

# AGENDA

Lake Park Town Commission  
Town of Lake Park, Florida  
Regular Commission Meeting  
Wednesday, September 2, 2009,  
Immediately following the CRA Meeting  
Lake Park Town Hall  
535 Park Avenue

<b>Desca DuBois</b>	—	<b>Mayor</b>
<b>Jeff Carey</b>	—	<b>Vice-Mayor</b>
<b>Edward Daly</b>	—	<b>Commissioner</b>
<b>Patricia Osterman</b>	—	<b>Commissioner</b>
<b>Kendall Rumsey</b>	—	<b>Commissioner</b>
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<b>Maria V. Davis</b>	—	<b>Town Manager</b>
<b>Thomas J. Baird, Esq.</b>	—	<b>Town Attorney</b>
<b>Vivian M. Lemley, CMC</b>	—	<b>Town Clerk</b>

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision of the Town Commission, with respect to any matter considered at this meeting, such interested person will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. *Persons with disabilities requiring accommodations in order to participate in the meeting should contact the Town Clerk's office by calling 881-3311 at least 48 hours in advance to request accommodations.*

- A. **CALL TO ORDER**
- B. **INVOCATION**
- C. **PLEDGE OF ALLEGIANCE**
- D. **ROLL CALL**
- E. **ADDITIONS/DELETIONS - APPROVAL OF AGENDA**
- F. **PUBLIC and OTHER COMMENT**  
This time is provided for audience members to address items that do not appear on the Agenda. Please complete a comment card and provide it to the Town Clerk so speakers may be announced. Please remember, comments are limited to a **TOTAL** of three minutes.
- G. **CONSENT AGENDA:** All matters listed under this item are considered routine and action will be taken by one motion. There will be no separate discussion of these items unless a Commissioner or person so requests, in which event the item

will be removed from the general order of business and considered in its normal sequence on the Agenda. Any person wishing to speak on an Agenda item is asked to complete a public comment card located on either side of the Chambers and given to the Town Clerk. Cards must be submitted before the item is discussed.

**For Approval:**

- |   |       |
|---|-------|
| 1. Regular Commission Meeting Minutes of August 5, 2009 | Tab 1 |
| 2. Resolution No. 39-09-09 Pension Plan Amendment       | Tab 2 |
| 3. Reappoint Candace Moss to the Library Board          | Tab 3 |
| 4. Seeds of Hope Community Garden                       | Tab 4 |

**H. PUBLIC HEARING(S)**

**ORDINANCE ON 1<sup>ST</sup> READING:**

- 5. ORDINANCE NO. 12-2009 - Text and Use Changes to Chapter 78 regarding Group and Transient Uses** Tab 5

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK; BY AMENDING CHAPTER 78, ARTICLE 1, SECTION 78-2 ENTITLED "DEFINITIONS" TO ADD A NEW DEFINITION FOR THE TERM "TRANSIENT RESIDENTIAL USE " AND "GROUP HOME" AND TO AMEND THE DEFINITION OF "COMMUNITY RESIDENTIAL HOME" AND "SUBSTANCE ABUSE TREATMENT FACILITIES"; AMENDING CODE SECTION 78-61 ENTITLED "R-1AA RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-62 ENTITLED "R-1A RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-63 ENTITLED "R-1B RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-64 ENTITLED "R-1 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-65 ENTITLED "R-2A RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-66 ENTITLED "R-2 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-67 ENTITLED "R-3 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-69 ENTITLED "C1-B BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-70 ENTITLED "C-1 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-71 ENTITLED "C-1 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-72 ENTITLED "C-2 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-73 ENTITLED "C-3 REGIONAL BUSINESS DISTRICT"; AMENDING CODE SECTION 78-74 ENTITLED "C-4 BUSINESS DISTRICT"; AMENDING CODE SECTION 78-75 ENTITLED "CLIC-1 CAMPUS LIGHT INDUSTRIAL/COMMERCIAL DISTRICT"; REPEALING SECTION 78-80 "STATUS OF SUBSTANCE ABUSE TREATMENT FACILITIES AND COMMUNITY RESIDENTIAL HOMES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

- 6. ORDINANCE NO. 13-2009 – Updated Purchasing Policies and Procedures** Tab 6  
**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE AT CHAPTER 2,**

ARTICLE V, DIVISION 2, ENTITLED "PURCHASING" TO AMEND SECTION 2-243 ENTITLED "REQUIREMENT OF GOOD FAITH"; SECTION 2-245 ENTITLED "DEFINITIONS"; SECTION 2-247 ENTITLED "PROCUREMENT METHODS"; SECTION 2-248 ENTITLED "COMPETITIVE SEALED BID PROCESS"; SECTION 2-249 ENTITLED "COMPETITIVE SEALED PROPOSAL PROCESS"; SECTION 2-250 ENTITLED "ALTERNATIVE SOURCE ELECTION"; AND SECTION 2-252 ENTITLED "PROTESTED SOLICITATIONS AND AWARDS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**ORDINANCE ON SECOND READING:**

**7. ORDINANCE NO. 10-2009 – Parking Meter Legislation** Tab 7  
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND MOTOR VEHICLES", PROVIDING FOR THE AMENDMENT OF ARTICLE I, SECTION 30-2 ENTITLED "PROHIBITED PARKING"; PROVIDING FOR THE CREATION OF NEW ARTICLE IV TO BE ENTITLED "PARKING METERS"; CREATING NEW SECTION 30-71 TO BE ENTITLED "PARKING METERS; PARKING METERED SPACES, ZONES; INSTALLATION"; CREATING A NEW SECTION 30-72 TO BE ENTITLED PARKING WHEN METER/METER RECEIPT INDICATES VIOLATION; MAXIMUM PERIOD; DAYS EFFECTIVE; PARKING WITHIN SPACES"; CREATING A NEW SECTION 30-73 TO BE ENTITLED "COLLECTION OF MONEY"; CREATING A NEW SECTION 30-74 TO BE ENTITLED "USE OF SLUGS, ETC.; DAMAGING METERS"; CREATING A NEW SECTION 30-75 TO BE ENTITLED "ENFORCEMENT"; CREATING A NEW SECTION 30-76 TO BE ENTITLED "DEFINITIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

**8. ORDINANCE NO. 11-2009 - Registration of "Out of Town Businesses" that Conduct Business in Lake Park** Tab 8  
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AMENDING CHAPTER 2 OF THE TOWN CODE CREATING ARTICLE VI ENTITLED " BUSINESS REGISTRATION FEE ESTABLISHED"; PROVIDING FOR THE CREATION OF SECTION 2-320 ENTITLED "BUSINESS REGISTRATION FEE REQUIRED FOR CERTAIN BUSINESSES"; PROVIDING FOR THE CREATION OF SECTION 2-321 ENTITLED "APPLICATION FOR BUSINESS REGISTRATION RECEIPT"; PROVIDING FOR THE CREATION OF SECTION 2-322 ENTITLED "ISSUANCE OF A BUSINESS REGISTRATION RECEIPT"; PROVIDING FOR SECTION 2-323 ENTITLED "CONDUCTING BUSINESS BASED UPON FALSE STATEMENT PROHIBITED"; PROVIDING FOR THE CREATION OF SECTION 2-324 ENTITLED "ENFORCEMENT OF VIOLATIONS OF REGISTRATION REQUIREMENTS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE

**REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**I. DISCUSSION AND POSSIBLE ACTION:**

**9. Earl Stewart Toyota Demolition and Sub Use**

**Tab 9**

**J. COMMISSIONER COMMENTS, TOWN ATTORNEY, TOWN MANAGER:**

**K. ADJOURNMENT:**

# Consent Agenda

# TAB 1

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: **September 2, 2009**

Agenda Item No. **1**

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> Ordinance on Second Reading<br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION<br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
|---|---|

SUBJECT: Regular Commission Meeting Minutes of August 5, 2009.

**RECOMMENDED MOTION/ACTION: Approve the Regular Commission Meeting Minutes of August 5, 2009.**

Approved by Town Manager *W. Davis* Date: *8/26/09*  
 Deputy Clerk *Jessica Hyde* Date of Actual Submittal *8/18/09*

<b>Originating Department:</b> Town Clerk	Costs: \$ N/A  Funding Source:  Acct. #	<b>Attachments:</b>
<b>Department Review:</b> <input type="checkbox"/> City Attorney <input type="checkbox"/> Community Affairs ____ <input type="checkbox"/> Community Development	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input checked="" type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: ____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <input checked="" type="checkbox"/> _____:  Please initial one.

**Summary Explanation/Background:**



**Minutes**  
**Town of Lake Park, Florida**  
**Regular Commission Meeting**  
**August 5, 2009 7:10 p.m.**  
**Town Commission Chambers, 535 Park Avenue**

The Town Commission met for the purpose of a Regular Commission Meeting on Wednesday, August 5, 2009 at 7:10 p.m. Present were Vice-Mayor Carey, Commissioners Daly, Rumsey, and Osterman, Attorney Thomas Baird, Town Manager Maria Davis and Town Clerk Vivian Lemley. Mayor DuBois was absent.

Vice-Mayor Carey led the invocation and the Pledge of Allegiance.  
Town Clerk Vivian Lemley performed the Roll Call.

**ADDITIONS/DELETIONS/APPROVAL OF AGENDA**

Vice-Mayor Carey stated that there was a proclamation to Ms. Helga Wata and a presentation by Mr. Cedrick Thomas on the Agenda but that neither party had yet arrived. He stated that the meeting would proceed as listed but that when they arrive they would stop to hear each item.

**Motion: A motion was made by Commissioner Osterman to approve the Agenda as listed but with consideration of when Ms. Helga Wata and Mr. Cedrick Thomas arrive; Commissioner Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois			Absent

Motion passed 4-0.

**CONSENT AGENDA:**

1. Regular Commission Meeting Minutes of July 15, 2009
2. Budget Workshop Meeting Minutes of July 22, 2009
3. Fifth Amendment to the Law Enforcement Service Agreement
4. Purchase of Parking Meters
5. Resolution No. 30-08-09 Authorizing Loan and Approving Interlocal Agreement with the CRA
6. Authorize Payment of Bound Council Fee

Commissioner Rumsey asked that item #4 Purchase of Parking Meters be pulled from the Consent Agenda for discussion.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to approve item #'s 1, 2, 3, 5, and 6 of the Consent Agenda; Commissioner Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois			Absent

Motion passed 4-0.

Commissioner Rumsey stated that he pulled item #4 Purchase of Parking Meters from the agenda because of the large purchase price of the parking meters. He wanted to discuss whether or not the item should go out for bid.

Town Manager Maria Davis asked Public Works Director Michael Arnold to discuss the item.

Public Works Director Michael Arnold explained the reasons previously discussed to purchase the parking meters. He stated that a budget of \$150,000 was established for the purchase of the

parking meters at the Budget Workshop. He explained the process he used to obtain the purchase price for the parking meters. He stated that Duncan Solutions was one of the few companies that provided single space meters as well as multi-space meters. He found that the company did not have a current State contract, but the Town did have the option to piggyback on an out of state contract. He stated that there was one in state contract with the University of Central Florida that the Town could piggyback from for the single spaced meters. The other contract would be an out of state contract with the City of Alexandria, Virginia which would be piggybacked for the multi-spaced meters. He stated that if the Town put the project out for bid, it would take approximately 30 to 60 days for the entire process and another six to eight weeks to have the meters installed.

Commissioner Rumsey asked how many companies Mr. Arnold had reviewed before choosing the bid.

Mr. Arnold explained that he reviewed bids from four companies.

Commissioner Rumsey expressed his concerns regarding the cost of the parking meters and stated that he wanted to get the best bid possible.

Commissioner Osterman asked Mr. Arnold how the prices compared between the other companies that he received bids from.

Mr. Arnold stated that some of the bids were comparable. He stated that he asked another company if they could beat Duncan's price and they stated that they were not able to beat it.

Commissioner Rumsey asked if Duncan was the lowest bidder.

Mr. Arnold explained that Duncan had the lowest price of those companies which had a contract in which the Town could piggyback.

Commissioner Rumsey asked if the Town would save time and money by piggybacking on another contract.

Mr. Arnold stated that piggybacking would save the Town time and money.

Commissioner Osterman stated that she was concerned about the revenue from the parking meters. She stated that she wanted to move forward expeditiously.

Commissioner Daly stated that he preferred to have the parking meter project bid upon.

Vice-Mayor Carey stated that he was comfortable with the price and services offered from Duncan.

Commissioner Daly stated that money could be saved by putting the project out to bid. He recommended that the Town get back into the bidding process by having the parking meter project put out for bid.

Commissioner Rumsey asked how long it would take for the parking meter project to go out for bid.

Town Manager Maria Davis stated that it would take staff time and advertisement would take approximately 30 days. Staff would have to draw up specifications and the attorney would need to review the bid which would cost additional money. She stated that her biggest concern was that the budget for Fiscal Year 2009 through 2010 was based on projected revenue. She stated that in the contracts with other municipalities she reviewed she saw that the contracts were significant contracts that were competitively bid. She stated that she felt it would be a waste of staff time and a possibility of spending more money and losing two to three months worth of revenue by putting the project out for bid.

Commissioner Rumsey asked if the bid process cost approximately \$10,000.

Town Manager Maria Davis stated that it would cost approximately \$10,000 to put the project out for bid.

Commissioner Rumsey asked Mr. Arnold if the other parking meter companies' contracts had a difference of more than \$10,000.

Mr. Arnold stated that there was more than a \$10,000 difference with some of the companies he had spoken to.

Commissioner Rumsey asked what the projected revenue would be for the parking meters.

Town Manager Maria Davis stated that the projected revenue from the parking meters would be approximately \$300,000 per year.

Commissioner Rumsey stated that he would follow Mr. Arnold's recommendation for the parking meters if he believed that it was the best way to go.

Mr. Arnold stated that the piggybacked contract from Duncan was his recommendation.

Commissioner Daly stated that he did not remember the Commission approving the move to go forward and install parking meters.

Commissioner Osterman stated that it was discussed and approved in May or June.

Commissioner Daly stated that he wanted a copy of the meeting where the parking meters was discussed and approved. He stated that residents had called him and expressed their concerns about the parking meters and all he could do was suggest that they sign a petition opposing the parking meters. He stated that he had a copy of a petition with 400 to 500 signatures opposing the parking meters. He stated that Jo-Ann Doll also had a petition with signatures. He expressed his concerns regarding the parking meters. He stated that there were many residents that were unhappy about the proposed parking meters. He stated that there were better options to go

forward with besides the parking meters. He stated that he thought that the Commission was making a giant mistake in approving the parking meters.

