

**ORDINANCE NO. 200**

**AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; AMENDING LAND DEVELOPMENT CODE, CHAPTER 82 SIGNS BY REPEALING IT IN ITS ENTIRETY; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-1 PROVIDING DEFINITIONS TO BE USED IN RELATION TO SIGNS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-2 TO ESTABLISH A PURPOSE FOR SIGN REGULATION; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-3 TO ESTABLISH GENERAL PROVISIONS FOR SIGN REGULATION; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-4 TO ESTABLISH WHAT ARE EXEMPT SIGNS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-5 TO ESTABLISH WHAT ARE PROHIBITED SIGNS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-6 TO ESTABLISH WHAT ARE PERMITTED PERMANENT ACCESSORY SIGNS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-7 TO ESTABLISH WHAT ARE PERMITTED TEMPORARY SIGNS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-8 TO ESTABLISH PROCEDURES FOR MEASUREMENT DETERMINATIONS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-9 TO ESTABLISH DESIGN, CONSTRUCTION AND LOCATION STANDARDS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-10 TO ESTABLISH WHAT ARE NONCONFORMING SIGNS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-11 TO ESTABLISH A PROCEDURE FOR PERMITS AND APPEALS; CREATING LAND DEVELOPMENT CODE CHAPTER 83 SIGNS, SECTION 83-12 TO ESTABLISH A PENALTY FOR SIGN VIOLATIONS; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION 1: AUTHORITY.**

The authority for enactment of this ordinance is Section 163, Part II, Florida Statutes, Section 163.3202(2)(f), Florida Statutes, Section 166.021 Florida Statutes, 166.0425 Florida Statutes; and Section 479.155, Florida Statutes.

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

**WHEREAS**, the Town of Cinco Bayou is an incorporated municipality, the residents of which derive their income and support from a variety of sources; and

**WHEREAS**, the Town of Cinco Bayou finds and determines that the Town originally adopted a comprehensive plan, known as Town of Cinco Bayou Comprehensive Plan 2000, which required the establishment of a land development code that, *inter alia*, regulated signage and future land use;

**WHEREAS**, the Town of Cinco Bayou finds and determines that the Town of Cinco Bayou adopted a land development code, in part, to implement its Comprehensive Plan, and to comply with the minimum requirements in the State of Florida's Growth Management Act, Section 163.3202, Florida Statutes, including the regulation of signage and future land use;

**WHEREAS**, the Town of Cinco Bayou finds and determines that pursuant to the objectives contained within the Town of Cinco Bayou's Comprehensive Plan, the Town is required to provide for the elimination or reduction of uses inconsistent with the community's character by implementing various policies, including policies that address items of aesthetic appeal;

**WHEREAS**, the Town of Cinco Bayou finds and determines that pursuant to the policy of the Town of Cinco Bayou's Comprehensive Plan, the Town's land development code is required to address items such as aesthetic appeal;

**WHEREAS**, the Town of Cinco Bayou finds and determines that the Town's land development code, including its signage and zoning regulations, were intended to maintain and improve the quality of life for all citizens of the Town, and to implement the Town of Cinco Bayou Comprehensive Plan; and, toward that end, the land development code was "to be construed liberally in favor of the goals, objectives and policies of the Plan;"

**WHEREAS**, the Town of Cinco Bayou desires to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing ordinance which are obsolete, and/or which have not been enforced, and/or which are not enforceable, and/or which are superfluous to the policies, objectives and goals of the Town of Cinco Bayou's Comprehensive Plan and which would be severable by a court of competent jurisdiction;

**WHEREAS**, the Town of Cinco Bayou finds and determines that the Town of Cinco Bayou has always sought to ensure that noncommercial speech is protected and allowed to appear wherever commercial speech appears;

**WHEREAS**, the Town of Cinco Bayou finds and determines that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that the size, height, number and other characteristics of signs can magnify their adverse impacts on both traffic safety and aesthetics;

**WHEREAS**, the Town of Cinco Bayou finds and determines that this ordinance will lessen hazardous situations, as well as confusion and visual clutter otherwise caused by the proliferation, improper placement, excessive height, excessive size, and distracting characteristics of signs which compete for the attention of pedestrian and vehicular traffic;

**WHEREAS**, the Florida Constitution states that it shall be the policy of the state to preserve scenic beauty, and the Town of Cinco Bayou finds and determines that the prohibition of the construction of outdoor advertising signs, also known as and establishment of height, size and other standards for premise signs is consistent with this policy;

**WHEREAS**, the Town of Cinco Bayou finds and determines that this ordinance will enhance the attractiveness and economic well-being of the Town of Cinco Bayou as a place to live, visit, and conduct business;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds that outdoor advertising signs detract from the natural and manmade beauty of the Town of Cinco Bayou;

**WHEREAS**, the Town Council of the Town of Cinco Bayou agrees with the American Society of Landscape Architects' determination that outdoor advertising signs tend to deface nearby scenery whether natural or built, rural or urban;

