

ORDINANCE NO. 158

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA REPEALING CHAPTER 6, CODE ENFORCEMENT, CINCO BAYOU CODE OF ORDINANCES AND ESTABLISHING NEW CODE ENFORCEMENT PROCEDURES AND PRACTICES; ESTABLISHING THE REQUIREMENT TO DESIGNATE CODE ENFORCEMENT OFFICER (S); SETTING PROCEDURES FOR ISSUING CITATIONS AND CITATION CONTENT; PROVIDING A SCHEDULE OF VIOLATIONS AND PENALTIES; PROVIDING FOR THE SEVERABILITY OF ANY SECTION OR PORTION OF THIS ORDINANCE; REPEALING ANY ORDINANCE INCONSISTENT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE THEREOF.

SECTION 1. Repeal of Chapter 6.

This ordinances repeals Chapter 6, Town of Cinco Bayou Code of Ordinances as supplemented and including references to Code Enforcement contained in Chapter 5, Chapter 8, Chapter 9, Chapter 11, Chapter 13, Chapter 14, Chapter 17 and Appendix A.

Section 2. Code Enforcement

(a) The Town is authorized to enforce its codes and ordinances under the provision of this ordinance. It is the intent of this ordinance to promote, protect and improve health, safety and welfare of the citizens, businesses and the public in general by authorizing and granting the authority for imposing administrative fines and other noncriminal penalties to provide equitable, expeditious, effective and inexpensive method of enforcing any codes and ordinances in force in the Town.

(b) The provisions of this ordinance are additional and supplemental means of enforcing the Town's codes and ordinances and may be used for the enforcement of any code or ordinance, or for the enforcement of all codes and ordinances. Nothing contained in this chapter shall prohibit the Town from enforcing its codes or ordinances by any other means.

Section 3. Designation of Code Enforcement Officer.

The Town may designate certain of its employees or agents as code enforcement officers. The training and qualifications of the employees or agents for such designation shall be determined by the Town. Employees or agents who may be designated as code enforcement officers may include but not limited to code inspectors, law enforcement officers, animal control officers or fire inspectors. Designation as a code enforcement officer does not provide the code enforcement officer with the power of arrest or subject the code enforcement officer to the provisions of F.S. 943.085 and 943.255. Nothing in this division amends, alters or contravenes the provisions of any state-administered retirement system or any state supported retirement system established by general law.

(a) The code enforcement officer shall have all authority and powers granted by ordinance and by state law, or authorized to be granted by state law.

(b) Whenever necessary to make an inspection to enforce any of the codes and ordinances of the town, or whenever the code enforcement officer has reasonable cause to believe that there exists in any building or upon any premises any violation of the codes and ordinances of the town, the code enforcement officer may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the code enforcement officer by ordinance, provided that if such building or premises is occupied, he shall first present proper credentials and request entry. If such entry is refused, the code inspector shall have recourse to every remedy provided by law to secure entry.

Section 4. Citations

(a) A code enforcement officer is authorized to issue a citation to a person when based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance and the county court will hear the charge.

(b) Prior to issuing a citation, the code enforcement officer shall provide notice to the person that the person has committed a violation of the code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If upon personal investigation, the code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. The code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, or if the violation is irreparable or irreversible.

(c) A citation issued by a code enforcement officer shall be in a form prescribed by the Town and contain:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

(3) The date and time the civil infraction was committed.

(4) The facts constituting reasonable cause.

- (5) The number or section of the code or ordinance violated.
- (6) The name and authority of the code enforcement officer.
- (7) The procedure for the person to follow to pay the civil penalty or to contest the citation.
- (8) The applicable civil penalty if the person elects to contest the citation.
- (9) The applicable civil penalty if the person elects not to contest the citation.
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgement may be entered against the person for an amount up to the maximum civil penalty.
- (11) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one copy of the citation with the county court system.

Section 6. Code Enforcement Procedures.

The Town shall establish procedures for code enforcement, including a schedule of violations and penalties to be assessed by the code enforcement officers. Procedures for Code Enforcement as authorized by this ordinance and shall provide:

- (1) That a violation of a code or an ordinance is a civil infraction.
- (2) A maximum civil penalty not to exceed \$ 500.00.
- (3) A civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation.
- (4) For the issuance of a citation by a code enforcement officer who has reasonable cause to believe that a person has committed an act in violation of a code or ordinance.
- (5) For contesting of a citation in a county court.
- (6) Such procedures and provisions as are necessary to provide for the enforcement of a code or ordinance under the provisions of this division.

Section 7. Refusal

Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in FS 775.082 or FS 775.083.

Section 8. Building Codes

The provisions of this ordinance shall not apply to the enforcement pursuant to FS 553.79 and 553.80 of building codes adopted pursuant to FS 553.73 as they apply to construction, provided that a building permit is either not required or has been authorized by the Town and issued by the county. For the purposes of this section, building codes means only those codes adopted pursuant to FS 553.73.

Section 9. Violations & Penalties

The following schedule of violations and penalties shall be assessed by code enforcement officers and shall be followed by the county court system in its review and adjudication of matters in accordance with this division:

<u>Violation Category</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>	<u>Fourth Offense</u>
Animal nuisance	\$ 25.00	\$ 50.00	\$ 100.00	\$ 100.00-\$500.00
Building code	50.00	75.00	100.00	100.00-500.00
Building Maintenance	25.00	50.00	100.00	100.00-500.00
County Ordinances	15.00	50.00	100.00	100.00-500.00
Eyesore	25.00	50.00	100.00	100.00-500.00
Fire code	50.00	75.00	100.00	100.00-500.00
Health hazard	50.00	75.00	100.00	100.00-500.00
Landscaping	25.00	50.00	100.00	100.00-500.00
Licensing	25.00	50.00	100.00	100.00-500.00
Litter/debris	25.00	50.00	100.00	100.00-500.00
Nuisance	25.00	50.00	100.00	100.00-500.00
Safety hazard	50.00	75.00	100.00	100.00-500.00
Signs/advertising	25.00	50.00	100.00	100.00-500.00
Vehicle	25.00	50.00	100.00	100.00-500.00

Section 10. 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 of words shall be deemed a separate and independent provision and such holding shall not effect the validity of the remaining portion thereof.

Section 11. Repeal of Conflicting Ordinances and Resolutions.

All ordinances and resolutions of the governing body in conflict herewith are hereby repealed.

Section 12. Effective Date.

This ordinance shall become effective immediately upon its adoption.

Adopted this 14th day of August, 1994.

Approved:

Charles R. Lagunas
Mayor



Attest:

Quinn Brubaker
Town Manager/Clerk