**Public Comment Open.**

*Jo-Ann Doll, 801 Lake Shore Dr. #516* - stated that she also had a petition with signatures opposing the installation of the parking meters (see Exhibit "A"). Ms. Doll read a statement on behalf of the residents of Lake Harbor Towers. In the statement the residents requested that the Commission not install the parking meters. They stated that the meters would hurt the families and businesses of the Town. The meters are costly and difficult to maintain and they do not believe it would help the Town financially. In the statement it was also mentioned that the serious drainage issues in the Town needed to be addressed. The residents asked that the Commission consider other solutions besides the installation of the parking meters.

**Public Comment Closed.**

Vice-Mayor Carey stated that the Commission had come to consensus back in May to proceed with the installation of the parking meters. He stated that the budget and millage rate was set and based upon the installation of the parking meters.

Commissioner Daly stated that spending could be cut and the Town needed to stop hurting the little people of the Town. He said that residents may go to other businesses and families may not want to pay the meter for their children to play at the park. He stated that the projected revenue may not be generated.

Vice-Mayor Carey stated that the Commission did not want to originally install the parking meters. He stated that he did not want to put more employees out on the street or raise taxes. The parking meters would be a selective tax wherein those who use it get the benefit of using the parks and the marina.

Commissioner Osterman stated that the parking meters were a matter of opinion. She stated that she had spoken to residents who stated that they did not mind paying for parking meters. She stated that she was also pleased to hear from Marina Director Mike Pisano wherein he informed her that there was a dive fleet that was utilizing the Marina who would not have a problem with paying for parking. She stated that she did not understand why the matter was being discussed after the Commission had come to consensus to install the parking meters.

Commissioner Daly stated that he did not recall that there was a consensus on the parking meter installation and he wanted a copy of the meeting in which it took place.

Town Manager Maria Davis explained that she presented "Town Manager's Goals" at the Commission Meeting of May 20, 2009. She stated that one of the goals was to increase revenue so that the Town would not need to raise taxes. The parking meters were discussed at length. There was not a vote but it was very clear that she had consensus to proceed. At the Budget Workshop of July 22, 2009, the option of parking meters was again presented and there was clear consensus to set the millage and the 2009-2010 budget on the projected revenue from the

installation of parking meters. There was not an agenda item where the Commission voted to install meters, but there were two separate meetings where the Commission had come to a clear consensus on the parking meter issue. She stated that the millage could not be raised after it had been voted upon on July 22, 2009. She stated that at the July 22, 2009 meeting she showed the Commission what the options would be if the parking meters were not installed. She welcomed anyone to take a look at the budget and trim the fat anywhere they see fit. She stated that the budget was trimmed over the last three years and it was so bare bones that the Town can hardly operate. She stated that it was previously recommended that department heads take a salary cut. She stated that there were only four people in the Town who make over \$60,000 per year and that she could generate a survey of salaries of department heads at other municipalities and do a comparison. She stated that Lake Park would still come in below the average pay scale despite the fact that the Commission had done a survey a year before she came to the Town and adjusted those salaries to become more comparable. She expressed her thoughts and opinions regarding the installation of the parking meters. She stated that there are not any cities that do not have parking meters. She stated that she saw parking meters as a very viable way for the Town to keep jobs. She stated that otherwise she would have to lay off more employees and shut down the library.

Commissioner Osterman thanked those who came to voice their opinions and those who signed the petition, although she thought that the information they were given was not fully accurate. She did not agree that the businesses would be negatively affected. She stated that she did not think it would hurt residents. Handicapped parking would remain without fees and anyone could park two blocks away from the parks and walk there for free. She stated that they would have to pay for the convenience of parking at the parks and certain businesses. She stated that it would hurt residents and children if the Town were to close the Library and the Recreation Department.

**Motion: A motion was made by Commissioner Osterman to approve item #4 Purchase of Parking Meters of the Consent Agenda; Commissioner Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly		X	
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois			Absent

Motion passed 3-1.

## **PROCLAMATION**

### **Helga Wata**

Vice-Mayor Carey read the proclamation to Helga Wata.

Ms. Wata thanked the Commission for her proclamation.

Town Manager Maria Davis stated that Ms. Wata donated prom gowns annually to girls who could not afford them.

Commissioner Osterman stated there were some people who set standards high for taking care of others and Ms. Wata was one of those people. She stated that there was never a time when Ms. Wata was informed of someone in a crisis or need that she did not immediately mobilize herself to assist those people. She stated that Ms. Wata was a model businesswoman and a model citizen of the community

## **PUBLIC and OTHER COMMENT**

*Vince Franco, 251 W. 11<sup>th</sup> St. Riviera Beach, FL* – stated that he was the Executive Director of the Marine Industry Education Foundation and an employee of the Riviera Beach Maritime Academy. He introduced George Carter who was the president of the Riviera Beach Maritime Academy. He stated that on June 20, 2009, the Marine Industry Education Foundation hosted a fishing tournament called “The Dolphin Challenge” which was a great success and he wanted to pay tribute back to the Town of Lake Park for making it a great success. He also thanked Marina Director Michael Pisano. He presented a Certificate of Appreciation to the Town. He presented the certificate to Vice-Mayor Carey and Marina Director Michael Pisano.

*George Carter, President of Riviera Beach Maritime Academy* – stated that they appreciated all of the support that the Town has given for the fishing tournaments. He stated that the academy would be putting together a VIP boat that would go out in the surrounding communities. He stated that he would be asking the surrounding communities’ Commissions to appoint one fishing person who will go out on the boat for a fishing challenge. There will also be a kid’s fishing day the day before the tournament.

*Bert Bostrum, 1451 Flagler Blvd.* – announced that there would be sign ups this Saturday for the new soccer season from 10:30 a.m. to 12:30 p.m. The registration fee would be \$30 which includes a shirt, shorts, and socks. Players would have to supply their own shoes. The practices will begin in three weeks and will be held on Saturdays, Tuesdays, and Thursdays. She stated that next year the American Soccer Organization will be holding its international tournament in Palm Beach County and are expecting from 10,000 to 15,000 children to play in the tournament.

**Public Comment Closed.**

**PUBLIC HEARING: ORDINANCES ON 2<sup>ND</sup> READING**

**ORDINANCE NO. 08-2009 – Text Change to the Alcoholic Beverages Section to Exempt Businesses on Park Avenue**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCES, ENTITLED “ALCOHOLIC BEVERAGES”; PROVIDING FOR THE AMENDMENT OF SECTION 6-6 ENTITLED “SALE OF ALCOHOL NEAR CERTAIN USES PROHIBITED”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Patrick Sullivan explained that the reason for Ordinance No. 08-2009.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Osterman to approve Ordinance No. 08-2009 upon 2nd reading; Commissioner Rumsey made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois			Absent

Motion passed 4-0.

Attorney Thomas Baird read Ordinance No. 08-2009 by caption-only.

**ORDINANCE NO. 09-2009 - Adopt Code Language that Requires the Town to Expedite Certain Applications for Development**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA , AMENDING CHAPTER 67 OF THE TOWN CODE ENTITLED “LAND DEVELOPMENT CODE” CREATING ARTICLE VII TO BE ENTITLED “EXPEDITED PERMITTING”; PROVIDING FOR THE**

**CREATION OF NEW SECTIONS 67-201 ENTITLED "PURPOSE"; 67-202 ENTITLED "APPLICABILITY"; AND SECTION 67-203 ENTITLED "TOWN'S RESPONSIBILITIES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Community Development Director Patrick Sullivan explained the reason for Ordinance No. 09-2009.

**Public Comment Open.**

*None*

**Public Comment Closed.**

**Motion: A motion was made by Commissioner Rumsey to approve Ordinance No. 09-2009 upon 2nd reading; Commissioner Osterman made the second.**

Vote on Motion:

Commission Member	Aye	Nay	Other
Commissioner Rumsey	X		
Commissioner Daly	X		
Commissioner Osterman	X		
Vice-Mayor Carey	X		
Mayor DuBois			Absent

Motion passed 4-0.

Attorney Thomas Baird read Ordinance No. 09-2009 by caption-only.

**DISCUSSION & POSSIBLE ACTION**

**Presentation/Discussion Overflow Parking for the Marina**

Town Manager Maria Davis stated that CRA Project Manager Richard Pittman would be giving a presentation on the overflow parking at the Marina.

Mr. Pittman began a PowerPoint presentation on the overflow parking at the Marina (see Exhibit "B"). He stated that on May 6, 2009 he presented to the Commission several alternatives for additional parking to serve the Marina. One of the alternatives was a parking lot in a Town owned lot between Lake Shore Drive and U.S. 1 at the rear of Dunkin Donuts. At the time he

presented the parking as an entrance from Lake Shore Drive that proceeded west through the parking lot and egressing through the Dunkin Donut property. He stated that discussion with Dunkin Donuts had not been positive and he had been looking into how to develop a parking lot where they would not need to egress through private property. He reviewed a slide that represented a revised parking proposal (see page 2 of Exhibit "B"). He explained that the east side end of the parking was Lake Shore Drive and on the west end was the area of existing parking at the Dunkin Donuts. The previous concept was to enter through a driveway on Lake Shore Drive, uses angled parking along the area, and exit the parking lot into the Dunkin Donut parking lot. The new proposal would utilize two driveways on Lake Shore Drive. A motorist would travel in the west direction and there would be a turnaround area should they not find parking on the north side and if there were no parking on the south side they could exit via Lake Shore Drive. The new proposal has 18 parking spaces whereas the former proposal had 15 parking spaces. He continued to explain the diagram and the parking lots measurements and landscaping (see page 2 of Exhibit "B"). He stated that the cost would be slightly more due to additional concrete. He stated that in the event of approval from Dunkin Donuts he would change the layout to angled parking, the entrance would still be a driveway on the north with motorists proceeding west and exiting through the Dunkin Donuts property (see page 3 of Exhibit "B").

Commissioner Osterman asked whether or not it would be possible to exit onto to U.S. 1.

Mr. Pittman stated that he had not reviewed the possibility, but due to the proximity of the driveways from Dunkin Donuts and the businesses to the north, the Department of Transportation would not likely approve a driveway approach on U.S. 1.

Commissioner Daly asked if Dunkin Donuts would be able to maintain their nine parking spaces.

Mr. Pittman explained that their parking would not be impacted should we go with the new parking lot proposal. Should we go with the original proposal, Dunkin Donuts would lose two parking spaces.

Vice-Mayor Carey asked if those spaces were leased to Dunkin Donuts and if the Town would need to provide them with a variance.

Community Development Director Patrick Sullivan stated that they would not have to provide a variance.

Vice-Mayor Carey stated that he believed that Dunkin Donuts needed more spaces and that was why the Town leased them additional spaces.

Community Development Director Patrick Sullivan explained that the Town could not take away those spaces because it would take more than half of their parking spaces.

Commissioner Rumsey asked Mr. Pittman for clarification on the parking proposals.

Commissioner Osterman asked Mr. Pittman to clarify measurements on the parking proposal.

Mr. Pittman continued to review and explain the parking proposals and answer questions for the Commission.

**The Commission came to consensus to not affect Dunkin Donuts parking and to go ahead with the 90 degree parking proposal on the one side of the parking lot.**

**Presentation: Introduction of Florida House of Representatives District 84 Candidate Cedrick Thomas**

Mr. Cedrick Thomas introduced himself to the Commission and the Town. He stated that he was a current council member for the City of Riviera Beach and has been there since 2007 and was running for District 84 House of Representatives of the State of Florida which encompasses Riviera Beach, Lake Park, Mangonia Park, Northern West Palm Beach, Loxahatchee, South Bay, Pahokee, Belle Glade, Canal Point and Freeman Village. He gave a brief history of the boards he has been a member of and his credentials. He requested that the Commission and residents come out on August 25, 2009 to select him as their next representative.

Town Manager Maria Davis thanked Mr. Thomas for coming to the Town to introduce himself.

Mr. Thomas stated that if the Town or Commission had any questions for him, he could be contacted by phone.

**COMMENTS BY COMMISSION, TOWN MANAGER, TOWN ATTORNEY**

**Mayor DuBois**

Absent

**Commissioner Rumsey** announced that the Summer Reading Program Children's Art Exhibit at the Town Library would take place on August 11, 2009. The public was invited and there would be visual arts, music, dance, creative works, and refreshments. He reminded everyone that Saturday, August 8, 2009 was Marina Day from 10 a.m. to 2 p.m. He thanked Marina Director Michael Pisano, and Recreation Director Greg Dowling for their work in advance.

**Commissioner Daly:** "I would like to see if we could set up a workshop meeting pertaining to, for instance the Marina and anywhere else for that matter so we can all be on the same page as far as what we have in the Marina restrictions, what we're voting on and I think a lot of controversy comes from the fact that we probably don't know for sure what we're voting on or if certain things should be passed or not passed, and I really think that the way to clear up all that, that goes on over there. We need to get together and have the attorney come in and explain, have the Fire Department there, whoever we're dealing with, have representatives there so that we know what we're doing over there and when we vote on something, we know we're doing a legitimate vote. So I just want us to all get together and be advised."

**Vice-Mayor Carey:** "Are you talking about the trust?"

**Commissioner Daly:** “The land trust, the restrictions on everything that we have, the water plan, several things that we’ve got going on over there, the permits that we acquired for retention, detention all that. I don’t think anyone of us really know what the actual facts are. I feel like I went through a lot of that with Paul Carlisle and so on, and I feel like I know a lot of what’s going on over there, but I’m not sure that we all do. So I would just like to have a meeting so that we can discuss it and in the future we’ll all be on the same page.”

**Vice-Mayor Carey:** “The only thing we’ve done recently to get some permits were some seawall work and some parking in the retention area, and I’ve asked those questions about what the effects would be, and I have a staff that’s there to watch the water every week and when it does, I mean, as far as the land trust deal, we can pull that back out again and get someone from DEP or from the State of Florida to tell us whether we can or can’t take grass out of there but...”

**Commissioner Daly:** “We need the trustees to come and explain certain things to us, but...I know we used every square inch of retention and detention throughout the Marina and if you take any of it out, we’re violating the permit that we were issued for the amount that’s there. What’s it going to hurt that we all know if we’re right or wrong or in the middle. I just don’t see why that would hinder us in any way.”

**Vice-Mayor Carey:** “If it would make you feel better, then I have no problem doing it”

**Commissioner Daly:** “I think it would be in the best interest for all of us. I really do.”

**Town Manager Davis:** “So I need to understand. Help me understand who I am to invite”

**Vice-Mayor Carey:** “Somebody from the trust who can tell us what we can and can’t do over there.”

**Commissioner Daly:** “The trustees for that property, and what the restrictions are, what we’re allowed to do and so on the area that they overlook, the restricted areas.”

**Town Manager Davis:** “We just had a... and counselor, maybe you can help me, we just had a title search done by your colleague and we have explicit delineation of the different parcels and descriptions of the different parcels, I don’t know if there’s anybody at the local DEP office, we would have to fly them in from Tallahassee. I understand that those people are in Tallahassee, the board that you’re speaking...”