**WHEREAS**, the Town Council of the Town of Cinco Bayou agrees with the courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by people, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds that outdoor advertising signs attract the attention of automobile drivers, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the outdoor advertising signs are erected;

**WHEREAS**, the Town Council of the Town of Cinco Bayou recognizes that outdoor advertising signs are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer, and the Town Council of the Town of Cinco Bayou acknowledges that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition of billboards promotes traffic safety and the aesthetics of the surrounding area;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that by confirming in its ordinance that noncommercial messages are allowed wherever commercial messages are permitted, the Town will continue to overcome any constitutional objection that its ordinance impermissibly favors commercial speech over noncommercial speech;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds that in order to reconfirm that the outdoor advertising sign regulations meet constitutional scrutiny, it is appropriate to amend the ordinance code to emphasize the fact that noncommercial messages may be placed wherever commercial messages appear, that commercial speech is not favored over noncommercial speech, and that any on-site or off-site sign permitted or allowed by law is allowed to contain noncommercial speech in lieu of any other speech;

**WHEREAS**, the Town Council of the Town of Cinco Bayou hereby finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and that signs, which divert the attention of the driver and occupants of motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds that municipalities may separately classify off-site and on-site advertising signs in taking steps to minimize visual pollution;

**WHEREAS**, the Town Council of the Town of Cinco Bayou recognizes that on-site signs are considered to be part of the premises where located, as distinguished from off-site outdoor advertising signs, and finds and determines that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by same justify the separate classification of such structures for the purposes of governmental regulation and restrictions;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that a continuing prohibition on the erection of outdoor advertising signs will reduce the number of driver distractions and the number of aesthetic eyesores along the roadways and highways through the Town of Cinco Bayou;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that Outdoor advertising signs are public nuisances given their adverse impact on both traffic safety and aesthetics;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that Outdoor advertising signs are a traffic hazard and impair the beauty of the surrounding area. and the prohibition of the construction of outdoor advertising signs will reduce these harms;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that the presence of outdoor advertising signs along the federal interstate and the federal-aid primary highway systems prevents public property within the Town of Cinco Bayou from being used for beautification purposes due to view zones established by state administrative rule;

**WHEREAS**, Scenic America, Inc. recommends improvements in the scenic character of a community's landscape and appearance by prohibiting the construction of outdoor advertising signs and by setting height, size, number and other standards for on-premise signs (See Scenic America's Seven Principles for Scenic Conservation, Principle #5);

**WHEREAS**, more than a hundred Florida communities have adopted ordinances prohibiting the construction of outdoor advertising signs in their communities in order to achieve aesthetic, beautification, traffic safety, and/or other related goals;

**WHEREAS**, states such as Vermont, Alaska, Maine, and Hawaii have prohibited the construction of outdoor advertising signs in their states and are now outdoor advertising sign free in an effort to promote beauty;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that in order to preserve, protect and promote the safety and general welfare of the residents of the Town of Cinco Bayou, it is necessary to regulate outdoor advertising signs, commonly known as billboard signs or billboards, so as to prohibit the construction of billboards in all zoning districts, and to provide that the foregoing provisions shall be severable;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that the regulation of outdoor advertising signs as set forth herein will improve the beauty of the Town of Cinco Bayou, foster overall improvement to the aesthetic and visual appearance of the Town, preserve and open up areas for beautification on public property adjoining the public roadways, increase the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, enhance the Town of Cinco Bayou as an attractive place to live and work, reduce blighting influences, and improve traffic safety by reducing driver distractions;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that the following provisions are consistent with all applicable policies of the Town's adopted Comprehensive Plan;

**WHEREAS**, the Town of Cinco Bayou finds and determines that the erection of Outdoor advertising signs was expressly prohibited through the adoption of Section 82-101, which provided that "[a]n off-premises sign is . . . prohibited. This sign includes but is not limited to those types of signs commonly known as billboards;"

**WHEREAS**, the Town of Cinco Bayou finds and determines that outdoor advertising signs commonly referred to as billboards, have been prohibited within the Town of Cinco Bayou since at least 1991, Ordinance No. 82-101;

**WHEREAS**, the Town of Cinco Bayou finds and determines that it has been the policy of the Town of Cinco Bayou to prohibit portable signs since at least 1991, when the Town of Cinco Bayou adopted a land development code to implement its Comprehensive Plan, 2000;

**WHEREAS**, the Town of Cinco Bayou finds and determines that the continued prohibition of portable signs reasonably advances the governmental goal of protecting the aesthetic environment of the Town of Cinco Bayou;

**WHEREAS**, the Town of Cinco Bayou finds and determines that the Town has consistently adopted and enacted severability provisions in connection with its sign regulations, and that the Town wishes to continue to enact severability provisions;

**WHEREAS**, the Town of Cinco Bayou finds and determines that outdoor advertising signs also known and commonly referred to as "billboards," are not compatible with adjacent areas and are not an approved land use and have never been an approved land use within any of the Town of Cinco Bayou's zoning districts;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that the following provisions are not in conflict with the public interest;

**WHEREAS**, the Town Council of the Town of Cinco Bayou finds and determines that the following provisions will not result in incompatible land uses.

