

## ORDINANCE NUMBER 199

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR PURPOSE; PROVIDING FOR AN AMENDMENT TO SECTION 3.01, DEFINITIONS; PROVIDING FOR AN AMENDMENT TO POLICY 7.A.4.6. TO AUTHORIZE "LOW INTENSITY PUBLIC FACILITIES" IN THE CONSERVATION FUTURE LAND USE MAP CATEGORY; PROVIDING FOR AN AMENDMENT TO OBJECTIVE 7.A.7. TO REQUIRE THE TOWN TO ENSURE LAND AVAILABILITY FOR "PUBLIC FACILITIES" AND "LOW INTENSITY PUBLIC FACILITIES"; PROVIDING FOR AN AMENDMENT TO SECTION 7.05, DEFINING FUTURE LAND USE MAP CATEGORIES; PROVIDING FOR AN AMENDMENT TO POLICY 11.A.1.1. TO AUTHORIZE THE TOWN TO REQUIRE PROOF OF RESOURCE PERMITS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN OF CINCO BAYOU, FLORIDA ("TOWN"), AS FOLLOWS:

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

The authority for the enactment of this Ordinance is Section 163.3184, *Florida Statutes*, Section 163.3187, *Florida Statutes*; and Section 166.021, *Florida Statutes*.

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

**WHEREAS**, this Ordinance amends Section 3.01 to provide definitions for "telecommunications tower," "public facilities," and "low intensity public facilities"; and

**WHEREAS**, this Ordinance amends Policy 7.A.4.6 to authorize "low intensity public facilities" in the Conservation Future Land Use Map category; and

**WHEREAS**, this Ordinance amends Objective 7.A.7 to require the Town to ensure land availability for "public facilities" and "low intensity public facilities"; and

**WHEREAS**, this Ordinance amends Section 7.05 to provide definitions of Future Land Use Map categories; and

**WHEREAS**, this Ordinance amends Policy 11.A.1.1 authorizing the Town to require proof of regional, state, and federal resource permits; and

**WHEREAS**, a public hearing has been conducted after due public notice by the Cinco Bayou Town Council sitting as the Local Planning Agency with its recommendations reported to the Town Council; and

**WHEREAS**, a public hearing has been conducted by the Town Council after due public notice, and

**WHEREAS**, the Town Council has determined that this Ordinance is consistent with the adopted Comprehensive Plan and is in the best interests of the Town and its citizens.

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

The purpose of this Ordinance is to adopt several amendments to the Definitions, Chapter 3; Future Land Use Element, Chapter 7; and the Coastal Management and Conservation Element, Chapter 11; Town of Cinco Bayou Comprehensive Plan 2000, otherwise known as Ordinance No. 135. The amendments are set forth herein. Section 1. The Cinco Bayou Comprehensive Plan is amended as follows:

### **SECTION 4: AMENDMENT TO SECTION 3.01 OF THE TOWN'S COMPREHENSIVE PLAN.**

Section 3.01 of the Town of Cinco Bayou Comprehensive Plan is hereby amended to read as follows:

*NOTE: Underlined language is proposed language and ~~Struck-through language~~ is language proposed to be deleted.*

Section 3.01 Definitions: The definitions found in Chapter 163, Part II, F.S. and Chapter 9J-5, F.A.C., are hereby adopted by reference. The following additional definitions are hereby adopted and applicable to the Comprehensive Plan and LDC:

- (1) Telecommunications tower. Telecommunications tower means any structure designed and constructed for the purpose of supporting one or more communication antennas, including camouflaged towers, conventional wireless towers, and low impact or stealth towers. The term includes towers



to support antennas for transmitting or receiving personal wireless services and cellular telephone communications towers. The term includes equipment essential to the operations of the tower. The term does not include broadcast towers, amateur radio towers, or those towers used solely for private use dispatch services.

(2) Public facilities. Public facilities include facilities and services that are subject to concurrency review. The term "public facilities" includes all components of the following facilities, whether the service provider is a public or a private entity: potable water, wastewater, solid waste, parks and recreation, transportation, and stormwater.