**Commissioner Daly:** “I think that we could deal with the trustees who are local for that area. There’s local trustees.”

**Town Manager Davis:** “Okay, I can check it out, what else do you need to know?”

**Commissioner Daly:** “He can...you know who I’m talking about right, the trustees? If not I can get you the information.”

**Town Attorney Tom Baird:** “The trustees are in Tallahassee, but there is local DEP staff that Robert Cutchner’s worked with in regards to permitting. Perhaps we can access one of those people.”

**Commissioner Daly:** “But we have the issues of like I say, whoever, I think it’s the water district who gave us the permits for as I said the retention, detention, water catch basins all that, whether we can move any of them or dig any of that up without violating the permit that we have in existence.”

**Town Manager Davis:** “That would be South Florida Water Management District and I can look at that.”

**Town Attorney Baird:** “Why don’t the manager and I take a look at what are all of the regulatory authorities and permits that we have to deal with and try to put together a framework that we can give to you all and say okay, here’s who’s doing what and based upon what permits they control, here’s what we’re permitted to do.”

**Commissioner Daly:** “I think it’s the only way we’re all going to clearly know what we’re voting on and not have any problems in the future and we’ll all be on the same page.”

**Town Manager Davis:** “Okay, I need some direction...the attorney and I are going to get together and we’re going to determine what agencies and what permits we need to look at and then we will come back to you and you all will select a workshop date?”

**Commissioner Daly:** “Good”.

**Vice-Mayor Carey:** “Then we can find out what we can do and can’t do to the Marina”.

**Commissioner Daly:** “Exactly”.

**Vice-Mayor Carey:** “I mean, I don’t see much more that we can do down there once you take...the newest thing is the parking but I mean that thing is pretty much built up.”

**Commissioner Daly:** “But, we don’t, you know like I say...there is a possibility and one thing I got in my mind is the last time we went for the restaurant they said no not unless we’re going to spend \$80,000 a year. Let’s see if that’s still in effect, see if there is something else that we can do and I know we lack parking right now but the project that’s going to go across the street hopefully that’s going to have a ramp garage. There will be future parking there. So, therefore who knows what we can and can’t do, but if we can do something else there let’s just know about it so that we’re all able to make a decision.”

**Town Manager Maria Davis:** “Okay”.

**Vice-Mayor Carey:** “Was that all?”

**Commissioner Daly:** “That’s it.”

**Commissioner Osterman**

None

**Vice-Mayor Carey:** “I was going to mention National Marina Day and tie into it. “When we have events in Town, people are worried about the parking meters. We can tell what day, like if it’s a Town sponsored event, we can bag those meters? Correctly?”

**Town Manager Maria Davis:** “Yes.”

**Vice-Mayor Carey:** “We’re not going to charge for parking for events that we’re putting on?”

**Town Manager Maria Davis:** “That’s up to you. We did calculate that revenue for 365 days a year. If you want us not to...

**Vice-Mayor Carey:** “What I’m saying is if the meters were there right now, this is a four hour event. It’s essentially charging someone four dollars to come to an event that we want them to come to.”

**Commissioner Osterman:** “But everything else is free.”

**Vice-Mayor Carey:** “This is true, this is true.”

**Town Manager Davis:** “Yah, we’re having a waterslide...”

**Commissioner Osterman:** “I wish we could give Lake Park residents a decal, but we can’t we know we can’t do that because of accounting funds.”

**Vice-Mayor Daly:** “But we would still have that....”

**Commissioner Osterman:** “Discretion.”

**Vice-Mayor Daly:** “Discretion to do that.”

**Town Manager Davis:** “You would have that discretion, absolutely. Now the slip owners... they have free parking.”

**Town Manager Davis** announced that the Town’s Summer Camp would be finished on Friday, August 7, 2009. She announced that the Town’s Aftercare Program would begin on August 31, 2009 and is free from 2:30 p.m. to 4:30 p.m. She thanked Wal-Mart for donating \$1500 towards the program. The beverage machine and “No Smoking” signs have been installed at Lake Shore Park. She spoke with a representative from the Majestic Princess. She stated that they were fond of the idea of opening the boat to the public for lunch and dinner. She stated that she was waiting to hear back from them.

**Commissioner Daly** asked if the Spirit cruise boat was still at the Marina.

**Marina Director Michael Pisano** stated that the Spirit was no longer at the Marina, but the Majestic Princess just purchased a 124 foot vessel with a sky deck to replace the 80 foot vessel. He stated that utilizing the Majestic Princess would be a better idea for the Marina. He stated that he has been negotiating with the owner about having the Majestic Princess docked for a particular night out of the week.

**Town Manager Maria Davis** announced that the Workforce Alliance bus was at the library and was assisting people with resumes. They serviced 29 people that day. She stated that the bus would be at the library every Tuesday throughout the month of August.

**Town Attorney Tom Baird** stated that Special Counsel Michael Grogan would be in Florida in early October which would be a good time to reconvene for another Attorney Client Session with the Commission. He asked if it were acceptable to the Commission, he could set up a date and time to meet with him.

**ADJOURNMENT**

There being no further business to come before the Commission and after a motion to adjourn by Commissioner Rumsey and seconded by Vice-Mayor Carey, and by unanimous vote, the meeting adjourned at 9:20 p.m.

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Mayor DuBois

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Deputy Clerk Jessica Shepherd

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Town Clerk Vivian Lemley

Town Seal

Approved on this \_\_\_\_ of \_\_\_\_\_, 2009.

# TAB 2

**Town of Lake Park Town Commission**  
**Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. 2

- |  |  |
|--|--|
| <input type="checkbox"/> PUBLIC HEARING              | <input checked="" type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Ordinance on Second Reading |  |
| <input type="checkbox"/> Public Hearing              | <input type="checkbox"/> DISCUSSION                |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> BID/RFP AWARD             |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM    | <input checked="" type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other:                      |  |

**SUBJECT: PENSION PLAN AMENDMENT.**

**RECOMMENDED MOTION/ACTION: ADOPT RESOLUTION.**

Approved by Town Manager *W. Davis* Date: *8/26/09*  
*Ann M. Costello* *8/25/09*  
 Name/Title Finance Director Date of Actual Submittal

<b>Originating Department:</b>  <b>Finance</b>	Costs: \$ N/A  <b>Funding Source:</b> Acct. #	<b>Attachments: Resolution and Restated Adoption Agreement</b>
Department Review: <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____	<input checked="" type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: ___N/A_____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** In order to keep the Town's Pension Plan in compliance with the requirements of the Internal Revenue Code and IRS regulations, the Town must adopt the document titled "VALIC Retirement Services Company Governmental Volume Submitter Plan" to incorporate provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"). Under the Code, qualified plans are required to be amended for changes in the law of the regulations affecting qualification requirements. Adoption of this amendment is required by the Internal Revenue Service in order to continue and maintain the qualified and exempt status of the Plan.

**RESOLUTION NO. 39-09-09**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA AUTHORIZING THE AMENDMENT AND RESTATEMENT OF RETIREMENT PLAN VIA ADOPTION OF VALIC RETIREMENT SERVICES GOVERNMENTAL VOLUME SUBMITTER PLAN , AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park's Commission has the authority pursuant to the Florida Constitution and Chapter 166, Florida Statutes to establish such pension plans as it deems appropriate for its eligible employees; and

**WHEREAS**, on November 4, 1998, the Town Commission of the Town of Lake Park (Commission) adopted Resolution 66, 1998 establishing a pension plan administered by the Variable Annuity Life Insurance company (herein referred to as VALIC) for Town employees; and;

**WHEREAS**, on September 7, 2005 the Commission adopted Resolution No. 30-09-05 amending the Plan to include the eligibility of the Town Manager for participation in the Plan ; and

**WHEREAS**, the Commission upon the recommendation of the Town's Finance Director has determined that it is appropriate to amend and restate the Plan by adopting the VALIC Retirement Services company Governmental Volume Submitter Plan document; and;

**NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK:**

**Section 1.** The Commission hereby amends and restates the Plan, effective January 1, 2002, by adopting the document titled "VALIC Retirement Services Company Governmental Volume Submitter Plan," in the form and substance as the document heretofore presented to the governing body of the Town of Lake park; and

**Section 2.** The Commission hereby authorizes the Plan Administrator is hereby authorized and directed to: (i) execute the adoption agreement to the VALIC Retirement Services Company Governmental Volume Submitter Plan document as approved; (ii) execute all other documents and to do all other things as may be necessary or appropriate to make the VALIC Retirement Services Company Governmental Volume Submitter Plan document effective January 1, 2002, including the execution of any amendments required by the Internal Revenue Service in order to continue and maintain the qualified and exempt status of the Plan; and (iii) execute any other documents required to obtain reliance on advisory letters issued to the VALIC Retirement Services Company Governmental Volume Submitter Plan by the Internal Revenue Service.

**Section 3.** This Resolution shall become effective immediately upon adoption.

**PARTICIPATION AGREEMENT**

[X] Check here if not applicable and do *not* complete this page

The undersigned, by executing this Participation Agreement, elects to become a Participating Employer in the Plan identified in Section B.1. of the accompanying Adoption Agreement, as if the Participating Employer were a signatory to that Adoption Agreement. The Participating Employer accepts, and agrees to be bound by, all of the elections granted under the provisions of the Plan as made by the Signatory Employer to the Adoption Agreement, except as otherwise provided in this Participation Agreement.

1. **EFFECTIVE DATE.** (Note: The Effective Date for a new Plan or the Restated Effective Date for a restated plan cannot be earlier than the first day of the Plan Year in which this plan or restatement is adopted. The Restated Effective Date must not be earlier than January 1, 2002. Restatements for the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) should be the first day of the Plan Year beginning on or after January 1, 2002. Section 414(h) Pick-up contributions must relate solely to Compensation for services rendered after the later of the adoption or effective date of this Plan or restatement.)

The effective date of the Plan for the Participating Employer is: \_\_\_\_\_.

2. **NEW PLAN/RESTATEMENT.** The Participating Employer's adoption of this Plan constitutes: *(Choose one of (a) or (b))*

- a.  The adoption of a new plan by the Participating Employer.
- b.  The adoption of an amendment and restatement of a plan currently maintained by the Participating Employer identified as: \_\_\_\_\_ and having an original effective date of: \_\_\_\_\_.

3. **PREDECESSOR EMPLOYER SERVICE.** In addition to the predecessor service credited by reason of Section E.1. of the Adoption Agreement, the Plan credits as Service under this Plan, service with this Participating Employer for purposes of: *(Choose one or more of (a) through (e) as applicable)*

- a.  Eligibility.
- b.  Vesting.
- c.  Contribution Accrual.
- d.  Early Retirement Age.
- e.  Normal Retirement Age.

Name of Plan: \_\_\_\_\_

Name of Participating Employer: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Participating Employer's EIN: \_\_\_\_\_

**Acceptance by the Signatory Employer of the Adoption Agreement and by the Trustee, if applicable.**

Name of Signatory Employer: \_\_\_\_\_

Name(s) of Trustee: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Name/Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*[Note: Each Participating Employer must execute a separate Participation Agreement.]*

VALIC Retirement Services Company  
Governmental Volume Submitter Plan

Adoption Agreement #002 – Money Purchase Pension Plan

Advisory Letter Number: M580454a

The undersigned, Town of Lake Park ("Employer"), by executing this Adoption Agreement, elects to establish (or restate) a retirement plan (and trust, if applicable) (hereinafter, the "Plan") under the VALIC Retirement Services Company Governmental Volume Submitter Plan (the "Basic Plan Document"). The Employer, subject to the Employer's elections in this Adoption Agreement, adopts fully the Plan provisions (and if applicable, the Trust provisions). The Adoption Agreement and the Basic Plan Document together constitute the Employer's entire Plan (and Trust, if applicable) document. All section references within this Adoption Agreement are Adoption Agreement section references unless the Adoption Agreement or the context indicates otherwise. All "Article" references, and all "Plan Section" references, are references to the applicable article or section of the Basic Plan Document.

The Employer makes the following elections, as permitted under the corresponding provisions of the Basic Plan Document:

**A. VOLUME SUBMITTER PRACTITIONER INFORMATION.**

VALIC Retirement Services Company  
Attn: Implementation Services  
2929 Allen Parkway, L11-40  
Houston, Texas 77019  
888-478-7020

**B. PLAN INFORMATION.**

1. Plan Name: Town of Park Lake General Employees Retirement Plan
2. Plan Number (e.g., 001, 002, etc.): 001
3. Effective Date: *(Note: The Effective Date for a new Plan or the Restated Effective Date for a restated Plan cannot be earlier than the first day of the Plan Year in which this plan or restatement is adopted. The Restated Effective Date must not be earlier than January 1, 2002. Restatements for the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) should be the first day of the Plan Year beginning on or after January 1, 2002. Section 414(h) Pick-up contributions must relate solely to Compensation for services rendered after the later of the adoption or effective date of this Plan or restatement.)*
  - a.  This is a new Plan effective as of \_\_\_\_\_ (hereinafter "Effective Date").
  - b.  This amendment is a restatement of a previously established qualified plan which was effective October 1, 1998 (hereinafter "Effective Date"). The effective date of this restatement is January 1, 2002 (hereinafter "Restated Effective Date").
4. Plan Year/Limitation Year means the 12-consecutive month period (except for Short Plan Years) ending every (Check a, b., and c. if applicable).
  - a.  December 31
  - b.  Other: September 30
  - c.  Short Plan Year commencing on \_\_\_\_\_ and ending on \_\_\_\_\_.
5. Anniversary Date (annual Valuation Date):
  - a.  last day of the Plan Year
  - b.  first day of the Plan Year

**C. EMPLOYER INFORMATION.**

1. Name of Employer: Town of Lake Park
2. Address: 535 Park Avenue  
(Number and Street)  
Lake Park Florida 33403  
(City) (State) (Zip Code)
3. Telephone Number: (561) 881-3350
4. Employer Identification Number: 59 - 6000355
5. By signing this Adoption Agreement, the Employer represents and affirms that it is a state or local governmental entity, as defined in Code section 414(d), and is a:
  - a.  K-12 educational organization
  - b.  higher educational organization
  - c.  city or county government
  - d.  state government
  - e.  other governmental entity (specify) \_\_\_\_\_
6. Employer's Fiscal Year: September 30

**D. TRUST ELECTION.**

1. All or a portion of this Plan shall be Trusteed pursuant to Article V of the Plan.
  - a.  No, this Plan shall be funded exclusively with annuity contracts pursuant to Article X.
  - b.  Yes, this Plan shall have a nondiscretionary Trustee (as described in Article V).
  - c.  Yes, this Plan shall have a discretionary Trustee (as described in Article V).