**SECTION 3: REPEAL OF CHAPTER 82 - SIGNS, TOWN OF CINCO BAYOU CODE OF ORDINANCES.**

The Code of Ordinance, Town of Cinco Bayou, Florida is hereby amended by repealing in its entirety Land Development Code Chapter 82, *Signs*. The title of Chapter 82 shall say "Reserved" as a placeholder.

**SECTION 4: ADOPTION OF CHAPTER 83 - SIGNS, TOWN OF CINCO BAYOU CODE OF ORDINANCES.**

The Code of Ordinances, Town of Cinco Bayou, Florida is hereby amended by adding a new Chapter 83 to be entitled Signs which new Chapter is adopted as set forth below:

**Section 83-1. Definitions.**

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

*Abandoned or discontinued sign.* Any sign which, for a period of 180 consecutive calendar days, is no longer being used, and which sign is not being maintained shall be considered an abandoned or discontinued sign.

\* \* \*

***Banner.*** Any sign printed or displayed upon cloth or other flexible material, with or without frames.

\* \* \*

***Building exterior area.*** The area, measured in square feet, within a two-dimensional geometric figure coinciding with the edges of the walls that form the side of a building, including windows, doors, parapets and marquees.

***Building sign.*** A sign displayed upon or attached to any part of the exterior of a building, including, but not limited to, walls, windows, doors, parapets, marquees, and window signs.

\* \* \*

***Commercially developed premises.*** A premises on which there is at least one walled and roofed structure used, or designed to be used, for other than residential purposes.

\* \* \*

***Construction sign.*** A sign erected on premises under construction.

\* \* \*

***Cornice line.*** The horizontal line on the exterior of a building at which the roof system intersects the exterior wall.

\* \* \*

***Erect.*** To construct, reconstruct, build, relocate, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish; but it shall not include any of the foregoing activities when performed as an incident to the change of message, or routine maintenance.

\* \* \*

***Façade.*** That section of any exterior elevation on the structure extending from grade to the top of the wall, parapet, or eave and the entire width of the building elevation.

\* \* \*

***Flag.*** Any fabric or other flexible material attached to or designed to be flown from a flag pole or similar device.

\* \* \*

***Frontage.*** That portion of a premises which abuts a public or private street, as identified within the City's Comprehensive Plan.

\* \* \*

***Grand Opening sign.*** A sign displayed on premises for which a grand opening is in progress.

\* \* \*

***Ground sign.*** A sign that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building.

\* \* \*

***Illuminated sign.*** A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, neon, incandescent lights, and backlighting, and shall also include signs that depend upon automobile headlights for an image.

\* \* \*

***Marquee.*** A structure projecting from and supported by a building which extends beyond the building line or property line and fully or partially covers a sidewalk, public entrance or other pedestrian way.

\* \* \*

***Multiple-occupancy complex.*** A commercial use, i.e., any use other than residential, on a premises with a building or buildings housing more than one occupant.

\* \* \*

***Occupant (occupancy).*** A commercial use, i.e., any use other than residential.

\* \* \*

***Off-premises signs.*** A sign relating in its subject matter to other than the premises on which it is located or to products, accommodations or activities available on premises other than the site on which the sign is located. Any sign bearing a non-commercial



message is not an off-premises sign, and shall be deemed to describe activities on the premises where the sign is located.

*On-premises signs.* Any sign (1) that identifies an activity conducted or products or services available on the premises where the sign is located, or (2) displaying a non-commercial message, or (3) any combination of the first two.

\* \* \*

*Parapet.* A low wall extending above the cornice line and around the entire perimeter of the structure at the same elevation, which shall not be higher than 4 feet as measured from the cornice line.

\* \* \*

*Portable sign.* Any sign which is designed to be transported by a trailer or on its own wheels or to be mobile, when not permanently attached to a building or to the ground by means of a footing. The phrase "Portable sign" includes a sign whose wheels have been removed and which has been converted to an A- or T-frame sign attached temporarily to the ground.

\* \* \*

*Premises.* The lot or lots, plots, portions or parcels of land considered as a unit for a single development or activity.

\* \* \*

*Real Estate sign.* A sign erected on premises for sale, lease or exchange.

\* \* \*

*Roof sign.* A sign which is wholly or partially fastened to and supported by or on the roof, or which extends above the roof line or cornice line of the structure.

\* \* \*

*Roofline.* A horizontal line intersecting the highest point or points of a roof, and including the top of any parapet or other similar architectural facade feature.

\* \* \*

*Sign.* Any writing, graphic or pictorial presentation, number, illustration, or decoration, flag, banner or pennant, or other device, including the sign structure and

sign face area, which is used to announce, direct attention to, identify, advertise or otherwise make anything known, and which is visible from any street, right of way, sidewalk, alley, or other public property. The term "sign" shall not be construed to include the terms "building" or "landscaping," or any architectural embellishment of a building not intended to communicate information.