(3) Low intensity public facilities. Low intensity public facilities include only the following: telecommunications towers; electrical transmission towers; passive recreation uses; unpaved stormwater detention or retention facilities; underground transmission or collection mains, pipes, lines, or cables; utility poles and above ground transmission wires, lines, or cables; cable or telephone switching boxes; pump stations; and access driveways associated with a low intensity public facility as defined herein.

#### **SECTION 5: AMENDMENT TO POLICY 7.A.4.6. OF THE TOWN'S COMPREHENSIVE PLAN.**

Policy 7.A.4.6. of the Future Land Use Element of the Town of Cinco Bayou Comprehensive Plan is hereby amended to read as follows:

Policy 7.A.4.6 – Development within designated conservation areas shall be limited to recreational/open space uses, low intensity public facilities, or other similar low intensity uses as defined in the Comprehensive Plan or the LDC (reference Figure 7-1).

#### **SECTION 6: AMENDMENT TO OBJECTIVE 7.A.7 OF THE TOWN'S COMPREHENSIVE PLAN.**

Objective 7.A.7. of the Future Land Use Element of the Town of Cinco Bayou Comprehensive Plan is hereby amended to read as follows:

Objective 7.A.7. – The Town shall ensure the availability of suitable land for utility facilities, public facilities, and low intensity public facilities necessary to support proposed development through provisions within the Land Development Code LDC or acquisition of land by the Town (~~reference Policies 7.A.a.a. and 8.A.5.a and Chapter 6 of this Ordinance~~).

#### **SECTION 7: AMENDMENT TO SECTION 7.05 OF THE TOWN'S COMPREHENSIVE PLAN.**

Section 7.05 of the Future Land Use Element of the Town of Cinco Bayou Comprehensive Plan is hereby amended to read as follows:

Section 7.05 Future Land Use Map: The following Future Land Use Map series is, by reference, made a part of this Ordinance including all future amendments, revisions and updates:

(1) May 7-1, Cinco Bayou Future Land Use Map, dated January 1990 and as prepared by Barrett, Daffin and Carlan, Inc.;

a. The following generalized land use categories are shown on the Future Land Use Map identified above (Figure 7-1):

1. Residential (low density, medium density, mixed use residential);
2. Commercial use, which includes retail, office, lodging, restaurants, public facilities, and low intensity public facilities;
3. Recreational/Conservation use, which includes active parks, passive parks, designated conservation areas, and low intensity public facilities; and
4. Public lands (includes educational facilities, public buildings and grounds and other public facilities, including low intensity public facilities).

#### **SECTION 8: AMENDMENT TO POLICY 11.A.1.1. OF THE TOWN'S COMPREHENSIVE PLAN.**

Policy 11.A.1.1 of the Coastal and Conservation Element of the Town of Cinco Bayou Comprehensive Plan is hereby amended to read as follows:

Policy 11.A.1.1 - Limit the specific impacts and cumulative impacts of development or redevelopment upon wetlands, water quality, water quantity, wildlife habitats, living marine resources or other natural resources through requiring proof of required regional, state, or federal resource permits. ~~by implementation of Policies 7.A.4.1, 7.A.4.2, 7.A.4.3 and 10.C.1.2 of this Ordinance.~~

#### **SECTION 9: SEVERABILITY.**

If any section, phase, 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 10. EFFECTIVE DATE.**

The effective date of this comprehensive plan amendment shall be the date a final order is issued by the Department of Community Affairs finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S., or the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

ADOPTED THIS 9th DAY OF October, 2003

By: *Norm Frucci*  
Norm Frucci, Mayor

ATTEST:

*Nell Webb*  
Nell Webb, Town Clerk

The form and content of the foregoing has  
Been reviewed and approved for sufficiency  
By the Town Attorney.

*C. Jeffrey McInnis*  
C. Jeffrey McInnis, Town Attorney