**E. SERVICE.**

1. PREDECESSOR EMPLOYER OR OTHER EMPLOYER.

This Plan shall recognize service with a predecessor Employer or other entity.

- a.  No
- b.  Yes, Service with \_\_\_\_\_ shall be recognized for purposes of (check all that apply):
  - (i)  eligibility
  - (ii)  vesting
  - (iii)  contribution accrual
  - (iv)  early retirement
  - (v)  normal retirement

2. SERVICE CREDITING METHODS.

If this Plan requires an annual service requirement to receive an Employer contribution as selected in Section G, the Hours of Service crediting method shall be used for this purpose, and the applicable computation period shall be the Plan Year (or Short Plan Year). The service crediting method for all other purposes shall be as follows:

- a. SERVICE CREDITING METHOD (select one)
  - (i)  Hours of Service crediting method
  - (ii)  elapsed time crediting method
- b. If the Hours of Service crediting method is selected in Section E.2.a.(i) above then the following must be completed, and shall apply to all Employees:
  - (i) Hours of Service crediting method (select one of the following):
    - (a)  actual hours
    - (b)  days worked
    - (c)  months worked
  - (ii) Year of Service means the applicable computation period during which an Employee has completed at least 1000 Hours of Service. (May not exceed 2000 hours.)

c. Break in service rules will be applied under this Plan.

- (i)  No
- (ii)  Yes

d. If the Hours of Service Crediting Method is selected in E.2.a.(i) above, then the following computation period elections must be completed, and shall apply to all Employees (select all applicable):

- (i) If service is required for eligibility, the computation period for eligibility shall begin on the date an Employee first performs an Hour of Service and
  - (a)  each anniversary thereof.
  - (b)  shift to the Plan Year which includes the first anniversary of the date on which the Employee first performed an Hour of Service.
- (ii) If service is required for vesting, early retirement or normal retirement, the computation period for such purposes shall begin on the date an Employee first performs an Hour of Service and:
  - (a)  each anniversary thereof.
  - (b)  shift to the Plan Year which includes the first anniversary of the date on which the Employee first performed an Hour of Service.
  - (c)  end on the last day of each Plan Year.

**F. ELIGIBILITY REQUIREMENTS; INITIAL PLAN ENTRY; PLAN ENTRY DATE.**

1. EXCLUDED CLASSIFICATIONS OF EMPLOYEES shall mean all Employees of the Employer checked below: *(NOTE: This section F. must not be completed in a manner which results in Employees only becoming Participants in the year in which they terminate employment. Any exclusions selected for Employee nonelective (pick-up) contributions may not be broader than those exclusions selected for Special Pay contributions. Any classification under "other" must be objectively determinable, and free from employer discretion. Exclusions shall not apply to contributions under section G.3.b. of this Adoption Agreement.)*

<u>For all purposes of the Plan (Do not check items in additional columns if this column selected):</u>	<u>For purposes of Employee nonelective (414(h) pick up) contributions:</u>	<u>For purposes of Employer matching contributions:</u>	<u>For purposes of Special Pay contributions and Employer contributions, other than Employer matching contributions:</u>
<input type="checkbox"/> N/A. No exclusions			
<input type="checkbox"/> Hourly paid			
<input type="checkbox"/> Salaried	<input type="checkbox"/> Salaried	<input type="checkbox"/> Salaried	<input type="checkbox"/> Salaried
<input type="checkbox"/> union employees			
<input type="checkbox"/> non-resident aliens			
<input type="checkbox"/> leased employees			
<input type="checkbox"/> reclassified employees (as defined in basic plan document)	<input type="checkbox"/> reclassified employees (as defined in basic plan document)	<input type="checkbox"/> reclassified employees (as defined in basic plan document)	<input type="checkbox"/> reclassified employees (as defined in basic plan document)
<input type="checkbox"/> Employees who have not accumulated at least _____ (not to exceed 31) Special Pay days.	<input type="checkbox"/> Employees who have not accumulated at least _____ (not to exceed 31) Special Pay days.	<input type="checkbox"/> Employees who have not accumulated at least _____ (not to exceed 31) Special Pay days.	<input type="checkbox"/> Employees who have not accumulated at least _____ (not to exceed 31) Special Pay days.

- other (see limitations in "Note" above) Fire Department Employees covered under the Town of Lake Park Municipal Firefighters Retirement Fund (defined benefit plan), Police Officers covered under the Town of Lake Park Municipal Police Officers Retirement Fund (defined benefit plan), Bond Project Employees, all Employees who are covered under individual employment contracts with the Town of Lake Park, and Part-time Employees who are not participating in this Plan as of April 1, 2009.
- other (see limitations in "Note" above) \_\_\_\_\_
- other (see limitations in "Note" above) \_\_\_\_\_
- other (see limitations in "Note" above) \_\_\_\_\_

2. CONDITIONS OF ELIGIBILITY (Plan Section 3.01)

Any Employee who is not a member of an excluded classification (Section F.1.) must satisfy the following minimum age and service requirements, if any, for participation in the Plan (other than contributions described in G.3.b.): (Check one of a. – d. May also check e. if applicable).

- a.  No age or service required.
- b.  Attainment of age 18 (not to exceed 26).
- c.  Completion of 1 (not to exceed 5) Year(s) of Service.
- d.  Completion of \_\_\_\_\_ (not to exceed 60) Month(s) of Service.
- e.  FOR NEW PLANS ONLY – Regardless of any of the above age or service requirements, any Employee who was employed on the Effective Date of the Plan shall be eligible to participate in Employer contributions as of such date. (Must also elect 3.e. below.)

3. EFFECTIVE DATE OF PARTICIPATION (Plan Section 3.02)

An Employee who has satisfied the requirements, if any, of Section F shall become a Participant as of: (Check one of a – d; check e. if applicable.)

- a.  such Employee's first Hour of Service (no age or service requirements).
- b.  the first day of the first payroll period coinciding with or next following the date the eligibility requirements are satisfied.
- c.  the earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which the eligibility requirements are satisfied.
- d.  the first day of the Plan Year next following the date the eligibility requirements are satisfied.
- e.  FOR NEW PLANS ONLY – Any Employee who was employed on the Effective Date of the Plan shall become a Participant on the Effective Date of the Plan. All other Employees shall become Participants as of the date selected in 3.a. through 3.d. above. (Must also elect 2.e. above.)

**G. CONTRIBUTIONS AND FORFEITURES.**

1. EMPLOYEE NONELECTIVE CONTRIBUTIONS (414(h) pick up; Plan Section 4.01(c)):

- a.  N/A. No Employee nonelective contributions are allowed.
- b.  Employee nonelective contributions in the amount of \_\_\_\_\_ (must be greater than zero if selected) percent of Compensation shall be made to the Plan.

2. EMPLOYER MATCHING CONTRIBUTIONS:

- a. Formulas (select all that apply):

- (i)  N/A. No Employer matching contributions in this Plan.
- (ii)  50 % of a Participant's elective deferral contributions. Elective deferral contributions in excess of 5 % of a Participant's Compensation for the year shall not be matched. (Must also complete G.2.b. below.)
- (iii)  Equals the percentage of elective deferral contributions determined under the following schedule: (Must also complete G.2.b. below.)

Years of Service	Matching Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

Elective deferral contributions in excess of \_\_\_\_\_ % of a Participant's Compensation for the year shall not be matched.

- b. Employer matching contributions shall be made based on elective deferral (pre-tax) contributions to the following plan(s) of the Employer (insert name of Plan(s) to which the elective deferral contributions being matched will be made):  
Town of Lake Park Deferred Compensation Plan

3. EMPLOYER CONTRIBUTIONS (other than Employer matching contributions):

The Employer shall make the following contribution(s) to the Plan:

- a.  EMPLOYER CONTRIBUTIONS GENERALLY (choose all that apply): *Note: The applicable dollar amount or percentage of Compensation in this section G.3.a. must be greater than zero. In addition, contributions under this Section G.3.a. must be for the exclusive benefit of Employees or their Beneficiaries.*
  - (i)  An amount equal to \$\_\_\_\_\_ on behalf of each Participant per period indicated below:
    - (a)  calendar quarter
    - (b)  month
    - (c)  pay period
    - (d)  week
  - (ii)  An amount equal to \$\_\_\_\_\_ per Hour of Service up to \_\_\_\_\_ hours per Plan Year.
  - (iii)  An amount, equal to 5 % of each Participant's Compensation for the Plan Year, or \$\_\_\_\_\_ on behalf of each Participant for the Plan Year. (May select either percentage of Compensation or dollar amount, but not both.)
  - (iv)  An amount equal to \_\_\_\_\_ % of each Participant's Compensation the Plan Year, plus \_\_\_\_\_ % of such Compensation in excess of \$\_\_\_\_\_ (Must be an amount which is less than the applicable "annual compensation limit" as specified in Plan Section 1.08).
- b.  CONTRIBUTIONS FOR PART-TIME, SEASONAL AND TEMPORARY EMPLOYEES: An amount equal to 7.5% of the Participant's Compensation for the entire Plan Year, reduced by the Employee Nonelective Contributions described in G.1. actually contributed to the Participant's account during such Plan Year, provided that such Contribution shall be made solely for Part-time, Seasonal, or Temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Treasury Regulation Section 31.3121(b)(7)-2.
- c.  SPECIAL PAY CONTRIBUTIONS: [*Note: If this option is selected, at least one additional Employer nonelective contribution must be selected under this section G. other than Employer Matching Contributions in G.2. or Contributions for Part-time, Seasonal and Temporary Employees in G.3.b.*] An amount equal to the Employee's current daily rate of pay multiplied by the Participant's number of unused accumulated Special Pay Days in excess of \_\_\_\_\_ (enter 0 if no excluded days), but not to exceed \_\_\_\_\_ days (enter NA if no upper limit).

Special Pay Contributions shall be made with respect to:

- (i)  accumulated Vacation Pay Days
- (ii)  accumulated Sick Leave Days
- (iii)  both accumulated Vacation Pay and accumulated Sick Leave Days

Such contributions shall be made for a Plan Year:

- (i)  for any Employee who is terminating employment during such Plan Year and who has accumulated Special Pay Days described in this section G.3.c.

- (ii)  for any active or terminating Employee with accumulated Special Pay Days described in this section G.3.c. up to the maximum permitted days selected above or the total of all eligible Special Pay Days, whichever is less.

4. HOURS REQUIRED TO SHARE IN ALLOCATION: An active Participant must work a specified number of Hours of Service in order to share in:

a. Employer matching contributions.

- (i)  No minimum number of hours is required.
- (ii)  Yes, a Participant must work a minimum of \_\_\_\_\_ Hours of Service during such year. (May not exceed 2000 hours. This option not available if matching contributions are remitted to the Plan each pay-period.)

b. Employer Contributions described in G.3.a.

- (i)  No minimum number of hours is required.
- (ii)  Yes, a Participant must work a minimum of \_\_\_\_\_ Hours of Service during the Plan Year. (May not exceed 2000 hours. This option not available if Special Pay Contributions are elected in G.3.c. This option also not available if Employer contributions are remitted to the Plan each pay-period, or if an allocation period other than the Plan Year is selected in G.3.a.(i).)

5. FORFEITURES (Plan Section 4.03(e)).

Forfeitures of Employer contributions under G.2. and G.3.a. shall be:

- a.  N/A. Employer contributions are 100% Vested.
- b.  used to reduce future Employer contributions under this Plan.
- c.  allocated to all Participants eligible to share in the allocations in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for the year.

6. CONTRIBUTIONS AND FORFEITURES ALLOCATED TO TERMINATED PARTICIPANTS (Plan Section 4.03(e)).

For contributions described in G.2. only, a Terminated Participant shall share in the allocation of Employer matching contributions and forfeitures for the Plan Year as follows:

- a.  A Participant must be employed on the last day of the Plan Year in order to share in the allocation.
- b.  A Participant must be employed on the last day of the Plan Year in order to share in the allocation, unless termination was for reason of death, Total and Permanent Disability, early retirement or normal retirement.
- c.  A Participant must be employed on the last day of the Plan Year in order to share in the allocation, unless such Participant worked at least \_\_\_\_\_ Hours of Service during such year. (May not exceed 2000 hours.)
- d.  A Participant must be employed on the last day of the Plan Year in order to share in the allocation, unless termination was for reason of death, Total and Permanent Disability, early retirement or normal retirement, and such Participant worked at least \_\_\_\_\_ Hours of Service during such year. (May not exceed 2000 hours.)
- e.  A Participant is not required to be employed on the last day of the Plan Year or work a minimum number of hours in order to share in the allocation.

For contributions described in G.3.a. only, a Terminated Participant shall share in the allocation of Employer contributions (other than Employer matching contributions) for the Plan Year or other allocation period as follows. Notwithstanding the period selected in G.3.a.(i) forfeitures shall be allocated based on the Plan Year.

- a.  A Participant must be employed on the last day of such Plan Year (or other applicable period as selected in G.3.a.(i)) to share in the allocation of Employer contributions.
- b.  A Participant must be employed on the last day of the Plan Year (or other allocation period as selected in G.3.a.(i)) in order to share in the allocation, unless termination was for reason of death, Total and Permanent Disability, early retirement or normal retirement. Notwithstanding the period selected in G.3.a.(i) forfeitures shall be allocated to any Participant employed on the last day of the Plan Year, unless termination was for reason of death, Total and Permanent Disability, early retirement or normal retirement.
- c.  A Participant must be employed on the last day of the Plan Year (or other applicable period as selected in G.3.a.(i)) in order to share in the allocation, unless such Participant worked at least \_\_\_\_\_ Hours of Service during such year. (May not exceed 2000 hours). If G.3.a.(i) is selected then the Hours of Service requirement is applicable to allocation of forfeitures only.
- d.  A Participant must be employed on the last day of the Plan Year (or other applicable period as selected in G.3.a.(i)) in order to share in the allocation, unless termination was for reason of death, Total and Permanent Disability, early retirement or normal retirement, and such Participant worked at least \_\_\_\_\_ Hours of Service during such year. (May not exceed 2000 hours.) If G.3.a.(i) is selected then the Hours of Service requirement is applicable to allocation of forfeitures only.
- e.  A Participant is not required to be employed on the last day of the Plan Year (or other applicable period as selected in G.3.a.(ii)) or work a minimum number of hours in order to share in the allocation.

7. FROZEN PLAN:

- a.  N/A. Plan is not frozen.
- b.  This Plan is a frozen plan effective \_\_\_\_\_. No contributions will be made to the Plan with respect to any period following the stated date.

H. COMPENSATION.

1. COMPENSATION with respect to any Participant means:

- a.  Wages, tips and other Compensation on Form W-2.
- b.  415 safe-harbor compensation.
- c.  Code section 3401 wages (wages for Federal income tax withholding).