\* \* \*

*Sign face area.* The area which contains the entire surface area of a sign including the display surface and any framing, trim, architectural embellishments, or molding but not including the sign structure.

*Sign height.* The vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher.

\* \* \*

**Sign structure.** Any structure used or designed to support a sign.

\* \* \*

*Street.* A public or private right-of-way for vehicular traffic, including, but not limited to, highways, thoroughfares, lanes, roads, ways, and boulevards.

\* \* \*

*Temporary.* Designed, constructed, and intended to be used on a short-term basis.

\* \* \*

*Directional sign.* A sign located at the exit or entrance of a premises that has two or more driveways.

\* \* \*

*Town Manager/Clerk.* The officer, or his/her designee, charged with the administration and enforcement of this code.

\* \* \*

*Unit.* That part of a multiple-occupancy complex housing one occupant.

\* \* \*

***Unit exterior area.*** The area, measured in square feet, within a two-dimensional geometric figure coinciding with the edges of the walls that form the surface where the sign will be installed.

\* \* \*

***Vehicle sign.*** Any sign affixed to a vehicle.

\* \* \*

***Window sign.*** A sign that is visible through a window.

### **83-2. Purpose.**

The purpose of this code is to provide the minimum control of signs necessary to promote the health, safety, and general welfare by lessening hazards to pedestrians and vehicular traffic, by preserving property values, by preventing unsightly and detrimental development that would detract from the aesthetic appeal of the community and lead to economic decline and blight by preventing signs from reaching such excessive size or numbers that they obscure one another to the detriment of all concerned, by securing certain fundamentals of design that would strengthen the community's economic base, and by preserving the right of free speech.

### **83-3. General provisions.**

***Relationship to building and electrical codes.*** These sign regulations are intended to complement the requirements of the building and electrical codes of the town. Wherever there is inconsistency between these regulations and the Florida Building Code, the Florida Building Code shall apply.

***No defense to nuisance action.*** Compliance with the requirements of these regulations shall not constitute a defense to an action brought to abate a nuisance under the common law.

***Maintenance.*** All signs, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with this code and the building and electrical codes of the town, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

**83-4. Exempt signs.**

The following signs are exempt from the permitting requirements of this code provided they must still meet all other applicable code requirements and provided further they are not placed or constructed so as to create an immediate threat to the public health, safety or welfare:

- A. Signs of two square feet or less provided that such sign, or combination of signs, does not constitute a sign prohibited by section 83-5 of this code.
- B. Signs authorized by statute or ordinance when erected on public property by governmental agencies having jurisdiction.
- C. Legal notices and official instruments when required by law.
- D. Holiday lights and decorations.
- E. One sign or tablet per building, of four square feet or less when cut into any masonry surface or when constructed of bronze or other incombustible materials and attached to the surface of a building.
- F. Signs incorporated into machinery or equipment by a manufacturer.
- G. Signs carried by a person.
- H. Temporary signs as permitted by Section 83-7.
- I. Flags.

**83-5. Prohibited signs.**

*Generally.* It shall be unlawful to erect, cause to be erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from, this code.

*Specifically.* The following signs are expressly prohibited:

- A. Signs that are in violation of the building code or electrical code of the Town.
- B. Any sign declared by the Town Manager/Clerk to be an immediate threat to the public health, safety and welfare by reason of an unsafe condition.
- C. Signs that obstruct the vision of pedestrians, cyclists or motorists traveling on or entering public streets or signs within the visibility triangle (see LDC

**8.03.06). Any sign in the visibility triangle cannot be lower than 2 feet or higher than 10 feet, and the support structure of which can be no wider than 10 inches.**

- D. Signs tacked, nailed, posted, pasted, glued, or otherwise attached to trees, utility poles or fences.**
- E. Signs that emit audible sound, odor, or visible matter such as smoke or steam.**
- F. Flashing lights or signs with lights or illumination that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color; provided that this paragraph shall not prohibit a sign with a fixed or changing display composed of a series of lights that may be changed through electronic means, provided further that said display may not change more than once every ten seconds.**
- G. Strings of light bulbs regardless of how mounted when used on premises with a commercial land use classification other than holiday decorations and strings of lights used to enhance landscaping.**
- H. Signs, commonly referred to as wind signs, consisting of one or more banners, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind, except for flags.**
- I. Signs that incorporate projected images, emit sound that is intended to attract attention, or involve the use of live animals.**
- J. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, or mechanical means, except for traditional barber poles.**
- K. Signs with optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion.**
- L. Portable signs.**
- M. Abandoned or discontinued signs. In determining whether a sign is abandoned or discontinued criteria which include the following shall be considered: whether the sign identifies correct directions to, location of, or description of the goods or services available on the premises where the sign is located; the existence or absence of a current occupational license for the premises where the sign is located; whether utility service is being provided to the premises where the sign is located; the use of the premises where the sign is located; the condition of the sign; whether ad valorem property taxes have been paid on the premises where the sign is located or on the sign itself; any other facts or**

circumstances which would indicate whether the owner of the sign has intentionally or voluntarily relinquished further use of the sign.

