnel.
    - iii. Residential and commercial seasonal decorations using typical unshielded low-wattage incandescent lamps shall be permitted from Thanksgiving thru January 15.
    - iv. Flag Poles.
    - v. Underwater lighting used for the illumination of swimming pools, fountains and other water features.
    - vi. Lighting of radio, communication and navigation towers; provided that the owner or occupant demonstrates that the Federal Aviation Administration (FAA) regulations can only be met through the use of lighting that does not comply with this Code.
    - vii. Sports field lighting.
9. Water Conservation. Residential and non-residential developments, as well as Major Renovations must meet the requirements of the Miami-Dade County Water-Use Efficiency Standards Manual, effective January 2009, as may be amended from time to time. The Town shall post a copy of the manual on the Town website and shall have a copy available in the Department.
10. Paving Materials. Non-residential, multi-family, and/or mixed-use development shall use paving materials for sidewalks, courtyards, and non-covered parking lots with a minimum Solar Reflective Index (SRI) of 29. As an alternate solution, open grid pervious pavement may be used if it is a minimum of 50% pervious and contains vegetation in the open cells.
11. Roof Finishes. Roof finishes for residential and non-residential developments shall have a minimum Solar Reflective Index (SRI) of 65 for slopes up to a 2:12 and 25 for slopes greater than 2:12. The minimum SRI shall apply to 75% of the roof surface.
12. Recycling and Diversion of Construction and Demolition Waste. 60% or more of waste tonnage from construction, demolition, and renovation projects shall be diverted from

disposal in landfills. Diversion may be accomplished using new construction methods that reduce the amount of waste generated; through on-site reuse of the waste; delivery of the waste from the site to an approved recycling facility; donation of the material to a non-profit organization in need of such materials; and all other methods as may be approved by the Director through acceptance of a Construction and Materials Management Plan (CDMMP).

- (a) CDMMP. A CDMMP shall be prepared and submitted to the Director indicating the method and process for complying with the 60% diversion standard along with information:
- i. Estimated volume or weight of project construction and debris materials to be generated by type.
  - ii. Estimated volume or weight of construction and debris materials feasible to divert; considering cost, energy consumption and delays; via reuse or recycling.
  - iii. The vendor and/or facility proposed to collect, divert, market, reuse and/or receive each material diverted.
  - iv. Estimated volume or weight of the residual materials to be landfilled.
  - v. Projects involving the removal of all or part of an existing structure shall indicate deconstruction methods; to the maximum extent feasible. Applicants will indicate the manner and method for making the materials generated available for salvage prior to being transported for disposal in a landfill or transformation facility. If deconstruction is not feasible, the applicant shall indicate the circumstances prohibiting such solution.
- (b) Compliance with the CDMMP. Prior to issuance of a Certificate of Occupancy, the applicant shall submit documentation indicating compliance with the diversion requirement thresholds specified in the CDMMP. The documentation shall include all of the following:
- i. Receipts and gate tickets from the vendor(s) or facility(s) that collected or received construction and demolition debris from the covered project showing the actual weight or volume of that material
  - ii. Any additional information the applicant believes is relevant in determining its efforts to comply with this article
  - iii. The Director shall review the information submitted and determine whether the applicant has complied with the requirements of this Ordinance for material diversion. If the Director determines that the documentation and certification provided by the applicant does not fully comply with the requirements of this article, the applicant will be found to be in violation and issued a citation equal to 3 times the diversion fee for the project.
  - iv. The Department may withhold issuance of the Certificate of Occupancy permit for any project until documentation has been received affirming compliance with this section.
  - v. Approval shall not be required where an emergency demolition is required to protect public health and safety.

vi. The Department shall only approve the documentation if it indicates at least 60% of all construction and demolition debris generated by the project has been diverted pursuant to this chapter; or has received a modification by the Department.

(c) Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all construction and demolition materials diverted, or delivered to disposal facilities for disposal, are measured and recorded using the most accurate method of measurement reasonably available. To the extent practical, all construction and demolition debris shall be weighed on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to size or other considerations, a volumetric measurement may be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the Town for this purpose. Documentation of the foregoing shall consist of photocopies of receipts, weight tickets, gate tickets, and other records from recycling facilities, deconstruction contractors, solid waste enterprises and disposal facilities.