However, Compensation shall exclude:

- (i)  N/A. No exclusions
- (ii)  overtime
- (iii)  bonuses
- (iv)  commissions
- (v)  shift differential pay
- (vi)  other \_\_\_\_\_ (Must be objectively determinable and applied in a uniform, nondiscriminatory basis, i.e., taxable reimbursements or other fringe benefits.)

2. Compensation shall be based on:

- a.  the Plan Year.
- b.  the Fiscal Year ending with or within the Plan Year.
- c.  the calendar year ending with or within the Plan Year.

3. However, for an Employee's first year of participation, Compensation shall be recognized as of:

- a.  the first day of the period selected in 2. above.
- b.  the Participant's Effective Date of Participation (Section F.3.).

4. In addition, Compensation shall include compensation that is not currently includible in the Participant's gross income (salary reduction amounts) by reason of the application of Code Sections 125, 402(g)(3) or 457, and 132(f)(4).

- a.  Yes
  - (i)  Code Section 125 elective deferrals will include deemed Code Section 125 compensation.
  - (ii)  Code Section 125 elective deferrals will not include deemed Code Section 125 compensation.
- b.  No

5. Compensation for purposes of calculating contributions to the Plan will be determined:

- a.  on an annual basis.
- b.  on a payroll period basis (must also check (i) or (ii) below).
  - (i)  Contributions will be adjusted, if necessary, to meet the Plan formula on an annual basis.
  - (ii)  Contributions will not be adjusted to meet the Plan formula on an annual basis.

I. TRANSFERS AND ROLLOVERS FROM OTHER EMPLOYER PLANS (Plan Section 4.06) will be allowed:

- 1.  No.
- 2.  Yes, for Participants only.
- 3.  Yes, for all Employees. (Must be selected for plans which intend to accept transfers or rollovers from Code Section 414(k) accounts under defined benefit plans for all Employees, regardless of their status as Participants.)

If option 2. or 3. is chosen:

Distributions from a Participant's Rollover Account may be made at any time, even if there is no distributable event which permits a distribution of other accounts.

- a.  No
- b.  Yes

**J. VESTING.** (Plan Section 6.04(b)).

1. The vesting schedule(s) for Employer contributions (other than those described in G.1., G.3.b. or G.3.c.), based on number of Years of Service (or twelve month Periods of Service, if Elapsed Time) shall be as follows:

Employer contributions (other than matching):

Employer Matching Contributions (if different):

a.  100% immediate

a.  100% immediate

b.  \_\_\_\_\_ - Year Cliff (not to exceed 15 years)

b.  \_\_\_\_\_ - Year Cliff (not to exceed 15 years)

c.  Graded:  
Years of Service                      Vesting Percentage  
(not to exceed 15)

c.  Graded:  
Years of Service                      Vesting Percentage  
(not to exceed 15)

1	0%
2	20%
3	40%
4	60%
5	80%
6	100%

_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

2. In determining Years of Service or Periods of Service for vesting purposes, the following service shall be EXCLUDED:

- a.  N/A. All Years of Service or Periods of Service shall be counted.
- b.  Service prior to the Effective Date of the Plan or a predecessor plan.
- c.  Service prior to the time an Employee attained age 18.

3. Vesting Upon Death

- a.  100% vesting, or
- b.  apply vesting schedule

4. Vesting Upon Disability

- a.  100% vesting, or
- b.  apply vesting schedule

**K. NORMAL RETIREMENT AGE; EARLY RETIREMENT AGE.**

1. NORMAL RETIREMENT AGE ("NRA") means:

- a.  attainment of age 65 (not to exceed 65).
- b.  the later of attainment of age \_\_\_\_\_ (not to exceed 65) or the \_\_\_\_\_ (not to exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced.

2. EARLY RETIREMENT AGE ("ERA") means:

- a.  No Early Retirement provision.
- b.  attainment of age \_\_\_\_\_ (not to exceed 65).
- c.  the later of attainment of age \_\_\_\_\_ (not to exceed 65) or the \_\_\_\_\_ (not to exceed 10th) anniversary of the first day of the Plan Year in which participation in the Plan commenced.
- d.  the later of attainment of age \_\_\_\_\_ (not to exceed 65) or completion of \_\_\_\_\_ (not to exceed 10) Years of Service or \_\_\_\_\_ (not to exceed 120) Months of Service.

**L. DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT** (Plan Section 6.04(a)). Distributions upon termination of employment shall not be made unless the following conditions have been satisfied:

- 1.  N/A. Immediate distributions may be made at Participant's election.
- 2.  The Participant has incurred \_\_\_\_\_ (not to exceed five (5)) 1-Year Break(s) in Service.
- 3.  The Participant has reached Early or Normal Retirement Age.
- 4.  Distributions may be made at the Participant's election on or after the Anniversary Date following termination of employment.

**M. RESTRICTIONS ON FORM OF DISTRIBUTIONS** (Plan Sections 6.05 and 6.06) If the Employer has designated one or more annuity contracts as eligible investments under the Plan, distributions under the Plan may be made in the form of an annuity. In all cases, distributions under the Plan may be made:

- 1.  in lump sums.
- 2.  in lump sums or installments.

**N. INVOLUNTARY DISTRIBUTIONS**

An immediate distribution of a terminated Participant's Vested Interest in the Plan may be made without the consent of the Participant.

1.  No.
2.  Yes, but only if the Participant's Vested Interest does not exceed \$1,000.
3.  Yes, regardless of the amount. Employer must select an IRA provider for automatic rollovers. See Plan Section 6.05(b). Note: If any portion of the Participant's Vested Interest is attributable to contributions for Part-time, Seasonal or Temporary Employees under Section G.3.b., distribution may not be made without the Participant's consent if the Participant's Vested Interest is greater than the cash out limit in effect under Code Section 411(a)(11)(A) for the Plan Year that includes the date of distribution.

**O. LOANS TO PARTICIPANTS (Plan Section 11.01)**

Loans to Participants shall be made:

1.  No (must be selected for plans that select G.3.b.)
2.  Yes, for any reason
3.  Yes, but only on account of hardship or financial need

**P. DIRECTED INVESTMENT ACCOUNTS (Plan Section 4.09) are permitted for the interest in any one or more accounts:**

1.  Yes, but subject to the following restrictions:
  - a.  No restrictions apply.
  - b.  Only if accounts are 100% vested.
2.  No

**Q. DOMESTIC RELATIONS ORDERS (Plan Section 6.12) Distributions to an "alternate payee" may be made prior to the time when the Participant is entitled to a distribution under the terms of the Plan:**

1.  No
2.  Yes

**RESTRICTIONS ON USE OF ADOPTION AGREEMENT:** This Adoption Agreement may be used solely in conjunction with the VALIC Retirement Services Company Governmental Volume Submitter Plan (the Basic Plan Document). The Adoption Agreement and the Basic Plan Document together constitute the "volume submitter document" that is being adopted by the Employer.

**APPROVAL BY VOLUME SUBMITTER PRACTITIONER REQUIRED:** This volume submitter specimen document may be adopted only with the approval of the Volume Submitter Practitioner identified in Section A above. However, the adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors. The Volume Submitter Practitioner will inform the adopting Employer of any amendments made to the volume submitter document, or of the discontinuance or abandonment of the volume submitter document.

**RELIANCE ON VOLUME SUBMITTER PLAN:** The adopting Employer may rely on an advisory letter issued to the Volume Submitter Practitioner by the Internal Revenue Service as evidence that the plan is qualified under Code Section 401 only if (1) the Employer's plan is identical to a volume submitter specimen plan with a currently valid favorable advisory letter, (2) the Employer has chosen only options permitted under the Adoption Agreement portion of the specimen document, (3) the Employer has followed the terms of the plan, and (4) all other conditions of section 19 of Revenue Procedure 2005-16 have been satisfied.

The Employer may not rely on an advisory letter in certain circumstances or with respect to certain qualification requirements as described in section 19 of Revenue Procedure 2005-16. For example, the Employer may not rely on the advisory letter with respect to the requirements of Section 415 if the Employer maintains or has ever maintained another plan covering some of the same participants. In those circumstances where an Employer is not permitted to rely on an advisory letter issued to the Volume Submitter Practitioner, either generally or with respect to a particular qualification requirement, the Employer may choose to apply to the Internal Revenue Service for a determination letter.

**CAUTION:** This volume submitter document has been designed for use solely by Employers that are state or local governmental entities. As such, it is designed solely for "governmental plans" that are exempt from Title I of ERISA and certain provisions of the Internal Revenue Code that otherwise apply to qualified plans. However, there may be restrictions under state or local law on a governmental Employer's right to establish its own qualified plan (or on the types of provisions that may be included in such plan). The Employer should consult with legal counsel to verify that the establishment of this plan (or the specific provisions elected in this Adoption Agreement) are not contrary to existing state law. Neither the Volume Submitter Practitioner nor its employees or representatives are authorized to provide legal or tax advice to the Employer or its employees or representatives. Failure to properly complete this Adoption Agreement may result in disqualification of the plan.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Name of Employer: Town of Lake Park

Signed: \_\_\_\_\_

Printed name and title: \_\_\_\_\_

Name of Trustee\*: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed name and title: \_\_\_\_\_

Name of Co-Trustee\*: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed name and title: \_\_\_\_\_

Mailing Address of Trustee(s)\*:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Approval of Volume Submitter Practitioner: The Employers' adoption of this volume submitter document is approved by the Volume Submitter Practitioner, VALIC Retirement Services Company.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX A  
SPECIAL EFFECTIVE DATES**

*Pursuant to Section 7.01(a) of the Basic Plan Document, the Employer may specify or change the effective date of one or more provisions of the Adoption Agreement by completing this Appendix A. The Employer may wish to specify one or more special effective dates if, for example, (i) certain Plan provisions will not be effective until a later date, or (ii) the Plan is being restated for EGTRRA (retroactive to the first Plan Year beginning on or after January 1, 2002, or the original effective date of the Plan, if later), and special effective dates are needed to reflect discretionary amendments to the Plan since that date. However, no special effective date may be earlier than the Effective Date (or the Restated Effective Date, in the case of a restatement) of the Plan, and no special effective date shall result in the delay of a Plan provision beyond the permissible effective date under any applicable law. For periods prior to the special effective date(s) specified below, the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions.*

**Special Effective Dates.** The following special effective dates apply: (select a. or all that apply)

- a.  **N/A.** The Employer is not electing any special effective dates.
- b.  **Eligibility Requirements.** The Eligibility and/or Entry Date provisions in Section F. are effective: April 1, 2009
- c.  **Contributions and Forfeitures.** The Contribution and/or Forfeiture provisions in Section G. are effective: \_\_\_\_\_
- d.  **Compensation.** The Compensation provisions in Section H. are effective: \_\_\_\_\_
- e.  **Vesting.** The Vesting provisions in Section J. are effective: \_\_\_\_\_
- f.  **Other special effective date(s):** \_\_\_\_\_

# TAB 3

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: **September 2, 2008**

Agenda Item No. **3**

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING<br><input type="checkbox"/> Ordinance on Second Reading<br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION<br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
|---|---|

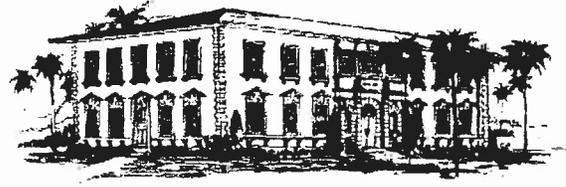
**SUBJECT: Board Appointment**

**RECOMMENDED MOTION/ACTION: Reappoint Candace Moss to the Library Board.**

Approved by Town Manager *W. Davis* Date: *8/26/09*  
 Deputy Clerk *Jessie Baker* Date of Actual Submittal *8/26/09*

<b>Originating Department:</b> Town Clerk	Costs: \$ _____  Funding Source: _____  Acct. # _____	<b>Attachments:</b> Memo.
<b>Department Review:</b> <input type="checkbox"/> City Attorney _____ <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input checked="" type="checkbox"/> Town Clerk <i>YML</i> <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** The attached applicant's board membership will expire on October 17, 2009. They have requested that they be considered for reappointment to the Library Board.



LAKE PARK TOWN HALL

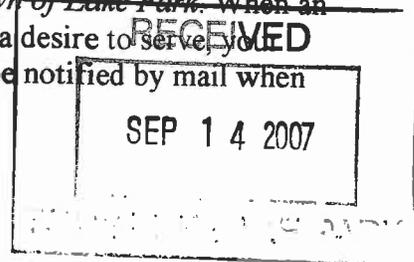
NATIONAL HISTORIC SITE

"Jewel of the Palm Beaches"

# The Town of Lake Park

## Application to Serve on Town Boards and Committees

This application serves as an information file of the skills, talents and interests of citizens who are willing to serve on advisory boards and committees for the ~~Town of Lake Park~~. When an opening occurs on one of the Boards on which you have indicated a desire to serve, your application will be submitted to the Town Commission. You will be notified by mail when appointment has been made.



Please print the following information:

Name: Moss Cardace  
Last First Middle

Address: 1020 Lake Shore Drive #203, Lake Park, FL 33403

Telephone: home 561-840-8658 work 561-655-8455 cell 412-901-0726

- |   |   |  |
|---|---|--|
| Are you a resident of Lake Park   | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No            |
| Are you a non-resident business owner in Lake Park                      | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
| Are you a registered voter (Response to this question is not mandatory) | <input type="checkbox"/> Yes            | <input type="checkbox"/> No            |
| Do you currently serve on a Town Board or Committee                     | <input type="checkbox"/> Yes            | <input checked="" type="checkbox"/> No |
- If so, which one(s): \_\_\_\_\_

Have you been convicted of a crime  Yes  No  
If so, when? \_\_\_\_\_ where? \_\_\_\_\_

Please indicate your preference by number "1" through "5" of no more than five boards on which you wish to serve, with #1 being the most desired and #5 being the least desired.

- | <u>Choice #</u>                     | <u>Board</u>                               | <u>Choice #</u>                     | <u>Board</u>                                    |
|-------------------------------------|--|-------------------------------------|---|
| <input type="checkbox"/>            | Code Compliance *                          | <input checked="" type="checkbox"/> | Pension Trust Fund (Police)                     |
| <input checked="" type="checkbox"/> | CRA Board (Community Redevelopment Agency) | <input checked="" type="checkbox"/> | Planning & Zoning/Historic Preservation Board * |
| <input type="checkbox"/>            | Harbor Marina Advisory Board               | <input checked="" type="checkbox"/> | Tree Board                                      |
| <input checked="" type="checkbox"/> | Library Board                              | <input type="checkbox"/>            | Other: _____                                    |
| <input type="checkbox"/>            | Merit Board                                |                                     |   |

Please note: Membership on these (\*) Boards require members to complete an annual financial disclosure form pursuant to F.S. 112.3145 (1)(a), (2)(b), (7)

Your Name: Cardece Moss

Please indicate the reason for your interest in your first and second choices:

I am interested in serving on the library board because the library is an essential community educational facility.

