

ORDINANCE NO.85

AN ORDINANCE ADOPTING, PROMULGATING, AND ESTABLISHING RULES, REGULATIONS, AND PROCEDURES TO DIRECT AND CONTROL FLOOD PLAIN MANAGEMENT IN THE TOWN OF CINCO BAYOU, FLORIDA; PROVIDING A PENALTY FOR VIOLATION; PROVIDING FOR SEVERABILITY OF ANY PORTION DECLARED INVALID; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR THE EFFECTIVE DATE HEREOF.

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

SECTION 1. Statutory Authorization, Findings of Fact,

Purpose and Objectives

A. Authority. This ordinance is enacted pursuant to and in accordance with provisions of Chapters 125, 163, and 166, Florida Statutes wherein the State of Florida has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

B. Findings of Fact.

(1) The flood hazard areas of the Town of Cinco Bayou are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in the flood plain causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other properties which are inadequately elevated, floodproofed or otherwise protected from flood damages.

C. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion in flood heights or velocities;

- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accomodation fo flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damage, and;
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. Objectives

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and streeeets and bridges located in flood plains;
- (6) to help maintain a stable tax base by providing the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas, and;
- (7) to insure that potential home buyers are notified that property is in a flood area.

SECTION 2. Definitions

Unless specially defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

"Area of Special Flood Hazard" is the land in the flood plain within a community subject to a one percent (1%) or greater

chance of flooding in any given year.

"Base flood" means the flood having a one percent (1%) chance of being equalled or exceeded in any given year.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or toher structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Flood" or "Flooding" means a general and temporary condition or partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters, and;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood Hazard Boundary Map (MHBMap)" means the official map issued by the Federal Emergency Management Agency (FEMA) where the Areas of Special Flood Hazard have been designated at Zone A.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Habitable floor" means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

"Mobile home" means a structure, transportable in one or more sections, which is build on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

"Structure" means a walled and roofed building that is principally above ground, as well as a mobile home.

"Substantial improvement" means for a structure built prior to the enactment of this ordinance, any repair, reconstruction, or improvement of a structure the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "sub-

stantial improvement" is considered to occur when the first alteration on any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SECTION 3. General Provisions

A. Lands to Which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of The Town of Cinco Bayou.

B. Basis for Establishing the Area of Special Hazard

The areas of special flood hazard identified for the Town of Cinco Bayou are based upon the best information available and Flood Hazard Boundry Maps for the surrounding area.

C. Compliance

No structure or land shall hereafter be located, or extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

D. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation

In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements, (2) liberally construed in favor of the governing body, and and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on

scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part to the Town of Cinco Bayou or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

G. Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$200.00 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Cinco Bayou from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 4. Administrative

A. Establishment of Development Permit

- (1) A Development Permit shall be required in conformance with the provisions of this ordinance.
- (2) Application for a Development Permit shall be made to the Town Clerk on forms furnished by him or her and may include, but not be limited to, the following:
 - plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials; drainage facilities, and; the location of the foregoing. Specifically, the following information is required:
 - (a). elevation in relation to Mean Sea Level (MSL) of the lowest floor (including basement) of

- the lowest floor (including basement) of all proposed structures;
- (b) elevation in relation to MSL to which any non-residential structure will be flood-proofed;
 - (c) certification by a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in Section 5, paragraph B (2), and;
 - (d) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Flood Plain Management Administration

The Town Council will administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions. Duties of the Town Council shall include, but not be limited to, the following:

(1) Permit Review

- (a) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- (b) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- (c) Review all development permits to determine if proposed development adversely affects the flood-carrying capacity of the flood plain. For purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent over-bank areas.
 - (i) If it is determined that there is no adverse effect, and the development is not a building, then the permit shall be granted without further consideration.

- (ii) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineering analysis) for the proposed development shall be required.
- (iii) If the proposed development is a building, then the provisions of this ordinance shall apply.

C. Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 3, paragraph B, Basis for Establishing the Areas of Special Hazard, then the Town Council shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Section 5, paragraph B of this ordinance.

D. Information to be Obtained and Maintained

- (1) Verify and record the actual elevation (in relation to MSL) of the lowest floor (including basement) of all new or substantially improved structures.
- (2) Verify and record the actual elevation (in relation to MSL) to which the new or substantially improved structures have been floodproofed. Certification of such floodproofing shall be obtained in accordance with Section 5, paragraph B (2).
- (3) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Town Clerk and shall be open for public inspection.

E. Alteration of Watercourses

- (1) Notify adjacent communities and the Florida Department of Community Affairs prior to any alteration or relocation of a watercourse, and shall submit evidence of such notification to the Federal Emergency Management Agency.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the floodcarrying capacity is not diminished.

F. Interpretation of FFBM Boundaries

Where interpretation is needed as to the exact location of the

boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual physical conditions), the Town Council shall make the necessary interpretation.

SECTION 5. Provisions for Flood Hazard Reduction

A. General Standards

In all areas of special flood hazard, the following provisions are required:

(1) Anchoring

- (a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (b) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top ties to ground anchors.

Specific requirements shall be that:

- (i) over-the-top ties be provided at each of the four (4) corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than fifty (50) feet long requiring one additional tie per side;
- (ii) frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and mobile homes less than fifty (50) feet long, requiring four (4) additional ties per side;
- (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds, and;
- (iv) any additions to the mobile home be similarly anchored.

(2) Construction Materials and Methods

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction or substantial improvements

shall be constructed by methods and practices that minimize flood damage.

(3) Utilities

- (a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (c) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize flood damage.
- (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which is greater than the lesser of fifty (50) lots or five (5) acres.

(5) Encroachments

The cumulative effect of any proposed development shall not adversely affect the area of special flood hazard. This determination is to be made in accordance with Section 4, paragraph B (1) (c).

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 4, paragraph C, the following provisions are required:

(1) Residential Construction - New construction or substantial improvement of any residential structure (including mobile homes) shall have the lowest floor, including basement, elevated.

(2) Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure (including mobile home) shall either have the lowest floor, including basement, elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 4, paragraph A(2) (c).

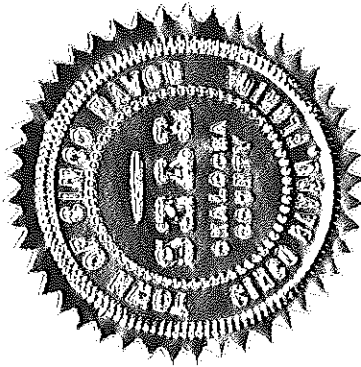
SECTION 6: SEVERABILITY. If any word, sentence, phrase, clause, section, or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or word shall be deemed a separate and independent provision and such holding shall not effect the validity of the remaining portions thereof.

SECTION 7: REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS.

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

SECTION 8: EFFECTIVE DATE. This ordinance shall become effective immediately upon its final passage and adoption.

Adopted this 20th day of June, 1983.



APPROVED:

May O. Lacey
Mayor

ATTEST:

Robert B. Borden
Town Clerk