

**ORDINANCE NO. 2019-04**

**AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA, AMENDING THE COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE OF THE CITY OF TARPON SPRINGS AS FOLLOWS: AMENDING SECTION 55.00 OF ARTICLE IV TO PROVIDE FOR THE HIRING AN INDEPENDENT QUALIFIED PROFESSIONAL TO REVIEW WETLANDS AND HABITAT IMPACTS; RENUMBERING SECTION AS APPROPRIATE, AND; AMENDING SECTION 246.00 OF ARTICLE XV TO PROVIDE A CATEGORY TO FEE SCHEDULE TO COVER COST OF HIRING A QUALIFIED PROFESSIONAL TO REVIEW WETLAND AND HABITAT IMPACTS; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF THE CITY OF TARPON SPRINGS, FLORIDA; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.**

WHEREAS, the Board of Commissioners of the City of Tarpon Springs (hereafter "Board") desires to provide for review of wetland and habitat impacts by qualified professionals; and,

WHEREAS, City Staff does not have the expertise to review wetland and habitat impacts and therefore requires the City to use, and to bear the cost of using, consulting services for specific development review disciplines from time to time; and,

WHEREAS, the Board finds that such cost creates an inordinate burden on the citizenry and is more appropriately borne by land development applicants; and,

WHEREAS, the Board finds these amendments to be in the best interest of the health, safety and welfare of the citizens by providing for a full range of expertise in land development review; and,

WHEREAS, the passage of this ordinance complies with all other laws and regulations of the State of Florida; and,

WHEREAS, the Board of Commissioners of the City of Tarpon Springs has determined that amendments to Article IV, Section 55.00 and Article XV Section 246.00 of the COMPREHENSIVE ZONING AND LAND DEVELOPMENT CODE, are necessary to make such a changes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TARPON SPRINGS, FLORIDA, AS FOLLOWS:

SECTION 1. That Section 55.00 of Article IV of the Comprehensive Zoning and Land Development Code of the City of Tarpon Springs, shall be amended to read as follows:

§ 55.00 –WETLANDS PROTECTION.

- (A) “Wetlands” shall be defined as follows:
- (1) Areas within the dredge and fill jurisdiction of the Florida Department of Environmental Protection as authorized by Florida Statutes.
  - (2) Areas within the jurisdictions of the US Army Corps of Engineers as authorized by the Clean Water and River and Harbor Acts.
  - (3) Areas within the jurisdiction of the Southwest Florida Water Management district pursuant to Florida Administrative Code.
  - (4) Areas waterward of the mean high tide of the Gulf of Mexico, Anclote River, and tributary bayous, subject to the jurisdiction of the Florida Department of Environmental Protection.
  - (5) Areas identified as preservation or conservation wetlands by schedule A of the Coastal Management and Conservation Element of the adopted Comprehensive Plan of the City.
- (B) The exact limits of wetlands shall be determined by a field-surveyed boundary line sealed by a Florida Registered Surveyor and approved by the Florida Department of Environmental Protection (FDEP), Southwest Florida Water management District (SWFWMD), and the US Army Corps of Engineers (USACOE).
- (C) For review purposes the applicant may utilize a qualified consultant to determine wetland boundaries in accordance with the identification requirements of the regulatory agencies. Each survey shall be sealed by a Florida Registered Surveyor and indicate the name of the consultant and date of the field survey. However, any wetlands boundary delineation intended for permitting purposes must have the prior approval of the applicable regulatory agencies as well as indicate the name of the individual and agency signing off on the boundary, and date the field survey was conducted or the signoff made.
- (D) The City may elect to hire an independent qualified professional to evaluate all wetland boundaries and proposed mitigation, and the cost of review shall be borne by the applicant according to the fee schedule established in Section 246.00 of this Code.
- (E) No development activity shall be undertaken in a wetland area unless specifically authorized by the provisions of this Code.

- (F) Wetlands may be utilized as follows:
- (1) Scenic, historic, wildlife, or scientific preserves.
  - (2) Timber catwalks and walking trails.
  - (3) Commercial or recreational fishing.
  - (4) Constructing fences where no fill activity is required.
  - (5) Stormwater discharge or treatment in accordance with all applicable federal, state and local regulations.
  - (6) Dockage or marinas.
  - (7) New riprap or similar structures where all required state and county permits have been issued. A combination of riprap and vegetation shall be the preferred shoreline stabilization design.
  - (8) Maintenance dredging, and maintenance or replacement of stormwater facilities.
  - (9) Construction, replacement, or widening of bridges.
  - (10) Installation of subaqueous transmission and distribution lines for water, wastewater, electricity, communication cables, oil, or gas.
  - (11) The upland transfer of development rights where permitted by this Code.
  - (12) Recreational activities.
- (G) The encroachment upon wetlands by structures or other development activity shall only be permitted under the following circumstances:
- (1) The public benefits of the activity substantially outweigh the adverse environmental effects, as determined by the appropriate federal, state or local agencies.
  - (2) The appropriate federal, state or local agency examines the alternatives and determines that strict denial would effectively deprive the owner of all reasonable use of the land due to its unusual size, shape, topography, natural conditions, and location, or that an alternative would be technically impractical in terms of engineering, design and construction practices.
  - (3) A compensatory wetland mitigation plan is approved by the appropriate federal, state, or local agency.
- (H) "Compensatory wetland mitigation" shall entail the following:
- (1) The compensatory wetland shall be of the same wetland type as that destroyed or degraded.

- (2) The replacement ratio shall be a minimum of 1.5 to 1.
- (3) The compensatory mitigation plan shall include the granting of a conservation easement over the newly created wetland.
- (1) Other protective measures may be instituted or required as follows:
  - (1) Maintaining natural drainage patterns.
  - (2) Limiting the removal of vegetation to the minimum necessary to carry out the development activity.
  - (3) Stabilizing banks and other unvegetated areas.
  - (4) Minimizing the amount of fill and requiring the use of pilings.
  - (5) Disposing of dredged soil at specified locations.
  - (6) Prohibiting the use of septic tanks in areas with a high groundwater table.
  - (7) Using deed restrictions and conservation easements to protect and maintain the wetland.
  - (8) The use of silt screens.
  - (9) Restoration of wetlands damaged during construction.

**SECTION 2.** That Section 246.00 of Article XV of the Comprehensive Zoning and Land Development Code of the City of Tarpon Springs, shall be amended to add a category and fee to the chart for qualified professionals and/or consultants to review impacts to wetlands and upland habitat to read as follows:

| Type of Service   | Fee  |
|---|--|
| <u>Qualified professionals and/or consultants to review impacts to wetland and upland habitat</u> | <u>Established by the City on a project-specific basis, payable upon receipt of invoice from applicable City department, and due prior to public hearing, issuance of building permit or other development order</u> |

**SECTION 3.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. In the event a court of competent jurisdiction finds any part or provision of this Ordinance unconstitutional or unenforceable as a matter of law, the same shall be stricken and the remainder of the Ordinance shall continue in full force and effect.

SECTION 5. The City Clerk is directed to include this Ordinance in the Code of Ordinances and may renumber and reclassify the same as may be required for inclusion in the Code of Ordinances of the City of Tarpon Spring.

SECTION 6. This ordinance shall take effect immediately upon its passage and adoption in the manner provided by law.

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