Number of Meetings of the above boards you have attended in the past six months: 0

Your educational background: (High school, College, Graduate School or other training)

Obtained BA in Behavioral Science from Point Park Univ. & a J.D. from Nova Southeastern Univ.

What is/was your profession or occupation: Attorney

How long: 6 yrs.

Please indicate employment experience that you feel relates to your desired service on an advisory board, or committee:

I have had numerous dealings w/ statutory compliances. & further working as a parent advocate was appraised of many committee programs.

Please indicate other general experience or community involvement that you feel qualifies you to serve on the boards you have chosen:

I was very involved w/ many charitable functions for the Carnegie library & museum when a resident in Fgh. PA.

Feel free to attach additional sheets if required. Also, please attach your resume, if available.

Please return your completed form to the Office of the Town Clerk, 535 Park Avenue, Lake Park, Florida 33403

**I HEREBY CERTIFY THAT THE STATEMENT AND ANSWERS PROVIDED ARE TRUE AND ACCURATE. I UNDERSTAND THAT ANY FALSE STATEMENTS MAY BE CAUSE FOR REMOVAL FROM A BOARD OR COMMITTEE, IF APPOINTED:**

Signature: Cardece Moss Date: 9/14/07

# TAB 4

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. 4

- |  |   |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING                          | <input type="checkbox"/> RESOLUTION                       |
| <input type="checkbox"/> ORDINANCE ON FIRST READING              | <input type="checkbox"/> ORDINANCE ON SECOND READING      |
| <input type="checkbox"/> BID/RFP Award                           | <input type="checkbox"/> DISCUSSION                       |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM                | <input checked="" type="checkbox"/> <b>CONSENT AGENDA</b> |
| <input checked="" type="checkbox"/> <b>Other: Support Letter</b> |   |

**SUBJECT:** Seeds of Hope Community Garden

**RECOMMENDED MOTION/ACTION:** Issue a Letter of Support for the project

**Approved by Town Manager** Virginia Martin

**Date:** 8/26/09

Virginia Martin, Grants Writer  
Name/Title

August 27, 2009  
Date of Actual Submittal

<b>Originating Department:</b> Grants	Costs: \$ _____ Funding Source: _____ Acct. # _____	<b>Attachments:</b> Letter
<b>Department Review:</b> <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____ <input type="checkbox"/> Finance _____	<input type="checkbox"/> Fire Dept _____ <input checked="" type="checkbox"/> Grants <u>GM</u> _____ <input type="checkbox"/> Human Resources _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____	<input type="checkbox"/> PBSO _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case <u>GM</u> :  Please initial one.

**Summary Explanation/Background:** The Lake Park Community Development Corporation is submitting a proposal to the Community Foundation for Palm Beach and Martin Counties to provide funds to start the *Seeds of Hope Community Garden* on Foresteria Drive. We believe this will be beneficial in that (1) it will bring people and additional activity to the downtown area; and (2) it will provide maintenance for this area of the community without adding demands on Town resources. The Lake Park CDC has asked the Town Commission for a letter of support for the project.

September 2, 2009

Mr. Daryl Houston, Program Manager  
Community Foundation for Palm Beach and Martin Counties  
700 South Dixie Highway  
Suite 200  
West Palm Beach, FL 33401

Dear Mr. Houston:

This letter is intended to acknowledge community and Commission support for the *Seeds of Hope Community Garden Project*.

We believe that this is an idea whose time has come:

- This project will be a growing and learning social interchange for the citizens of Lake Park;
- With the obesity epidemic in this country, people need to be able to eat healthier foods;
- Our citizens need to grow vegetables locally and organically so they have the freshest, healthiest produce available on a regular basis;
- We need to reduce the community's carbon footprint by growing our own produce rather than having it transported into the area;
- This is a community project that will bring families together to bridge the generations, promote diversity, and increase the social opportunities for citizens who have been isolated;
- Last, but not least, we are working diligently to bring new life to our downtown, and this will allow Lake Park residents to help in that process.

On behalf of the citizens of Lake Park, and the Town Commission, I would like to express our sincere appreciation for your consideration of funding for this revitalizing community project.

Sincerely,

Desca DuBois  
Mayor

# TAB 5

**Town of Lake Park Town Commission  
 Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. **5**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> PUBLIC HEARING             | <input type="checkbox"/> RESOLUTION               |
| <input type="checkbox"/> Ordinance on Second Reading           | <input type="checkbox"/> DISCUSSION               |
| <input type="checkbox"/> Public Hearing                        | <input type="checkbox"/> BID/RFP AWARD            |
| <input checked="" type="checkbox"/> ORDINANCE ON FIRST READING | <input type="checkbox"/> GENERAL APPROVAL OF ITEM |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM              | <input type="checkbox"/> CONSENT AGENDA           |
| <input type="checkbox"/> Other:                                |   |

**SUBJECT:** Text and Use Changes to Chapter 78 regarding group homes and transient uses

**RECOMMENDED MOTION/ACTION:** Approval

Approved by Town Manager *W. Davis* Date: *8/26/09*

<b>Originating Department:</b> Community Development	Costs: \$ N/A Funding Source: Acct #	Attachments: Ordinance Staff Report
Department Review <input checked="" type="checkbox"/> Town Attorney <i>[Signature]</i> <input type="checkbox"/> Community Affairs <input checked="" type="checkbox"/> Community Development <i>[Signature]</i>	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ <i>[Signature]</i> or Not applicable in this case _____ Please initial one.

**Summary Explanation/Background:** This Use Change Ordinance amends Chapter 78 by adding two new uses in many of our residential and commercial districts: the uses are a) A Transient Residential Use, and b) Group Home. The ordinance also adds new or amended definitions for Transient Residential Use, Group Home, Community residential home and Substance Abuse Treatment Facility. This ordinance change clarifies the difference between different types of the above stated uses which our ordinance has never done. The ordinance also adds a transient residential use which allows for the transient rental of homes, apartments or condos and in some districts prohibits that use, such as single family districts. Transient usage is defined as leasing or renting a residential unit more than twice in one year. If a residential unit turns over more than twice per year then it is considered a transient residential use. Please review the staff report for more detailed information.

# Town of Lake Park Community Development Department



Meeting Date: September 2, 2009  
Memo Date: August 21, 2009

Patrick Sullivan, AICP, CED, Director

To: Town Commission

Re: Transient use ordinance

**This is a Use Change Ordinance which amends Chapter 78 by adding two new uses in various districts: a) A Transient Residential Use, and b) Group Home. The ordinance also adds new or amended definitions for Transient Residential Use, Group Home, Community residential home and Substance Abuse Treatment Facility.**

## Details:

1. Changes to definitions; the ordinance amends the definitions of Community Residential Home and Substance Abuse Treatment Facility; and provides for new definitions of Group Home and Transient Residential Use.

a. Community Residential Home (CRH) has been amended by deleting some wording that is not necessary.

b. A definition for **Group Home** is created. There is no existing definition in our code.

c. Substance Abuse Treatment Facility (SATF) has been amended by deleting extraneous wording. It now simply references state statute and the state's requirements for a SATF.

The basic theme running throughout these definitions is size and function. A CRH covers a licensed facility that caters to seven to fourteen residents that live together in a residential facility and do not receive primary treatment and rehabilitation at the house. If there are more than fourteen residents then the facility crosses a threshold and is considered a commercial facility such as a rehab center, nursing home, etc.

The **Group Home** is defined as a residential facility that is for six or fewer residents. Again, the facility is for living facilities only, not on-site treatment.

A SATF provides a comprehensive continuum of accessible and quality substance abuse prevention, intervention, and clinical treatment services. Basically, this type of facility provides treatment where the other two don't.

All the above definitions require that the facility be licensed by the state.

## 2. Changes to uses.

a. Group Homes will be allowed in all districts except in C-1, C-2, and C-4 and the PADD.

b. Community Residential Homes will be permitted in R-1AA, R-2A, C-3, and C-1C.

c. SATF will be allowed by special exception in all districts except the PADD.

**Transient Residential Use (TRU).** This is a new use defined as a dwelling that is operated or used in such a way that it has a turnover of occupancy of more than 2 times per year. Examples of dwelling units that are turned over more than twice in a year are vacation rentals, condo rentals, and boarding houses. TRU's will be prohibited in the R-1, R-1A, and R-1B. The reasoning behind this change is to foster the preservation of our single family neighborhoods. Lake Park is a planned community

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Community Development Department  
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designed around a core single family area. That area has survived for 86 years and it is the intent of the town that it survives for another 86 years. As such, transient residential uses can cause increased pressure on infrastructure, increased noise and traffic, unexpected and extended vacancies, and other impacts that are incompatible with preserving the character and values of a single family neighborhood. Therefore the Town has decided to limit occupancy turnover in its core residential areas of R-1, R-1A, and R-1B. TRU's will be allowed in all other residential districts.

This ordinance change is consistent with the Town's Comprehensive Plan as noted:

a. Chapter 3.0 Town Goal Statement: *Ensure that the historic small town character of Lake park is maintained, while fostering development and redevelopment that is compatible with and improves **existing neighborhoods**...* Policy 1.1, k.: *Eliminate use of land inconsistent with the Future Land Use Map and the **community's character**...*

a. Chapter 3.0 Objective 5 Policy 5.1: *the Town shall protect, preserve, maintain and improve its core residential neighborhoods and historic resources, and protect these areas from physical degradation and the **intrusion of incompatible uses**.* (Emphasis added)

**The Planning & Zoning Board reviewed the proposed ordinance at a special call meeting on August 24, 2009 and unanimously approved recommending adoption by the Town Commission.**

**ORDINANCE NO. 12-2009**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK; BY AMENDING CHAPTER 78, ARTICLE 1, SECTION 78-2 ENTITLED "DEFINITIONS" TO ADD A NEW DEFINITION FOR THE TERM "TRANSIENT RESIDENTIAL USE " AND "GROUP HOME" AND TO AMEND THE DEFINITION OF "COMMUNITY RESIDENTIAL HOME" AND "SUBSTANCE ABUSE TREATMENT FACILITIES"; AMENDING CODE SECTION 78-61 ENTITLED "R-1AA RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-62 ENTITLED "R-1A RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-63 ENTITLED "R-1B RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-64 ENTITLED "R-1 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-65 ENTITLED "R-2A RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-66 ENTITLED "R-2 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-67 ENTITLED "R-3 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-69 ENTITLED "C1-B BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-70 ENTITLED "C-1 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-71 ENTITLED "C-1 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-72 ENTITLED "C-2 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-73 ENTITLED "C-3 REGIONAL BUSINESS DISTRICT"; AMENDING CODE SECTION 78-74 ENTITLED "C-4 BUSINESS DISTRICT"; AMENDING CODE SECTION 78-75 ENTITLED "CLIC-1 CAMPUS LIGHT INDUSTRIAL/COMMERCIAL DISTRICT"; REPEALING SECTION 78-80 "STATUS OF SUBSTANCE ABUSE TREATMENT FACILITIES AND COMMUNITY RESIDENTIAL HOMES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and

Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission has adopted general provisions pertaining to permitted and special exception zoning uses in the Town's zoning districts, which have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

**WHEREAS**, it is the intent of the Town to enact regulations which are consistent with State and Federal law; and

**WHEREAS**, transient residential uses often maximize occupancy, causing increased pressure on infrastructure, including: garbage, sewer, water, and roadways; and

**WHEREAS**, transient residential uses can result in increased noise and traffic in single-family residential communities; and

**WHEREAS**, unless regulations are placed on the number and location of transient uses, such uses could overwhelm the non-transient related single-family residential neighborhoods, making those neighborhoods and the Town of Lake Park less attractive places to reside; and

**WHEREAS**, transient residential uses can be incompatible with permanent residential uses if not properly planned, controlled and regulated; and

**WHEREAS**, the rapid turnover in occupancy associated with transient residential uses can be a disruptive influence on the peaceful use and enjoyment of single family residential areas; and

**WHEREAS**, reserving land for single family residences preserves the character of neighborhoods, securing "zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people." *See, City of Edmonds v. Oxford House*, 514 U.S. 725 (1995); and

**WHEREAS**, Congress intended the Fair Housing Act (FHA) to “prohibit the use of zoning regulations to limit the ability of the handicapped to live in the residence of their choice in the community; however, the FHA does not pre-empt or abolish a municipality’s power to regulate land use and pass zoning laws.” *See, Jeffrey O. v. City of Boca Raton*, 511 F.Supp.2d 1339 (S.D. Fla. 2007); and

**WHEREAS**, transient residential uses can displace permanent single family residential dwellings and thus reduce the number of permanent residents in the Town and cause a reduction in state revenue sharing funds necessary to support the services that influence the quality of life for residents, commercial interests, and visitors to the Town of Lake Park; and

**WHEREAS**, uncontrolled and unregulated transient residential uses is found to have a negative impact on the Town of Lake Park's economy, property values, law enforcement, traffic, safety, and the general health, safety, and welfare of the citizens of the Town of Lake Park; and

**WHEREAS**, the State of Florida has recognized that leases, rentals, licenses, and subleases or otherwise allowing in any manner the use of a residential dwelling unit for under twelve (12) months in duration is a transient use and is therefore taxed by the State of Florida at a rate of six (6) percent of the total rental amount charged; and

**WHEREAS**, the State of Florida regulates group homes and community residential homes by §419.001, Fla. Stat., which provides distance requirements of 1,000 feet between any group home with six (6) or fewer residents, and distance requirements of 1,200 feet between community residential homes for community residential homes

with seven (7) to fourteen (14) residents, which state regulations reduce the impact of such homes upon single-family zoning districts; and

**WHEREAS**, the State of Florida regulates Substance Abuse Treatment Facilities by Chapter 397, Fla. Stat., requiring state licensing of service providers; and

**WHEREAS**, the Town of Lake Park has provided for state regulated group homes and community residential homes and substance abuse treatment facilities, and desires to update its zoning code consistent with the State law; and

**WHEREAS**, the Town of Lake Park has provided for a reasonable accommodation process for applicants serving disabled individuals, in recognition of Federal and State law; and

**WHEREAS**, the Lake Park Planning and Zoning Board has reviewed this Ordinance at a duly noticed public hearing held before the Planning and Zoning Board on [REDACTED], 2009, and has recommended adoption of the changes to the Town's Land Development Regulations regarding the regulation of transient rental units; and

**WHEREAS**, the Town Commission and the Planning and Zoning Board both find that this Ordinance is consistent with the Town's Comprehensive Plan.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The whereas clauses are incorporated herein as true and correct and as the findings of the Town Commission.