- N. Signs or sign structures that interfere in any way with free use of any fire escape, emergency exit, or standpipe, or that obstruct any window to such an extent that the light or ventilation is reduced to a point below that required by any provision of this code or other ordinances of the town.
- O. Signs that resemble any official sign or marker erected by any governmental agency, or that by reason of position, shape, or color, would conflict with the proper functioning of any traffic sign or signal, or be of a size, location, movement, content, color, or illumination that may be reasonably confused with or construed as, or conceal, a traffic control device.
- P. Signs that are of such intensity or brilliance as to cause glare or impair the vision of any motorist, cyclist, or pedestrian using or entering a public way, or that are a hazard or a nuisance to occupants of any property because of glare or other characteristics.
- Q. Searchlights when used for other than public safety purposes by governmental agencies having jurisdiction.
- R. Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs.
- S. Signs placed upon benches, bus shelters or waste receptacles, except as may be authorized in writing pursuant to F.S. § 337.407.
- T. Signs erected over or across any public street except as may otherwise be expressly authorized by this code, and except as provided in Section 83-4(B) hereof.
- U. Vehicle signs with a total sign area on any vehicle in excess of ten square feet, when the vehicle is not regularly used in the conduct of the business advertised on the vehicle. A vehicle used primarily for advertising, or for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle, shall not be considered a vehicle used in the conduct of the business.
- V. Obscene signs.
- W. Roof signs.

- X. **Off-premises signs.** No off-premises sign (other than those signs which have already received Town and FDOT permits for construction) shall be constructed or erected after the date of enactment of this ordinance, nor shall any existing off-premises sign be permitted to increase in sign face area or height, or change configuration or structure. Any such change or alteration is unlawful, constitutes a nuisance and shall be removed immediately at the expense of the owner thereof. In the event the owner fails to remove the off-premises sign within 30 days after being notified to do so by the Town Manager/Clerk, the town may remove such sign at the owner's expense, or may apply to any court having jurisdiction for such relief as may be appropriate to facilitate the removal of the sign and for such other and further relief as Town may be entitled to, or may take such other and further action as may be provided by law or equity.

**83-6. Permitted signs.**

- A. *Permitted Signs.* The following types of on-premises signs are permitted, provided that they meet all of the requirements of this code:
1. Ground signs; and
  2. Building signs; and
  3. Flags
- B. *On-premises signs are permitted subject to the following limitations:*
1. *Ground signs.* The permissible number, area, spacing and height of ground signs for each premises shall be determined according to the following:
    - a. (i) One ground sign not exceeding 32 square feet of sign face area per street frontage for premises with street frontage of 32 feet or less; (ii) for premises with more than 32 feet of frontage, one ground sign per such street frontage not exceeding one square foot of sign face area for each foot of frontage to a maximum of 100 square feet.
    - b. Signs shall be set back 10 feet from the property line.
    - c. The maximum height for all ground signs is 35 feet.
    - d. The minimum side setback shall be (10) feet from property line.
    - e. The sign face area of any non-conforming ground sign located on the premises

shall be included for purposes of determining the maximum allowable ground sign face area.

- f. **Multiple frontages.** Any premises with multiple frontages may allocate its total allowable ground sign face area among its permitted ground signs on any frontage.

## **2. *Building signs.***

- a. Each single occupancy premises shall be entitled to building sign(s) the sign face area of which, in the aggregate, shall not exceed the lesser of 10 % of the building exterior area upon which said building signs are to be located or 100 square feet. For the purposes of this subsection a multi-family residential complex shall be considered a single occupancy premises.
- b. (i) Each occupant of a multiple-occupancy complex may display building signs on any unit exterior of the complex that is part of the occupant's unit (not including a common or jointly owned area), the sign face area of which, in the aggregate, shall not exceed the lesser of 10 % of the unit exterior area upon which said building signs are to be located or 100 square feet.

(ii) *Format for multiple-occupancy complexes.* Building signs for multiple-occupancy complexes constructed or remodeled after the effective date of this code shall conform to an approved sign format. The sign format shall be included as part of the application to erect such a sign and shall be maintained on file in the planning and zoning department. The format shall be presented in a plan or sketch, together with written specifications in sufficient detail to enable the Town Manager/Clerk or his designee to authorize signs based on the specifications. As a minimum, the sign format shall specify the types of signs and dimensions (not to exceed the size limits contained in this code) which will be permitted each occupant within the complex. The sign format shall also contain common design elements, such as placement, color, shape or style of lettering, which lend a unified appearance to the signs of the occupants within the complex.

- c. The maximum building sign height for structures of two stories or less shall be 35 feet. In addition, no signs shall be permitted above the roofline, cornice line, parapet, or the highest point of a façade of any structure, whichever is higher.

- 3. ***Directional signs.*** Directional signs limited in area to 3-1/2 square feet shall be permitted and shall not be counted as part of maximum allowable signage.

