

ORDINANCE NO. 201

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, PROVIDING FOR AMENDMENT TO CHAPTER 50 OF THE CODE OF ORDINANCES OF THE TOWN OF CINCO BAYOU; PROVIDING FOR AUTHORITY; PROVIDING FOR THE AMENDMENT OF SECTION 50-1 TO PROVIDE FOR TOWING AND FINES; ADDING A NEW SECTION 50-2; PROVIDING WARNING OF ARREST; ADDING A NEW SECTION 50-3; PROVIDING FOR PRIMA FACIE EVIDENCE OF OWNER AS OPERATOR; ADDING A NEW SECTION 50-4; PROVIDING FOR PROOF OF VIOLATION, VIOLATOR; PROVIDING FOR THE AMENDMENT OF SECTION 50-31 TO REPLACE IT IN ITS ENTIRETY; PROVIDING REGULATIONS FOR STOPPING, STANDING AND PARKING OF VEHICLES; PROVIDING FOR THE REPEAL OF SECTION 50-32; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES OR RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CINCO BAYOU, FLORIDA AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Section IV(f) of the Town Charter and Section 166.021, Florida Statutes (2002).

SECTION 2. AMENDING SECTION 50-1. PENALTY. Section 50-1 of Chapter 50, of the Code of Ordinances, Town of Cinco Bayou, Florida, is hereby amended in its entirety to read as follows:

Article I. In General.

Section 50-1. Towing or Notice of Violation; Fines.

Whenever any motor vehicle without driver is found parked, stopped or standing in violation of any of the restrictions imposed by ordinance of this Town, or the parking ordinances of Okaloosa County, Florida, the law enforcement officer or other agent of the Town finding such vehicle may have the same towed away at the expense of the owner thereof, after a reasonable effort has been made to locate the owner, or shall take its registration number, and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such a vehicle a traffic notice or citation requiring the payment of a fine or charge for overtime or illegal parking and for the driver to pay the charge against him within 30 days, during the hours and at a place specified in the notice at the following rates:

- (1) Disabled permit areas. \$114.00.

- (2) All other prohibited parking areas. \$30.00.

SECTION 3. ADDING A NEW SECTION 50-2. DISREGARD OF VIOLATION NOTICE; WARNING OF ARREST. The Code of Ordinances, Town of Cinco Bayou, Florida, is hereby amended by adding a section to be numbered Section 50-2, which section reads as follows:

Article I. In General.

Section 50-2. Disregard Of Violation Notice; Warning Of Arrest.

If a violator of the restrictions on stopping, standing or parking, under this chapter does not appear in response to a notice affixed to such motor vehicle within a period of 30 days, the agency issuing the notice shall send the owner of the motor vehicle to which the notice was affixed a citation informing him of the violation, and warning him that in the event such citation is disregarded for a period of five (5) days a warrant for his arrest will be issued.

SECTION 4. ADDING A NEW SECTION 50-3. DUTY OF VEHICLE OWNER TO NAME OPERATOR IN VIOLATION; FAILURE DEEMED PRIMA FACIE EVIDENCE OF OWNER AS OPERATOR . The Code of Ordinances, Town of Cinco Bayou, Florida, is hereby amended by adding a section to be numbered Section 50-3, which section reads as follows:

Article I. In General.

Section 50-3. Duty Of Vehicle Owner To Name Operator In Violation; Failure Deemed Prima Facie Evidence Of Owner As Operator.

Upon receipt of the notice set forth in Section 50-2 above, if the owner of the vehicle was not the operator of the vehicle at the time and place that the violation occurred, such owner shall inform the agency issuing the notice of the operator's name and address within the five-day period set forth in Section 50-2. Upon such owner's failing to do so he shall be conclusively presumed to be the operator of such vehicle at the time of the violation.

SECTION 5. ADDING A NEW SECTION 50-4. PROOF OF VIOLATION; VIOLATOR. The Code of Ordinances, Town of Cinco Bayou, Florida, is hereby amended by adding a section to be numbered Section 50-4 which section reads as follows:

Article I. In General.

Section 50-4. Proof Of Violation, Violator. In any prosecution charging a violation of any ordinance governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the citation was parked or operated in violation of any such ordinance or regulation, together with proof that the defendant named in the citation was at the time of such stopping, standing or parking the registered owner of such vehicle, shall constitute a prima facie presumption that the registered owner of such vehicle was the person who stopped, stood or parked such vehicle at the point where, and for the time during which, such violation occurred.

SECTION 6. AMENDING SECTION 50-31. PARKING ON SIDEWALK. Section 50-31 of Chapter 50, of the Code of Ordinances, Town of Cinco Bayou, Florida, is hereby amended in its entirety to read as follows:

Article II. Stopping, Standing and Parking.

Section 50-31. Vehicle Parking.

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:

- (1) Stop, stand or park a vehicle:
 - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - b. On a sidewalk.
 - c. Within an intersection.
 - d. On a crosswalk.
 - e. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless DOT, Okaloosa County, or the town indicates a different length by signs or markings.
 - f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - g. Upon any bridge or other elevated structure upon a street.
 - i. At any place where official traffic control devices prohibit stopping.
 - j. On any town, county, or state roadway.
2. Stand or park a vehicle, whether occupied or not, except momentarily to pickup or discharge a passenger(s):
 - a. In front of a public or private highway.
 - b. Within fifteen (15) feet of a fire hydrant.
 - c. Within twenty (20) feet of a crosswalk at an intersection.

- d. Within thirty (30) feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of a roadway.
- e. On an exclusive bicycle lane.
- f. At any place where official traffic control devices prohibit standing.
- g. At any place where official signs prohibit parking.

(B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

SECTION 7. SECTION 50-32. PARKING ON PUBLIC RIGHT-OF-WAY. Section 50-32 of Chapter 50, of the Code of Ordinances, Town of Cinco Bayou, Florida, entitled "Parking On Public Right-of-way" is hereby repealed.

SECTION 8. REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS. All Ordinances and Resolutions of the governing body in conflict herewith are hereby repealed.

SECTION 9. SEVERABILITY. If any word, sentence, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 10. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its final passage and adoption by the Town Council and signature of the Mayor.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF CINCO BAYOU, FLORIDA ON THIS 25th DAY OF SEPTEMBER 2003.

ATTEST:

THE TOWN OF CINCO BAYOU, FLORIDA

BY: *Nell Webb*
Nell Webb
Town Manager/Clerk

BY: *Norm Frucci*
Norm Frucci
Mayor

[SEAL]

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

C. Jeffrey Melnis
C. Jeffrey Melnis
Town Attorney

