

ORDINANCE NO. 258

AN ORDINANCE OF THE TOWN OF CINCO BAYOU, FLORIDA, AMENDING THE TOWN'S LAND DEVELOPMENT CODE CHAPTER 6, SECTION 6.01.00D RELATING TO VACATING RIGHT-OF-WAY/ EASEMENTS; PROVIDING FOR AUTHORITY; PROVIDING LEGISLATIVE FINDINGS OF FACT; PROVIDING FOR A PURPOSE; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: AUTHORITY.

The authority for the enactment of this Ordinance is §166.021, *Florida Statutes*, and Chapter 163, Part II, *Florida Statutes*, and other applicable Florida law.

SECTION 2: LEGISLATIVE FINDINGS OF FACT.

WHEREAS, the Town Council of the Town of Cinco Bayou, Florida has determined that it is in the public interest to establish additional requirements for the approval of an application to vacate a portion of Town right-of-way/easements when such application is filed with the Town by a governmental entity; and

WHEREAS, a public hearing has been conducted regarding this ordinance by the Town Council after due public notice; and

WHEREAS, the Town Council has determined that this Ordinance is in the best interests of the Town and its citizens.

SECTION 3: PURPOSE.

The purpose of this Ordinance is to amend Section 6.01.00D of the Land Development Code of the Town regarding the vacation of a Town right-of-way/easement to establish additional standards for the consideration and approval of any such application filed by a governmental entity.

SECTION 4: AMENDMENT TO SECTION 6.01.00D OF THE LAND DEVELOPMENT CODE OF THE TOWN OF CINCO BAYOU, FLORIDA.

NOTE: Language in all sections of this ordinance that is ~~struck-through~~ is language proposed to be deleted, underlined language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Code of Ordinances that have been skipped and remain

unchanged.

Section 6.01.00D of the Land Development Code of the Town of Cinco Bayou, Florida is hereby replaced in its entirety with the following language:

“D. Right-of-way/easement vacation. No Town right-of-way (“ROW”)/easement or any portion thereof, may be vacated if any portion of the Town's right-of-way/easement shares a boundary with a water body except when the request to vacate a ROW/easement is filed by a governmental entity and the requirements of subsection 2(e) herein below are met.

The following requirements and procedures shall apply to all requests to vacate a ROW or an easement:

1. A completed application by the abutting property owner(s) or their authorized agent(s) shall be submitted to the Town Manager's office. The application shall contain the following:
 - a. A letter to the Town requesting the ROW/easement vacation and stating the reasons for said request.
 - b. An application fee and all related fees, including, but not limited to, legal advertisements, and certified mailings, shall be paid by the applicant.
 - c. A legal description and survey of the ROW/easement to be vacated and identify all abutting properties. If the survey shows that any portion of the Town's ROW/easement shares a boundary with a water body, the application and any application fee shall be returned to the applicant.
 - d. A certificate of projected property value from the property appraiser.
 - e. A list of the names and addresses of the owners of property located within a 300-foot radius of requested ROW/easement vacation on the property appraiser's letterhead. A letter of announcement of requested ROW/easement vacation shall be mailed, at the expense of the applicant, to each address on the list of property owners. The notice shall be sent by certified mail return receipt requested and all return receipts shall be filed with the Town, by the applicant, prior to the Town council's consideration.
 - f. Letters from all franchised utility companies stating no objection, or recommending disapproval for reason including, but not limited to, Florida Power & Light, City of Fort Walton Beach Water and Sewer Department, AT&T Telephone Company, Sprint Telephone Company, New South Telecommunications, Okaloosa Gas Company, and Cox Cable Communications.

- g. Letter from the Ocean City-Wright Fire Control District official with authority to approve, stating no objection, or recommending disapproval for reason.
- 2. The Town attorney shall review the application for legal sufficiency. The Town Manager and Engineer shall provide a recommendation to the Town council. The Town council may approve the application to vacate a ROW/easement based upon a finding that all of the following requirements are met:
 - a. The requested vacation is consistent with the comprehensive plan.
 - b. The ROW does not provide the sole access to any property. Remaining access shall not be by easement.
 - c. The vacation would not jeopardize the current or future location of any utility.
 - d. The proposed vacation is not detrimental to the public interest. Town ownership of the ROW is no longer necessary to accomplish any valid Town purpose. The Town has not granted any easements which will be adversely affected by the vacation.
 - e. No Town owned ROW/easement, or any portion thereof, may be vacated if the Town's ROW/easement shares any boundary with a water body except when the request to vacate is filed with the Town by a governmental entity who agrees to keep public access to the subject water body open to the public and who agrees to a reverter of title to the Town if any such public access should be closed permanently. A temporary period of closure not exceeding six (6) months, without the express consent of the Town Council, for the purpose of construction, maintenance or repair of the subject ROW/easement shall not operate to cause a reversion of title of the ROW/easement to the Town."

SECTION 5: INCORPORATION INTO CODE OF ORDINANCES.

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

SECTION 6: SEVERABILITY.

If any section, phrase, 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 7: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon its final passage and adoption by the Town Council and signature of the Mayor.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF CINCO BAYOU,
FLORIDA ON THIS _____ DAY OF NOVEMBER 2025.**

ATTEST:

**THE TOWN OF CINCO BAYOU,
FLORIDA**

By: _____
Keith Williams, Town Manager/Clerk

By: _____
Jean Hood, Mayor

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

By: _____
C. Jeffrey McInnis, Town Attorney

1st Reading: October 9, 2025

2nd Reading: _____