- 4. ***Signs at entrances to residential subdivisions.***



- a. *Generally.* A sign may be displayed at the entrance to residential subdivisions.
  - b. *Restrictions.* One sign is permitted at each entrance into the subdivision from each abutting street. The sign may be a single sign with two faces of equal size or may be two single-faced structures of equal size located on each side of the entrance. No face of the sign shall exceed 40 square feet in size, and may be illuminated in a steady light only. No such sign shall exceed 8 feet in height.
5. *Utility signs.* Signs placed by public utilities on or in close proximity to the location of underground utility lines and facilities, high voltage lines and facilities, and other utility facilities and appurtenances shall be permitted not to exceed three feet in height, and four square feet in area.
6. *Single Family Residential signs.* In single family use zones as designated in the Town of Cinco Bayou Land Development Code, one sign per premises not exceeding 6 square feet in sign face area or 3 feet in height, provided, however, home occupation signs are not permitted. Nothing contained in this section shall be construed to permit the display of signs when otherwise prohibited or restricted by private restrictions related to the residential dwelling unit.
7. *Multi Family Residential signs.* Each multi family residential dwelling unit may display one sign of not more than 6 square feet, or exceeding 3 feet in height. Nothing contained in this section shall be construed to permit the display of signs when otherwise prohibited or restricted by private restrictions related to the residential dwelling unit.

#### 83-7. Permitted temporary signs.

*Generally.* The town recognizes that, by their nature, some signs are intended from their construction to serve a temporary purpose only. Such signs shall be identified as temporary signs and shall not require a permit from the town, provided that they satisfy the restrictions imposed by this section and other relevant parts of this code.

*Sign types allowed.* A temporary sign may be a ground or building sign, but may not be an electric sign. A temporary sign must be constructed of rigid material.

*Removal of illegal temporary signs.* Any temporary sign not complying with the requirements of this section is illegal and subject to immediate removal.

*Permissible temporary signs.* Temporary signs as follows shall be allowed, subject to the provisions of this code:

- A. A Real Estate sign not exceeding 32 square feet of sign face area or 8 feet in height.
- B. A Grand Opening sign not exceeding 20 square feet of sign face area or 8 feet in height, provided that said sign shall not be displayed for more than 14 days during any 12 consecutive calendar months.
- C. A Construction sign not exceeding 20 square feet of sign face area or 8 feet in height. Such sign shall not be displayed more than 60 days prior to the beginning of actual construction of the project, and shall be removed no later than the date of the issuance of a certificate of occupancy for all or any portion of the project. If a sign is displayed pursuant to this section, but construction is not initiated within 60 days after the sign is displayed, or if construction is discontinued for a period of more than 60 days, the sign shall be removed, pending the initiation or continuation of construction activities.
- D. A sign for a premises that has no permanent sign provided that such temporary sign shall not exceed 32 square feet in sign face area nor 8 feet in height. Such sign may be displayed for a period of 60 days or until installation of a permanent sign, whichever shall occur first.
- E. Temporary Non-commercial signs displayed before, during or after an event or occurrence scheduled to take place at a specific time and place. Such signs are permitted in all zoning districts and shall not exceed 32 square feet in sign face area or 8 feet in height. All such signs shall be removed within 21 days after the end of the scheduled event or occurrence to which they relate.

**83-8. Measurement determinations.**

***Sign face area.***

- A. ***Generally.*** The sign face area of a sign shall be the area within the smallest square or rectangle, the sides of which touch the extreme points or edges of the sign face area.
- B. ***Special situations.***
  - 1. Where a sign is composed of letters, pictures, symbols, or logos attached directly to a facade, window, door or marquee, and the letters, pictures, symbols, or logos are not enclosed by a border or trimming, the sign face area shall be the area within the smallest square or rectangle, the sides

of which touch the extreme points of any letters, pictures, symbols, or logos.

2. Where two sign faces areas are placed back to back on a single sign structure, and the faces are at no point more than four feet apart, the area of the sign shall be counted as the area of one of the faces.
3. Where four sign faces areas are arranged in a square, rectangle or diamond, the area of the sign shall be the area of the two largest faces. Where a sign is in the form of a three-dimensional object, the area shall be determined by drawing a square or rectangle, the sides of which touch the extreme point or edges of the projected image of the sign, and multiplying that area by two. The "projected image" is that image created by tracing the largest possible two-dimensional outline of the sign.

*Number of signs.*

- A. *Generally.* In general, the number of signs shall be the number of noncontiguous sign face areas. Multiple noncontiguous sign face areas may be counted as a single sign if all the sign faces are included in the geometric figure used for determining the sign face area.
- B. *Special situations.*
  1. Where two sign faces area are placed back to back and are at no point more than three feet apart, it shall be counted as one sign.
  2. If a sign has four sign face areas arranged in a square, rectangle or diamond, it shall be counted as two signs.

