

## **ORDINANCE NO. 256**

**AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, AMENDING SECTIONS 34-31 AND 34-42 OF THE CODE OF ORDINANCES OF THE TOWN TO PROVIDE A PROHIBITION OF COMMERCIAL ACTIVITY IN THE TOWN'S PARKS; PROVIDING FOR AUTHORITY; PROVIDING LEGISLATIVE FINDINGS OF FACT; PROVIDING FOR A PURPOSE; PROVIDING FOR AMENDMENT TO SECTIONS 34-41 AND 34-42; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, AS FOLLOWS:**

### **SECTION 1: AUTHORITY.**

The authority for the enactment of this Ordinance is §166.021, *Florida Statutes*, and other applicable Florida law.

### **SECTION 2: LEGISLATIVE FINDINGS OF FACT.**

**WHEREAS**, the town council of the Town of Cinco Bayou, Florida has determined that it is in the public interest to prohibit commercial activities from the town's Parks to alleviate overcrowding, interference with the public's recreational use of the town facility and unsafe conditions which occur from such commercial use and to amend sections 34-41 and 34-42 of the town code to implement such regulations; and

**WHEREAS**, a public hearing has been conducted regarding this ordinance by the town council after due public notice; and

**WHEREAS**, the town council has determined that this ordinance is in the best interests of the town and its citizens.

### **SECTION 3: PURPOSE.**

The purpose of this ordinance is to amend sections 34-41 and 34-42 of the town code to reflect changes necessary to prohibit commercial activity in the town's Parks.

### **SECTION 4: AMENDMENT TO SECTION 34-41 AND 34-42 OF THE TOWN OF CINCO BAYOU CODE OF ORDINANCES.**

Section 34-41(1) and Section 34-42(c) of the Code of Ordinances, Town of Cinco Bayou, Florida are hereby amended to read as follows:

1. Section 34-41(1) Commercial Activity. Solicit for any purpose, expose or offer for sale any article or thing, vend, peddle, nor station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, nor offer, solicit for, procure, or conduct any commercial service(s).
2. Section 34-42(c) is amended to read:

“(c) *Permit for group events.* A permit shall be obtained from the town before conducting any group event composed of 15 or more persons, pursuant to the following:

- (1) *Application; fee.* A person seeking issuance of a permit under this subsection shall file an application with the town. The application shall state:
  - a. The name and address of the applicant.
  - b. The name and address of the person, corporation or association sponsoring the activity, if any.
  - c. The day and hours for which the permit is desired.
  - d. The park or portion thereof for which such permit is desired.
  - e. An estimate of the anticipated attendance.
  - f. Any other information which the town manager/clerk shall find reasonably necessary to a fair determination as to whether a permit should be issued under this subsection. All applicants desiring to obtain a permit for exclusive use of any portion of a park will be required to pay a nonrefundable fee at the time of permit issuance in an amount as established by resolution of the town council.
- (2) *Standards for issuance.* The town shall issue a permit under this subsection when the town manager/clerk or his designee finds that:
  - a. The proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park.
  - b. The proposed activity or use will not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
  - c. The proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.
  - d. The proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the town.
  - e. The facilities desired have not been reserved for other use at the day and hour required in the application.
- (3) *Appeal of denial.* If a permit is denied, within three days after receipt of an application, the town manager/clerk or his designee shall apprise an applicant, in writing, of the reasons for refusing a permit. Any aggrieved person shall have the right to appeal, in writing, within three days, to the town council, which shall consider the application

under the standards set forth in subsection (2) of this subsection, and sustain or overrule the decision of the town manager/clerk or his designee within 14 days. The decision of the council shall be final.

- (4) *Effect of permit.* A permittee shall be bound by all park rules and regulations and all applicable rules, regulations and ordinances fully, as though such rules, regulations and ordinances were inserted in the permit.
- (5) *Liability of permittee.* The person or entity to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatsoever by reason of the negligence of the person or entity to whom such permit shall have been issued.
- (6) *Revocation.* The town manager/clerk shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown.”

#### **SECTION 5: INCORPORATION INTO CODE OF ORDINANCES.**

This ordinance shall be incorporated into the Town of Cinco Bayou Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

#### **SECTION 6: SEVERABILITY.**

If any section, phrase, sentence, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

#### **SECTION 7: EFFECTIVE DATE.**

This ordinance shall take effect immediately upon its final passage and adoption by the town council and signature of the Mayor.

**[SIGNATURE PAGE FOLLOWS]**

PASSED AND ADOPTED BY THE TOWN COUNCIL OF CINCO BAYOU,  
FLORIDA ON THIS \_\_\_\_\_ DAY OF MAY 2024.

ATTEST:

TOWN OF CINCO BAYOU,  
FLORIDA

By: \_\_\_\_\_

Keith Williams, Town Manager/Clerk

By: \_\_\_\_\_

Jean Hood, Mayor

The form and legal sufficiency of the foregoing  
has been approved by the Town Attorney.

By: \_\_\_\_\_

C. Jeffrey McInnis, Town Attorney

