

ORDINANCE NO. 69

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION II OF APPENDIX A, ZONING, OF THE CODE OF THE TOWN OF CINCO BAYOU, FLORIDA; MODIFYING THE BOARD OF ADJUSTMENT; PROVIDING FOR TERMS, QUALIFICATIONS AND REMOVAL FROM OFFICE; DESCRIBING DUTIES AND RESPONSIBILITIES; ESTABLISHING AN ADMINISTRATIVE AND A JUDICIAL APPEALS PROCEDURE; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE HEREOF.

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

SECTION I: That Section II of Appendix A, Zoning, of the Code of Ordinances, Town of Cinco Bayou, Florida, is hereby amended to read as follows:

A. CREATION AND COMPOSITION: There is hereby established a Board of Adjustment consisting of five (5) members who shall be appointed by the Town Council. In addition two (2) alternate members shall be appointed and designated by the Town Council. The alternate members may act in the temporary absence or disability of any regular member, or may act when a regular member is otherwise disqualified in a particular case that may be presented to the Board. No member or alternate member of the Board shall be a paid or elected official or employee of the Town of Cinco Bayou.

B. TERMS OF OFFICE, REMOVAL FROM OFFICE, VACANCIES:

Members of the Board shall be eighteen (18) years of age or older and shall reside within the corporate limits of the Town. Their terms of office shall be for three (3) years or until their successors are appointed and qualified, except members of the first Board shall be appointed so that their terms shall expire as follows: one member - one year; two members - two years; two members - three years. The alternate members of the Board shall serve for a term of one (1) year. Any member or alternate member of the Board may be removed from office for cause by the Town Council upon written charges and after public hearing. Any vacancy occurring during the

unexpired term of office of any regular or alternate member shall be filed by the Town Council for the remainder of the term. Such vacancy shall be filled within thirty (30) days after the vacancy occurs.

C. OFFICERS, RULES OF PROCEDURES, EMPLOYEES, QUORUM:

The Board shall elect a chairperson and a vice-chairperson from among its regular members and shall appoint a secretary who may be an officer or employee of the Town. A majority of the regular Board members shall constitute a quorum for the transaction of business. The Board shall adopt rules for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be public record. Meetings of the Board shall be held at the call of the chairperson and at such times as the Board may determine. All meetings shall be held at the Town Hall of the Town of Cinco Bayou.

D. POWERS AND DUTIES: The Board of Adjustment shall have all power and duties prescribed in Florida Statute 163.220-163.225 (1979) and shall be authorized to consider requests for and grant a variance from the terms of the Zoning Ordinance in accordance with the provisions of Florida Statute 163.225 (3) (a), (b), (c) and (d). The Board is not authorized to hear, decide or grant any special exceptions except those special exceptions hereafter specifically authorized by the Town Council pursuant to the Ordinance enacted hereafter. The Board shall confer with the Town's Planning Council in all cases involving requests for special exceptions which the Board is hereafter authorized to consider.

E. APPLICATION FOR VARIANCE, SCHEDULE OF FEES:

A request for variance shall be submitted in writing to the Town Clerk and be accompanied by an application fee of

One Hundred _____ Dollars,

and those documents, plans, papers and other materials

necessary to clarify and support the request. The Town Clerk shall receive and forward the request for variance to the Board for consideration.

F. REVIEW OF ADMINISTRATIVE ORDERS: In exercising its powers, the Board of Adjustment may, upon appeal and in conformity with provisions of this Code, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance or regulation adopted pursuant to this Code, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of all the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the Board is required to pass under this Code.

G. APPEALS TO BOARD OF ADJUSTMENT FROM DECISION OF ADMINISTRATIVE OFFICIAL: Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, board, or bureau of the governing body affected by any decision of an administrative official under the Zoning Ordinance. Such appeal shall be taken within thirty (30) days after rendition of the order, requirement, decision or determination appealed from by filing with the office from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The appeal shall be in the form prescribed by the rules of the Board. The administrative office from whom the appeal is taken shall, upon notification of the filing of the appeal, forthwith transmit to the Board of Adjustment all the documents, plans, papers or other materials constituting the record upon which the action appealed from was taken.

H. APPEALS TO TOWN COUNCIL FROM DECISION OF BOARD

OF ADJUSTMENT: Appeals to the Town Council may be taken by any person aggrieved or by any officer, board or bureau of the Town affected by any decision of the Board. Such appeal shall be taken within thirty (30) days after rendition of the order, requirement, decision, or determination appealed from by filing with the Board of Adjustment a notice of appeal specifying the grounds thereof. The appeal shall be in the form prescribed by the rules of the Board. The Board shall, upon notification of the filing of the appeal, forthwith transmit to the Town Council all the documents, plans, papers, or other materials constituting the record upon the action appealed from was taken.

I. STAY OF WORK AND PROCEEDINGS ON APPEAL: An appeal to the Board of Adjustment or the Town Council stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official or Board from whom the appeal was taken shall certify to the Board or Council that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order which may be granted by the Board of Adjustment, the Town Council or by a court of record on application, on notice to the officer or Board from whom the appeal is taken and on due cause shown.

J. HEARING OF APPEALS BY BOARD OF ADJUSTMENT OR

TOWN COUNCIL: The appellate body, whether the Board of Adjustment or the Town Council shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney. Appellants shall pay a fee of Seventy Five Dollars for each appeal filed.

K. JUDICIAL REVIEW OF DECISIONS OF TOWN COUNCIL:

Any person or persons, jointly or severally, aggrieved by any decision of the Town Council, Board of Adjustment, or any officer, department, board, commission or bureau of the governing body, may apply to the Circuit Court in the First Judicial Circuit for judicial relief within thirty (30) days after rendition of the decision by the Town Council.

SECTION II: All ordinances or parts thereof in conflict herewith by the Town of Cinco Bayou, Florida, are hereby repealed.

SECTION III: This Ordinance shall become effective immediately upon its passage and approval by the Mayor.

ADOPTED this 18th day of August, 1980.

APPROVED:

Gene E. Balakay
Mayor

ATTEST:

Quinn S. Borchert
Town Clerk