**83-9. Design, construction and location standards.**

- A. *Generally.* All permanent signs must comply with the following design, construction and location standards.
- B. *Compliance with building and electrical codes required.* All permanent signs, and the illumination thereof, shall be designed, constructed and maintained in conformity with applicable provisions of the building code and electrical codes of the Town.

**C. *Illumination standards.***

- 1. Sign lighting may not be designed or located to cause confusion with traffic lights.**
- 2. Illumination by floodlights or spotlights is permissible so long as none of the light emitted shines directly onto an adjoining property or into the eyes of motorists or pedestrians using or entering public streets.**
- 3. Illuminated signs shall not have lighting mechanisms that project more than 18 inches perpendicularly from any surface of the sign over public space.**

**D. *Placement standards.***

- 1. *Near street and driveway intersections.* Signs located within the clear visibility triangle near street and driveway intersections shall be located no higher than ten feet or no lower than two feet above ground height.**
- 2. *In right-of-way.* Supports for sign or sign structures shall not be placed in or upon a public right-of-way or public easement, except under the terms of a lease between the owner of the easement or right-of-way and the owner of the sign.**
- 3. *Over right-of-way.* Except as provided herein no ground sign shall project over a public right-of-way.**
- 4. *Blocking exits, fire escapes, etc.* No sign or sign structure shall be erected that impedes use of any fire escape, emergency exit or standpipe.**

**E. *Clearance standards.***

- 1. *Relationship to building features.* A building sign shall not extend beyond any edge of the surface to which it is attached, nor disrupt a major architectural feature of the building.**
- 2. *Maximum projection.* A building sign may project no more than four feet perpendicularly from the surface to which it is attached.**

**83-10. Nonconforming signs.**

**Nonconforming signs shall be subject to the following provisions.**

- A. **Definition.** Any sign within the town on the effective date of this code which is prohibited by, or does not conform to the requirements of, this code. Signs that are within ten percent of the height and size limitations of this code, and that in all other respects conform to the requirements of this code, are not non-conforming signs.
- B. **Amortization of nonconforming signs.** Unless governed by the provisions of Section 70.20 F.S. (2002):
1. All nonconforming signs with a replacement cost of less than \$100.00 at the time of adoption of this code shall be removed or made to conform by February 1, 2005.
  2. All other nonconforming signs shall be removed or altered to be conforming by February 1, 2006.
- C. All nonconforming signs shall be subject to the following restrictions:
1. No nonconforming sign may be enlarged or altered in a way which increases its nonconformity, but any sign or portion thereof may be altered to decrease its nonconformity.
  2. No nonconforming sign shall be structurally altered to prolong the life of the sign, but work may be done in any period of 12 consecutive months on ordinary repairs, or on repair and replacement of nonstructural components to an extent not exceeding 25 percent of the current replacement cost of the nonconforming sign.
  3. Should a nonconforming sign be destroyed by any means to an extent of more than 50 percent of its value at the time of destruction as reflected on the personal property tax return filed by the owner, it shall not be reconstructed except in compliance with these regulations.
  4. Should a nonconforming sign be moved for any reason, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

#### **83-11. Permits and Appeals.**

- A. **Permits required:** No permit is required for the display of a flag. No person shall erect, alter, repair or relocate any sign that requires a permit without first obtaining a building permit for such work from the Town Manager/Clerk. No permit shall be issued until the Town Manager/Clerk determines that such work

is in accordance with the requirements contained in this ordinance, and the Town Manager/Clerk determines such work will not violate any building, electrical or other adopted codes of the City.

- B. Applications:** All required building permit applications shall be filed on forms supplied by the Town Manager/Clerk. The application shall contain the information and documents required herein and shall be accompanied by the required permit fee.
- C. Permit Application Contents:** The completed application for a permit for a sign shall include the following applicable information:
1. The name, address and telephone number of the property owner together with proof of ownership.
  2. The name, address, telephone number and registration number of the engineer.
  3. The name, address, telephone number and license number of the sign contractor/manufacturer.
  4. The address and name of the business where the sign is to be erected. The zoning district, the building frontage of the tenant space and the road frontage of the premises is also required.
  5. The type of sign, square footage, height and location of all signage currently displayed on the premises.
  6. The type of sign, square footage, height and location of the sign or signs proposed to be erected on the premises.
  7. A fully dimensioned and scaled site plan showing the lot frontage, building frontage, parking areas and location of all existing and proposed signs. For ground signs, the site plan must show the distance from the right-of-way and edge of pavement.
  8. Sign plan. The application shall:
    - a. Provide a summary table listing location type and area of any existing and proposed signs.
    - b. Provide fully dimensioned and scaled elevation drawing of any proposed sign, showing sign type, height, structure and sign face area.

