

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, October 21, 2009, 7:00 PM
South Dade Regional Library
10750 SW 211th ST, 2nd Floor
Cutler Bay, Florida 33189

I. CALL TO ORDER, ROLL CALL

II. ADDITIONS, DELETIONS, AND DEFERRALS

III. CONSENT AGENDA

A. Minutes – August 19, 2009

IV. ACTION ITEMS:

A. **AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING SECTION 33-39.4 ENTITLED “TEMPORARY OUTDOOR SALES” OF THE TOWN CODE OF ORDINANCES TO PERMIT CERTAIN TEMPORARY OUTDOOR SALES WITHIN THE TOWN; AND PROVIDING FOR 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, August 19, 2009, 7:00 PM
South Dade Regional Library
10750 Southwest 211th Street, 2nd 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 Timothy J. Meerbott
Councilmember Ernest N. Sochin
Vice Mayor Edward P. MacDougall
Mayor Paul S. Vrooman

Town Attorney Mitchell Bierman
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:

Councilmember Sochin made a motion approving the minutes of meeting of July 15, 2009. The motion was seconded by Vice Mayor MacDougall 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 MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, ADOPTING ROADS, POLICE, FIRE/RESCUE, PUBLIC BUILDINGS, AND PARKS IMPACT FEES; REPEALING CHAPTER 33H PARK IMPACT FEE ORDINANCE; REPEALING CHAPTER 33I POLICE SERVICES IMPACT FEE ORDINANCE; PROVIDING FOR CONFLICT, SEVERABILITY, AND AN EFFECTIVE DATE.**

There was no public hearing at this time.

Councilmember Bell made a motion to adopt staff's recommendation to approve. The motion was seconded by Councilmember Sochin 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 7:08 p.m.

Respectfully submitted:

*Erika Gonzalez-Santamaria, CMC
Town Clerk*

*Adopted by the Town Local Planning Agency
on this 21st day of October, 2009.*

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

David Hennis, AICP
Community Development Director

MEMORANDUM

To: Steven J. Alexander, Town Manager

From: David G. Hennis, Community Development Director

Date: October 9, 2009

Re: Temporary Outdoor Sales Amendment

The attached amendment to Chapter 33 of the Town Code of Ordinances, allows temporary outdoor sale of trees and fireworks associated with holidays in December, New Years Day, and Independence Day. Presently these activities are not permitted. Adoption of the amendment allows temporary siting and sale of such products in non-residential zoning districts, a maximum of 20 days prior to the holiday. The amendment incorporates limitations on hours of operation, types of display, signage, necessary permits, and when the use must be removed.

The permit will be issued by town staff when in compliance with these requirements. An application will not be considered for property with pending code enforcement liens. Town staff believes that these regulations will provide the necessary safeguards to help mitigate the impacts of these uses on the community.

RECOMMENDATION

Approval.

ORDINANCE NO. 09- _____

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF CUTLER BAY, FLORIDA, CREATING SECTION 33-39.4 ENTITLED “TEMPORARY OUTDOOR SALES” OF THE TOWN CODE OF ORDINANCES TO PERMIT CERTAIN TEMPORARY OUTDOOR SALES WITHIN THE TOWN; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Cutler Bay (the “Town”) staff finds it necessary regulate temporary outdoor sales within the Town in order to provide appropriate safeguards for the community; and

WHEREAS, the Town staff recommends approval of the proposed Ordinance in their staff report dated October __, 2009; and

WHEREAS, the Town Council, in its capacity as the Local Planning Agency, has reviewed the proposed Ordinance and recommends approval; and

WHEREAS, the Town Council finds that this Ordinance is in the best interest 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. Amendment of Chapter 33. The Town Council of the Town of Cutler Bay hereby amends Chapter 33 “Zoning” of the Town Code of Ordinances as follows¹:

Section 33-39.4 Temporary Outdoor Sales

Temporary outdoor sale of trees and fireworks associated with holidays in December, New Years Day, and Independence Day, are permitted in non-residential zoning districts upon the issuance of a Temporary Use Permit. The Temporary Use Permit allows temporary siting and sale of such products a maximum of 20 days prior to the actual holiday. The Temporary Use Permit shall expire and the use shall be removed by the 3rd day following the holiday. Trucks, trailers and flat beds are not permitted on the site except for short-term delivery of the products. In addition to the Director, the application shall be reviewed by the Building Department, County Department of Environmental Resources Management (DERM), and the Fire Department to determine if any additional permits or conditions of the Permit shall be required.

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

The Applicant shall provide written authorization from the property owner along with evidence of adequate on-site parking which safely manages the parking needs of the temporary use in association with existing site activities. Any and all activity shall operate only between the hours of 10 am and 10 pm and shall be of a non-permanent nature. The use is allowed one 24-square foot non-illuminated temporary sign.

No application will be considered for a property or Applicant that is the subject of a pending code enforcement action or lien.

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 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

FINAL VOTE AT ADOPTION:

Mayor Paul Vrooman _____

Vice Mayor Edward MacDougall _____

Council Member Timothy J. Meerbott _____

Council Member Ernest Sochin _____

Council Member Peggy Bell _____