**Section 2.** Chapter 78, Article 1, Section 78-2 of the Code of Ordinances of the Town of Lake Park is hereby amended to add the following definitions of "Group home" and "Transient residential use" and to amend the definitions of "Community residential

home” and “Substance Abuse Treatment Facilities”, to read as follows:

**Sec. 78-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

*Community residential home* means, as defined in F.S. ch. 419, a dwelling unit licensed to serve clients of the state department of children and family services, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical emotional and social needs of the residents, and which meet the notification requirements of F.S. ch. 419. The site selection and location criteria, specifically including, but not limited to, the separation and distance requirements of F.S. ch. 419, are incorporated herein, and are also applicable to homes of six or fewer residents which otherwise meet the definition of a community residential home, and as are regulated pursuant to section 78-79(15).

\* \* \*

*Group home* means a dwelling unit that pursuant to F.S. ch. 419 is a type of community residential home licensed to serve clients of the state department of children and family services, which provides a living environment for six or fewer unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional and social needs of the residents.

\* \* \*

*Substance abuse treatment facility* means a service provider or facility that is:  
(1) ~~Licensed~~ licensed or required to be licensed pursuant to F.S. § 397.311(18); or  
(2) ~~Used for room and board only in and in which treatment and rehabilitation activities are provided at locations other than the primary residential facility, whether or not the facilities used for room and board and for treatment and rehabilitation, are operated under the auspices of the same provider. For the purposes of this subsection (2) of this definition, service providers or facilities which require tenants, or occupants, to participate in treatment and rehabilitation activities, or perform testing to determine whether tenants or occupants are drug and/or alcohol free, as a term or condition of, or essential component of, the tenancy or occupancy, shall be deemed to satisfy the "treatment and rehabilitation activities" component of the definition contained in this section. Community residential homes are separately defined in this section, and in F.S. § 419.001, and are not substance abuse treatment facilities.~~

\* \* \*

Transient residential use means a dwelling that is operated or used in such a way that it has a turnover in occupancy of more than two (2) times in any one (1) year, and shall include but not be limited to rooming houses with such turnover. Occupancy by the real property owner(s) of the dwelling unit shall not be counted toward the frequency of turnover, as long as the turnover of other occupants does not exceed more than two (2) times in any one (1) year.

**Section 3.** Chapter 78, Article III, Sections 78-61, 78-62, 78-63, 78-64, 78-65, 78-66, 78-67, 78-69, 78-71, 78-72, 78-73, 78-74 and 78-75 of the Code of Ordinances of the Town of Lake Park, Florida are hereby amended to read as follows:

**Sec. 78-61. R-1AA residence districts.**

Within R-1AA residence districts, the following regulations shall apply:

\* \* \*

(2) *Uses permitted.* Residence district R-1AA shall include single-family residence and multiple-family structures as specified below:

\* \* \*

d. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

e. Community residential home is a permitted use provided that any community residential home is not located within a radius of 1,200 feet of another existing community residential home.

f. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility; and substance abuse treatment facility that provides room and board for seven to fourteen residents, provided that it is not located within a radius of 1,200 feet of another such existing substance abuse treatment facility, and further provided that the operator of any such facility obtains a business tax receipt from the town.

g. Transient residential uses are permitted.

\* \* \*

**Sec. 78-62. R-1A residence districts.**

Within R-1A residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-1A residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

d. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

e. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility and further provided that the operator of any such facility obtains a business tax receipt from the town.

\* \* \*

(7) Transient residential use is a prohibited use in the R-1A residence zoning district. Provided, however, that existing transient residential uses in the R-1A residence zoning district may continue until the expiration of the current lease agreement between an existing occupant and the real property owner, or twelve (12) months after the effective date of this ordinance, whichever occurs first.

\* \* \*

**Sec. 78-63. R-1B residence districts.**

Within R-1B residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-1B residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

g. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

h. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility and further provided that the operator of any such facility obtains a business tax receipt from the town.

i. Transient residential use is a prohibited use in the R-1B residence zoning district. Provided, however, that existing transient residential uses in the R-1B residence zoning district may continue until the expiration of the current lease agreement between an existing occupant and the real property owner, or twelve (12) months after the effective date of this ordinance, whichever occurs first.

\* \* \*

**Sec. 78-64. R-1 residence districts.**

Within R-1 residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-1 residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

f. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

g. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility and further provided that the operator of any such facility obtains a business tax receipt from the town.

\* \* \*

(7) Transient residential use is a prohibited use in the R-1 residence zoning district. Provided, however, that existing transient residential uses in the R-1 residence zoning district may continue until the expiration of the current lease agreement between an existing occupant and the real property owner, or twelve (12) months after the effective date of this ordinance, whichever occurs first.

\* \* \*

**Sec. 78-65. R-2A residence districts.**

Within R-2A residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-2A residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

g. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

h. Community residential home is a permitted use provided that any community residential home is not located within a radius of 1,200 feet of another existing community residential home.

i. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility; and substance abuse treatment facility that provides room and board for seven to fourteen residents, provided that it is not located within a radius of 1,200 feet of another such existing substance abuse treatment, and further provided that the operator of any such facility obtains a business tax receipt from the town.

j. Transient residential use.

\* \* \*

**Sec. 78-66. R-2 residence districts.**

Within R-2 residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-2 residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

g. Multifamily dwellings or apartment houses and community residential homes, provided that any such community residential home is not located

within a radius of ~~1,000~~ 1,200 feet of another such home ~~or within 1,000 feet of a single family zoning district~~. No garage apartment shall be permitted as an accessory use on a lot or parcel of land with a two-story dwelling (duplex) or a multiple-family structure.

\* \* \*

l. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

m. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility; and substance abuse treatment facility that provides room and board for seven to fourteen residents, provided that it is not located within a radius of 1,200 feet of another such existing substance abuse treatment facility, and further provided that the operator of any such facility obtains a business tax receipt from the town.

n. Transient residential use.

\* \* \*

### **Sec. 78-67. R-3 residence districts.**

Within R-3 residence districts, the following regulations shall apply:

(1) Uses permitted. Within any R-3 residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

g. Multifamily dwellings or apartment houses and community residential homes, provided that any such community residential home is not located within a radius of ~~1,000~~ 1,200 feet of another such home ~~or within 1,000 feet of a single family zoning district~~. No garage apartment shall be permitted as an accessory use on a lot or parcel of land with a two-story dwelling (duplex) or a multiple-family structure.

\* \* \*

n. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

o. By special exception, substance abuse treatment facility, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

p. Transient residential use.

\* \* \*

**Sec. 78-69. C1-B business districts.**

Within C1-B business districts, the following regulations shall apply:

- (1) *Uses permitted.* Within C1-B business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

h. Multifamily dwellings or apartment houses and community residential homes, provided that any such community residential home is not located within a radius of ~~1,000~~ 1,200 feet of another such home ~~or within 1,000 feet of a single-family zoning district.~~ No garage apartment shall be permitted as an accessory use on a lot or parcel of land with a two-story dwelling (duplex) or a multiple-family structure.

\* \* \*

s. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

t. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be not located within a radius of 1,000 feet of another existing facility.

u. Transient residential use.

\* \* \*

**Sec. 78-71. C-1 business districts.**

Within C-1 business districts, the following regulations shall apply:

- (1) *Uses permitted.* Within C-1 business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged,

unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

s. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility or within 1,500 feet of a residential zoning district.

t. Transient residential use

\* \* \*

**Sec. 78-72. C-2 business districts.**

Within C-2 business districts, the following regulations shall apply:

(1) *Uses permitted.* Within C-2 business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

\* \* \*

q. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

r. Transient residential use.

\* \* \*

**Sec. 78-73. C-3 regional business district.**

The C-3 regional business district is designed for the reuse and/or redevelopment of commercial property. It contains special regulations and procedures that are integrated with those of the Village of North Palm Beach to avoid conflicts that could otherwise be created by the location of the town/village boundary. Within C-3 business districts, the following regulations shall apply:

(1) *Uses permitted.* Within C-2 business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the

following uses:

\* \* \*

c. Community residential homes, ~~subject to the provisions of F.S. ch. 419,~~ provided that any such community residential home is not located within a radius of 1,200 feet of another such community residential home, and child care facilities as defined in F.S. ch. 402.

\* \* \*

j. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not located within a radius of 1,000 feet of another existing facility.

k. Transient residential use.

l. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

\* \* \*

**Sec. 78-74. C-4 business district.**

Within the C-4 business district, the following regulations shall apply:

(1) *General description.* This district is intended to be located between the western boundary of Section 20 of Township 42 South, Range 43 East and the Florida East Coast (FEC.) right-of-way to the east, bounded on the south by the northern boundaries of parcels 307, 316 and 306, the eastern boundary of parcel 306 and then easterly on Watertower Road on a line extending to the Florida East Coast Railroad and on the north by the south boundary line of the existing C-1 commercial (business) district, as is shown on the Town of Lake Park Official Zoning Map. This area is served by major roads but is not feasible for heavy commercial or industrial developments. The regulations for this district are intended to encourage development compatible with surrounding or abutting districts, with suitable open spaces, landscapes and parking spaces. The intent of this district is to limit development to a concentration of permitted uses, by confining those permitted uses to business offices, wholesaling, retailing and light manufacturing activities.

(2) *Uses permitted.* Within the C-4 business district, no building, structure or land shall be used, and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by those regulations, except for the

following uses:

\* \* \*

s. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

t. Transient residential use.

\* \* \*

**Sec. 78-75. CLIC-1 campus light industrial/commercial district.**

Within the CLIC campus light industrial/commercial district, the following regulations shall apply:

(1) *Purpose and intent.* It is the purpose of the CLIC district to allow the development of a mixed-use, campus light industrial/commercial employment center. The location of this district abutting the MU mixed-use residential/commercial/light industrial district provides opportunities for employment in close proximity to higher population densities, thereby promoting walk-to-work activity and reduced traffic congestion. The regulations for this district are intended to encourage development compatible with surrounding or abutting zoning districts, with suitable open spaces, on-site landscaping and parking areas. A landscape buffer along Silver Beach Road is required so that this district will not be incompatible with residential land uses on the south side of Silver Beach Road.

(2) *Uses permitted.* Within the CLIC zoning district, no building, structure, land or water use shall be permitted and no building shall be erected, structurally altered or enlarged, except for the following uses:

a. Any of the following uses shall be permitted:

\* \* \*

16. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

17. Transient residential use.

18. Community residential homes, provided that any such community residential home is not located within a radius of 1,200 feet of another such home.
19. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

\* \* \*

**Section 4.** Chapter 78, Article III, Section 78-80 of the Code of Ordinances of the Town of Lake Park, Florida is hereby repealed as follows:

**~~Sec. 78-80. Status of substance abuse treatment facilities and community residential homes.~~**

~~Any substance abuse treatment facility and/or community residential home which was in existence as of the date of the ordinance from which this section is derived, and which is rendered a nonconforming use in the zoning district in which it is located by the adoption of the ordinance from which this Code is derived, must comply with all provisions and requirements of this chapter, which may require, but not be limited to, the termination of the use and operation of any such facility or home, no later than 18 months from the effective date of the ordinance from which this section is derived.~~

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase 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 6. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 7. Codification.** The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to

accomplish such, and the word “ordinance” may be changed to “section,” “article,” or any other appropriate word.

**Section 8.** **Effective Date.** This Ordinance shall take effect immediately upon adoption.

# TAB 6

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. **6**

- |   |   |
|---|---|
| <input type="checkbox"/> PUBLIC HEARING                               | <input type="checkbox"/> RESOLUTION     |
| <input type="checkbox"/> Ordinance on Second Reading                  |   |
| <input type="checkbox"/> Public Hearing                               | <input type="checkbox"/> DISCUSSION     |
| <input checked="" type="checkbox"/> <b>ORDINANCE ON FIRST READING</b> | <input type="checkbox"/> BID/RFP AWARD  |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM                     | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other:                                       |   |

**SUBJECT: UPDATED PURCHASING POLICIES AND PROCEDURES**

**RECOMMENDED MOTION/ACTION: ADOPT ORDINANCE.**

Approved by Town Manager *H. Davis* Date: *8/26/09*  
*Anne M. Costello* *8/25/09*  
 Name/Title Finance Director Date of Actual Submittal

<b>Originating Department:</b> Finance	Costs: \$  Funding Source: Acct. #	<b>Attachments:</b> Ordinance
Department Review: <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input type="checkbox"/> Community Development _____	<input checked="" type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> Marina _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input checked="" type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** In April of this year the Town Commission adopted Ordinance 07-2009 which substantially revised the entire purchasing policies and procedures for the Town. This ordinance is simply fine tuning those revisions. The substantive changes consist of two items. First, the dollar limit for a field purchase order is being increased for all departments from

\$500.00 to less than \$1,500.00. Previously only Public Works had the higher limit. The purpose of this change is to reduce the burden on the departments and the cost of staff time requiring three quotes for such small purchases. The second substantive change to this ordinance is that bidding may be waived when not practicable or advantageous for the Town as declared by the Town Commission. The remaining changes proposed clarify change order limitations, specify requirements for posting notice of intent to award bids, including notification to contractors, vendors and proposers, and clarifying the section on protested solicitations and awards. The proposed changes still keep the Town in compliance with the requirements of the Local Area Program (LAP) Certification for the Florida Department of Transportation and the Federal Highway Administration.

**ORDINANCE NO. 13-2009**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE AT CHAPTER 2, ARTICLE V, DIVISION 2, ENTITLED “PURCHASING” TO AMEND SECTION 2-243 ENTITLED “REQUIREMENT OF GOOD FAITH”; SECTION 2-245 ENTITLED “DEFINITIONS”; SECTION 2-247 ENTITLED “PROCUREMENT METHODS”; SECTION 2-248 ENTITLED “COMPETITIVE SEALED BID PROCESS”; SECTION 2-249 ENTITLED “COMPETITIVE SEALED PROPOSAL PROCESS”; SECTION 2-250 ENTITLED “ALTERNATIVE SOURCE ELECTION”; AND SECTION 2-252 ENTITLED “PROTESTED SOLICITATIONS AND AWARDS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town has codified a procedure governing the procurement of goods and services, in which the Town has established procedures and the methods of procurements to be used when the Town desires to purchase goods and services; and

**WHEREAS**, it is generally in the best interest of the Town to use competitive procurement methods in order to obtain the best price and maximize the value of public funds in procurements; and

**WHEREAS**, establishing procurement methods and procedures for Town purchases, will provide for the fair and equitable treatment of persons and entities involved in purchasing by the Town, and establish safeguards for maintaining a procurement system of quality and integrity; and

**WHEREAS**, Town staff has recommended to the Town Commission that it amend Chapter 2, Article V, Division 2, Sections 2-243, 2-245, 2-247, 2-248, 2-249, 2-250, and 2-252; and

**WHEREAS**, the Town Commission has reviewed the recommendations of Town staff, and has determined that amending Chapter 2, Article V, Division 2, Sections 2-243, 2-245, 2-247, 2-248, 2-249, 2-250, and 2-252 of the Town's Code of Ordinances is necessary to further the public health, safety and welfare.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, THAT:**

**Section 1.** The whereas clauses are incorporated herein as true and correct, and are the findings of fact and conclusions of law of the Town Commission.