- c. For building signs, provide an elevation of the building, showing placement of any sign.
  - d. If the sign is to be electrically lighted, additional information is to be provided regarding the Testing Laboratory or the ETL Number, and the name and address of the Electrical Contractor.
  - e. For multiple occupancy complexes, the format required by Section 83-6(B)(2)(b)(ii).
9. The type of construction, sign supports, electrical details.
  10. Wind load calculations and footer details as required by the Town's adopted building code.
  11. For the following signs, plans prepared by a Florida registered professional engineer and sealed by such engineer:
    - a. Building signs that project perpendicularly from the surface to which it is attached and that are more than 24 square feet in area.
    - b. Ground signs of more than ten feet in height and 100 square feet in area.
- D. Investigation/Time limits:** Upon the receipt of a completed permit application and upon payment of the appropriate permit fee by the applicant, the Town Manager/Clerk shall promptly conduct an investigation of the application, the proposed sign and the premises. The Town Manager/Clerk shall grant or deny the permit application within thirty (30) days from the date the completed application with application fee was filed with the Town Manager/Clerk.
- E. Issuance or Denial of Permit:**
1. If, after review and investigation as required herein, the Town Manager/Clerk determines that the application meets the requirements contained in this Ordinance and determines the proposed sign will not violate any building, electrical or other adopted codes of the Town, the Town Manager/Clerk shall issue the permit.
  2. If, after review and investigation as required herein, the Town Manager/Clerk determines that one or more reasons for denial exist, the permit shall be denied and the Town Manager/Clerk shall make a written report of the denial and the reasons therefore. A copy of the report shall be sent by certified mail to the designated return address of the applicant on the application. The application for

a permit shall be denied if one or more of the following conditions are found to exist:

- a. The application does not comply with the requirements of this Ordinance; or
- b. The application would violate any building, electrical or other adopted codes of the Town.

**F. Permit Fees:** The permit fee for signs shall be determined pursuant to the permit fee schedule established by separate ordinance.

**G. Appeals:**

1. Any person denied a permit for a sign may file a written appeal to the Town Council within thirty (30) calendar days after rendition of the written determination by the Town Manager/Clerk. The Town Council shall hear and decide appeals from interpretations of the Town Manager/Clerk where it is alleged that there is error in any order, requirement, decision or determination made by the Town Manager/Clerk in the enforcement of this Code.
2. Any person denied a permit for a sign may seek a variance from the provision of this Sign Code regulating the height and setback of signs only. A written request for variance shall be made to the Town Council and the Town Council shall have the power to grant variances from the height and setback provisions of this Sign Code where, owing to special conditions, literal enforcement of the requirements of the height and setback provisions of the Sign Code will result in unnecessary hardship; will not be contrary to the public interest; will observe the spirit and intent of this Sign Code; and will do it substantial justice. The Town Council may grant a variance only if it finds, based upon substantial facts in the record, that (1) the hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public; (2) the hardship relates to applicant's land or premises, rather than personal circumstances; (3) the hardship is unique, or nearly so, rather than one shared by many surrounding properties; and (4) the hardship is not the result of the applicant's own actions or those of his agents.
3. An appeal under this paragraph shall be initiated by the filing of a Notice of Appeal and a request for variance shall be initiated by the filing of a Request for Variance. The Notice of Appeal or the Request for Variance shall be filed with the Town Manager/Clerk and shall describe in detail the Sign Code provision in questions, a detailed statement of why the applicant believes that the Town Manager/Clerk was in error or the grounds for any variance request and shall have enclosed or attached such supporting documentation as the



applicant deems necessary. The Notice of Appeal or the Request Variance shall be signed by the applicant and, in the case of a variance request, if the applicant is not the owner, the application shall contain the signature of the fee owner or its authorized agent.

4. The Town Manager/Clerk shall refer the Notice of Appeal or the Request for Variance to the Town Council and shall schedule the matter before the Town Council at its next regularly scheduled meeting that is not less than twenty (20) days from the date the Notice of Appeal or Request for Variance was filed with the Town Manager/Clerk. Notice of the hearing before the Town Council shall be mailed to the applicant and the fee owner, if applicable, setting forth the date, time and location of the hearing.
5. A Notice of Appeal or Request for Variance authorized pursuant to this section shall be accompanied by payment of the required application fee, if any, as shall be determined by the Town Council by resolution. Such application fee shall be payable to the Town of Cinco Bayou.
6. The decision of the Town Council shall be rendered within thirty (30) days from the date of the hearing and shall be final.

**83-12. Penalty.**

Any alleged violation of this article may be processed in accordance with procedures set forth in the Town's Code of Ordinances, Chapter 12, Article IV, Code Enforcement.

**SECTION 6: INCORPORATION INTO LAND DEVELOPMENT CODE.**

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

**SECTION 7: SEVERABILITY.**

Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

**SECTION 8: EFFECTIVE DATE.**

This ordinance shall become effective upon its adoption by the Town Council and signature by the Mayor.



ADOPTED THIS 8th DAY OF April 2004.

BY: Norm Frucci  
Norm Frucci, Mayor

ATTEST:

Nell Webb  
Town Manager/Clerk  
Nell Webb

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

C. Jeffrey McInnis  
C. Jeffrey McInnis, Attorney

First Reading: March 16, 2004

Second Reading: April 8, 2004