(d) Modification of the Diversion Requirement. An applicant may apply for a modification from the 60% diversion requirement if unique site circumstances make it unfeasible to comply. The applicant shall indicate the circumstances that make it unfeasible along with an estimated feasible diversion rate and the rate for each material. The Director shall review the application and determine the maximum feasible diversion rate for each material based on site circumstances. This modified threshold rate will be used for comparison purposes in the issuance of a Certificate of Occupancy. If the Director determines that it is possible for the applicant to meet the 60% requirement, the Town shall so inform and provide the applicant with the rationale followed for such determination

(e) Approved Recycling Facility. Only recycling facilities that are in full compliance with all federal, state, and local permits shall be allowed as an approved recycling facility within a CDMMP.

(f) CDMMP Application Fee. Each CDMMP application shall be subject to the diversion fee as adopted by resolution of the Town Council.

13. Erosion Control Site Plan. For all new construction, prior to the issuance of a building permit, the owner shall submit a plan for erosion and sedimentation control to be implemented before the site is cleared or graded including areas where topsoil will be removed and contours of slopes will be cleared. The plan should also include location and type of erosion control measures, stormwater and sediment management systems, and a vegetative plan for temporary and permanent stabilization. The plan shall remain on-site for the duration of construction activity.

14. Additional Landscape Requirements. In addition to the requirements in the Town's landscape code, all developments for which a landscape plan is required shall comply with the Florida Friendly Landscaping guiding principles of the Florida Yard and Neighborhood programs. The applicant shall provide written evidence of compliance with each principle.

#### **D. Green Building Incentive Program**

Green Building Incentive Program/bonuses may be granted, after a public hearing, by the Town Council.

1. Incentive Program Procedures. As part of the site plan approval process the applicant shall do the following in order to be considered for the Green Building Incentive Program:
  - (a) The applicant must successfully register the project with the United States Green Building Council (USGBC) or the Florida Green Building Coalition and provide evidence of such registration.
  - (b) Applicant shall have a minimum of one (1) LEED accredited professional, or other similarly accredited professional, on the design team. Applicant shall provide a copy of the LEED accreditation certificate or similar certification and describe the role of the LEED accredited professional on the design team.
  - (c) The applicant must provide a copy of the pertinent credit checklist indicating which credits the applicant intends to achieve along with a written narrative and detailed drawings and plans illustrating the applicant's intent to meet the prerequisites as described in the applicable LEED Rating System or FGBC Designation for the specific building type.
  - (d) Prior to award of incentives and/or bonuses, the applicant shall be required to attend a pre-application meeting with the Director for the purpose of a review of the proposed certification checklist and detail of proposed credits for certification. The checklist and certification details shall be confirmed through a development agreement or other agreement between the applicant and the Town that the minimum required by the program guidelines, policies and procedures will be incorporated into the development and maintained in perpetuity. The applicant will provide a performance bond in conformance with the requirements set forth herein.
2. Available Incentives. In furtherance of environmental stewardship and creating a sustainable urban community, green building incentives are established for projects seeking and obtaining third party green building certification.
  - (a) Increased Floor Area. Projects achieving a minimum LEED Silver or other equivalent third party certification, up to 10% increase in floor area; projects

achieving a minimum LEED Gold or other equivalent third party certification, up to 15% increase in floor area; projects achieving a minimum LEED Platinum or other equivalent third party certification, up to 20% increase in floor area. The bonus floor area shall not exceed the maximum floor area permitted by the underlying Growth Management Plan designation.

- (b) Increased Height. Additional “bonus” height up to the maximum permitted by the underlying Growth Management Plan designation may be permitted within the Mixed Use or Town Center Land Use Designations on the adopted Future Land Use Map.
- (c) Reduction in Parking. Reductions in parking of up to 10% may be allowed for projects achieving third party certification. In no instance shall a reduction in parking exceed 20% of the required parking for each individual use on the site.
- (d) Increase Density. Additional “bonus” density up to the maximum range permitted by the underlying Growth Management Plan designation may be permitted within the Mixed Use or Town Center Land Use Designations on the adopted Future Land Use Map.
- (e) Expedited site and building plan review. The Director shall implement a program to expedite the review and approval of site plan and building permit applications for green buildings.
- (f) Expedited building inspections. Building inspections for projects participating in the Green Building Incentive Program shall be given priority over non-program participants.
- (g) Reduced Site Plan Review fee. The applicable site plan review fee shall be equal to 80% of the fee required for a non-program participant.
- (h) Eligibility for Green Building Award granted by Town. For the purpose of publicly recognizing outstanding commitment to “green building,” the Town shall provide for an award called the “Town of Cutler Bay Green Building Award” to be awarded annually to a development(s) that participated within the program.
- (i) Green Credit Checklist. The applicant must provide a copy of the pertinent credit checklist indicating which credits the applicant intends to achieve along with a written narrative and detailed drawings and plans illustrating the applicant's intent to meet the prerequisites as described in the applicable LEED Rating System or FGBC Designation for the specific building type.
- (j) Performance Bond. Prior to the issuance of the first principal building permit the applicant shall post a performance bond equal to 5% of the total cost of the construction in order to secure performance and fulfillment of the applicant's obligation to obtain the applicable level of certification. In lieu of the bond required by this Section, the Town may accept an irrevocable letter of credit from a financial institution authorized to do business in Florida or provide evidence of cash deposited in an escrow account in a financial institution in the State of Florida in the name of the applicant and the Town. The letter of credit or escrow shall be in the same amount of the bond if it were posted. If the project fails to

meet the criteria required for certification by the United States Green Building Council (USGBC) or other nationally recognized certifying agency within one (1) year after receiving the Town's certificate of occupancy, the applicant shall either request an extension or forfeit one hundred percent (100%) of the bond. The applicant, for good cause shown, may request an extension of time of up to one (1) additional year to achieve certification. Such extension may go granted at the sole discretion of the Town manager after having considered the factors and improvements necessary to achieve the requisite certification. If certification is not achieved within two (2) years after receiving the Town's certificate of occupancy, the applicant shall forfeit one hundred percent (100%) of the bond. Funds that become available to the Town from the forfeiture of the performance bonds shall be deposited in a Green Building Fund established by the Town.

#### **E. Establishment of Town Green Building Fund.**

Funds that become available to the Town from the forfeiture of any performance bond shall be deposited in a Green Building Fund established by the Town. The Town shall use the funds for any of the following: education and training of Town staff; education and outreach for the public; energy efficient improvements to municipally owned properties including weatherization, lighting upgrades, heating, ventilation and air conditioning upgrades; open space/green space improvements such as rights-of-way tree plantings; traffic calming, pollution mitigation, low impact drainage and sanitary sewer improvements; and any other additional improvements consistent with green building initiatives as deemed appropriate by the Town Council.

#### **F. Permitted Acts.**

Nothing in these regulations shall prohibit the following:

1. Solar Equipment: Solar equipment may encroach into side and rear setbacks. In addition, solar equipment may exceed the maximum permitted building height up to 24 inches in order to accommodate better solar collection.
2. Rain Barrels: Rain barrels shall be permitted within side and rear setbacks
3. Clotheslines: Clotheslines may be located within the rear yard, or in the case of a corner lot a side yard, and shall not be visible from the public right of way.

#### **G. Program Review.**

- (a) Purpose. The purpose of reviewing the program includes but is not limited to updating program standards and incentives, recommending program or marketing changes, reviewing suggestions made by program participants, and annually awarding the green building award of the program.

(b) Staff Review. The Town shall provide for a review of the program to determine the need for changes in the program to increase its effectiveness.

(c) Frequency. The program shall be subject to review one (1) year after the effective date of this Ordinance and thereafter at a frequency of not less than once per year.

**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. 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 re-numbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

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

PASSED on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 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:

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WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.L.  
Town Attorney

FINAL VOTE AT ADOPTION:

Mayor Paul Vrooman \_\_\_\_\_

Vice Mayor Edward MacDougall \_\_\_\_\_

Council Member Timothy J. Meerbott \_\_\_\_\_

Council Member Ernest Sochin \_\_\_\_\_

Council Member Peggy Bell \_\_\_\_\_