**Section 2.** Chapter 2, Article V, Division 2, Sections 2-243, 2-245, 2-247, 2-248, 2-249, 2-250, and 2-252 of the Town's Code of Ordinances are hereby amended to read as follows:

## **DIVISION 2. PURCHASING**

### **Sec. 2-241. General purpose.**

The purpose of this division is to meet the following objectives:

- (1) Establish policies governing all purchases and contracts;
- (2) Encourage and promote fair and equal opportunity for all persons doing business with the Town;
- (3) Obtain goods and services of satisfactory quality and quantity at reasonable cost for the Town;
- (4) Permit the continued development of procurement policies and procedures through the promulgation of administrative regulations and internal procedures of purchasing and contracts;
- (5) Foster effective broad-based competition within the free enterprise system; and
- (6) Provide safeguards for the maintenance of a procurement system of quality and integrity.

**Sec. 2-242. Supplementary general principles of law applicable.**

(a) *Compliance with federal and state law.* The Town shall comply with all applicable federal and state laws.

(b) *Principles of law and equity.* The principles of law and equity, including the Uniform Commercial Code of this state (F.S. chs. 670--680), laws relative to ethics, and laws relative to contract, agency, fraud, misrepresentation, duress, coercion, mistake or bankruptcy shall supplement the provisions of this division.

(c) *Access to procurement information.* Procurement information shall be a public record to the extent provided in F.S. ch. 119, and shall be available to the public as provided by law.

(d) *Preference to proposals for goods and services.* The Town shall have the option to give preference to proposals for goods and services received from vendors whose businesses are based within the Town where price, quality and other relative factors are comparable.

**Sec. 2-243. Requirement of good faith.**

The provisions of this division require all parties involved in the development, performance or administration of purchasing contracts of the Town Commission to act in good faith.

The Town Commission recognizes that fair and open competition is a basic tenant of public procurement; that such competition reduces the appearance and opportunity for favoritism and inspires public confidence that contracts are awarded equitably and economically; and that documentation of the acts taken and effective monitoring mechanisms are important means of curbing any improprieties and establishing public confidence in the process by which commodities and contractual services are processed. The purchase of all commodities and services will be in accordance with Town policy, codes, regulations and all applicable State Statutes

**Sec. 2-244. Application and exclusions.**

(a) The provisions of this division shall apply to every purchase/procurement by the Town, irrespective of their fund source, including state and federal assistance monies, except as otherwise specified by law. Items in this category shall be paid for through a request for disbursement. The provisions of this division shall not apply to:

- (1) Agreements between the Town Commission and nonprofit organizations or governmental entities including the procurement, transfer, sale or exchange of goods and/or services.
- (2) Procurement of dues and memberships in trade or professional organizations; subscriptions to periodicals; title insurance for real property; court reporter services; water, sewer and electrical utility services; copyrighted materials; patented materials; and fees and costs of job-related seminars and training.
- (3) Real property.
- (4) Legal services, including attorney, paralegal, expert witness, appraisal, or mediator services.

- (5) Auditing services.
- (6) Lectures by individuals.
- (7) Goods and/or services given, or accepted by the Town via grant, gift or bequest.
- (8) Goods purchased with petty cash in accordance with established Town procedures.
- (9) Goods and/or services purchased under contract with the federal, state or any other municipal government or government agency or political subdivision providing the vendor extends the same terms and conditions of the contract to the Town.
- (10) Items purchased for resale to the general public.
- (11) Permits (payable to governmental entities).
- (12) Approved travel expenses.
- (13) Legal settlements. (However, any legal settlements over the amount of \$5,000.00 shall be approved by the Town Commission in a public meeting.)
- (14) Insurance.
- (15) Health services.
- (16) Conferences and travel.
- (17) Utilities bills.
- (18) Normal recurring disbursements not for the purpose of acquiring goods and services.

(b) The exclusions listed above do not preclude the town from procuring such goods and/or services using the procedures listed herein this division.

(c) The minimum requirements of this division do not preclude additional procedures from being taken as deemed appropriate by the Town Manager or Town staff.

**Sec. 2-245. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**AGREEMENT:** The written agreement between the Town of Lake Park and vendor covering the work to be performed; other contract documents are incorporated into or referenced in the agreement and made a part thereof as provided therein.

**AMENDMENT:** A modification, deletion or addition to an executed contract by means of a formally executed document signed by both parties.

**BID:** A formal written price offer by a vendor to the Town to furnish specific goods and/or services in response to an invitation to bid.

**BID AWARD:** A contract and/or purchase order to the selected vendor to provide specific commodities and/or services to the Town for which funds have been appropriated by the Town of Lake Park Commission.

**BID CRITERIA:** The basis upon which the Town will rely to determine acceptability of a bid or proposal, as stated in the bid or the proposal, including, but not limited to, inspection, testing, quality, workmanship, delivery, price, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total cost or life cycle costs.

**BLANKET PURCHASE ORDER:** A purchase order under which vendor agrees to provide goods and/or services to a purchaser on a demand basis.

**CERTIFICATE OF CONTRACT COMPLETION:** A form which indicates that a project has been satisfactorily completed and the contractor has paid all labor, materials and other charges against the project in accordance with the terms of the contract.

**CERTIFICATE OF INSURANCE:** A document which shows proof of insurance, coverage, types and amounts.

**CHANGE ORDER:** A written instrument issued on or after the effective date of the formal written contract or purchase order which, when duly executed by the Town and contractor, amends the contract documents to provide for a change in the work or in the provisions of the contract documents, or changes in contract price or contract time, or any combination thereof. A change order to a purchase order must be ~~processed~~ approved by the Finance Director and/or Town Manager for all changes that affect the original dollar amount by an increase of ten (10%) percent or more. ~~Depending on the size of the contract, the change order may require Commission approval.~~ Change orders of \$10,000.00 or more require the approval of the Town Commission.

**COMMODITIES:** Any tangible personal property other than services or real property.

**CONSULTANTS COMPETITIVE NEGOTIATION ACT (CCNA):** Acquisitions of architectural, engineering, landscape architectural or surveying and mapping services. (Florida Statute, section 287:055).

**CONSULTING SERVICES:** All other services that do not fall under the definition of professional services for the Consultant Competitive Negotiation Act (CCNA).

**CONTINUING SERVICES CONTRACT:** A continuing contract to retain the services of a consultant(s). The authorization for performance of services by the consultant shall be in written form issued and executed by the Town and signed by the consultant.

**CONTRACT:** A deliberate verbal or written agreement between two or more competent parties to perform or not perform a specific act or acts, or any type of agreement (regardless of what it is called) for the procurement or disposal of goods, services or construction in exchange for money or other consideration. An authorized purchase order is a contract even though it is only signed by the Town Manager, Finance Director or designee.

**DEBARMENT:** The exclusion, for cause, of a vendor or contractor from bidding and/or receiving a contract to do business with the Town.

**DESIGN-BUILD:** The requirement for which a single contract with a design-build firm is entered into for the design and construction of a capital improvement construction project.

**DESIGNEE:** A duly authorized representative of a person, organization, or agency.

**DISCRIMINATION:** Any vendor who has been placed on the discrimination vendor list as defined by Florida Statute Section 287.134, shall not be able to transact business with the Town to the extent as specified in Florida Statute 287.134 (2) (b).

**EMERGENCY PURCHASE:** Procurement made in response to certain emergencies or when the delay caused by complying with all governing rules, regulations, and/or procedures would be detrimental to the health, safety and welfare of the Town and/or its citizens or would create a hardship on the reasonable conduct of business in a timely fashion. Lack of planning, or funding surpluses, do not justify emergency purchases.

**FIELD PURCHASE ORDER:** A purchase of ~~\$500.00~~ less than \$1,500.00 ~~or less~~, that does not requiring require a purchase requisition or regular purchase order.

~~\*EXCEPTION: — \$1,500.00 or less for Public Works FPO: An exception is made for the purchase limits for Public Works Department (only) due to the nature of purchases such as construction materials, mechanical parts, landscaping materials, irrigation system parts etc. on a routine basis. All other requirements for bid solicitation and reporting remain the same.~~

**FORMAL CONTRACT:** Represents a legal obligation on the part of each party to the formal contract, which results from both parties' signatures being affixed to the contract documents and some additional obligation imposed by law.

**HEALTH SERVICES:** The procurement of any medical functions not covered by insurance, including but not limited to pre-employment physicals, random drug screening, medical consultations, and the contractual employment of the medical director for the county fire department.

**INVITATION FOR BIDS:** All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids for the procurement of construction, commodities, and/or services.

**LETTER OF RENEWAL:** A document, generated by either party, to renew or extend the contract in accordance with the terms of the original contract. Contract renewals will be requested by the department head and prepared and approved by the Town Manager, Finance Director or designee and/or Town Commission where applicable per contract documents.

**MANDATORY BID AMOUNT:** The threshold dollar amount established as policy by the Town Commission at and above which the formal competitive sealed bid process shall be used, except as otherwise provided herein. The mandatory bid amount ~~threshold~~ is \$25,000.00 as established by the Town Commission.

**MINORITY BUSINESS ENTERPRISE:** Any small business concern, which is defined as a minority business enterprise pursuant to Section 288.703, Fla. Stat., as amended from time to time.

**MINORITY PERSON:** Shall be defined as ascribed by Section 288.703, Fla. Stat., as amended from time to time.

**NON-RESPONSIVE BIDDER, PROPOSER, OR RESPONDENT:** Any vendor responding to an Invitation to Bid, Request for Proposals, Request for Statement of Qualifications who does not submit the required signed documents or submits incomplete requested documents and/or information.

**NOTICE TO PROCEED:** A written notification from the Town Manager or Finance Director or designee to the contractor to establish commencement of the contractor's responsibilities under the provisions of the contract.

**PERSON:** Any business, individual, union, committee, club, or organization, or group of individuals.

**PROCUREMENT:** Buying, purchasing, renting, leasing or otherwise acquiring any commodities and/or services for public purposes in accordance with the law, rules, regulations and procedure intended to provide for the economic expenditure of public funds. It includes, but is not limited to, all functions which pertain to the obtaining of any supplies, materials, equipment and/or services including construction projects and capital improvement projects, as defined herein, required by the Town.

**PROFESSIONAL SERVICES (PS):** A solicitation for responses for CCNA services which include architectural, engineering, landscape architectural, and registered land surveying and mapping services as defined and prescribed under Florida Statutes 287.055.

**PROJECT MANAGER:** A person designated by the Town Manager to ensure compliance with Town codes, resolutions, procedures, and specification for contracts which he/she originates. The Project Manager, along with the Department Head is held accountable for contract compliance.

**PROPOSAL:** An executed formal document submitted by a vendor to the Town stating the goods and/or service offered to satisfy the need as described in a Request for Proposals (RFP), Request for Statement of Qualifications (RFQ) or a Request for Information (RFI).

**PUBLIC ENTITY CRIME:** Any vendor who has been convicted of a public entity crime as defined by Florida Statute Section 287.133, shall not be able to transact business with the Town to the extent as specified in Florida Statute 287.133 (2) (a).

**PUBLIC NOTICE:** The required notification or advertisement of an invitation to bid, request for proposal, or other competitive solicitation provided for in this division, to be given to prospective vendors for a reasonable/required period of time as determined by the Town Manager, which shall, at a minimum, include: ~~(i) direct notice to prospective vendors on an applicable bidders list maintained by the finance department;~~ ~~(ii)~~ (i) posting public notice on the Town website; and ~~(iii)~~ (ii) notice in a newspaper of general circulation when required by applicable law. The public notice shall describe the goods or services sought, and state the date, time and place of the bid/proposal/solicitation opening.

**PUBLIC RECORD:** Upon award recommendation or ten (10) days after opening, Invitation to Bid, Request for Proposals, Request for Statement of Qualifications and Request for Information,

becomes public records and shall be subject to public disclosure consistent with Chapter 119, Florida State Statutes.

**PURCHASE ORDER:** The Town's document used to authorize a purchase transaction with a vendor, which contains provisions and/or descriptions for goods and/or services ordered. Acceptance of a valid purchase order by a vendor shall constitute a legally binding contract.

**QUOTATION:** Any oral or written informal offer by a vendor to the Town to furnish specific goods and/or services at a stated price.

**REQUEST FOR INFORMATION (RFI):** A solicitation for response from interested and prospective vendors/contractors to provide information to determine specifications, qualifications and/or capabilities to satisfy a need rather than a firm specification and in which the respondent may be given latitude in order to develop a product and/or service which will fulfill the need. Upon receipt of responses to the RFI, the Town may develop specifications for an Invitation for Bid or criteria for a Request for Proposal, either of which may be issued to qualified proposers who submitted responses to the RFI.

**REQUEST FOR LETTERS OF INTEREST:** A solicitation of responses from interested and prospective vendors to provide information and/or specifications in order to determine qualifications and/or capabilities to satisfy a need rather than a firm specification, and in which the vendor may be given latitude in order to develop a product and/or service which will fulfill the need.

**REQUEST FOR PROPOSAL (RFP):** A solicitation of responses for commodities and/or services for which the scope of work, specifications or contractual terms and conditions cannot reasonably be closely defined. Evaluation of a proposal is based on prior established criteria wherein the RFP shall state the relative importance of price and other evaluation factors.

**REQUEST FOR QUALIFICATION (RFQ):** Solicitation for Statement of Qualifications pursuant to Florida Statutes, section 287:055, known as the Consultants Competitive Negotiation Act (CCNA).

**REQUISITION:** An internal document generated by the requesting department and forwarded to the Town Manager or Finance Director requesting purchase of commodities and/or services.

**RESPONSIBLE BIDDER, PROPOSER, OR RESPONDENT:** A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, ability, reliability, capacity, facilities, equipment, financial resources and credit which will assure good faith performance.

**RESPONSIVE BID:** A bid submitted by a responsive and responsible bidder, which conforms in all material respects to the invitation for bids.

**RESPONSIVE BIDDER:** A bidder who has submitted a bid, which conforms in all material respects to the invitation for bids.

**RESPONSIVE PROPOSAL:** A proposal submitted by a responsive and responsible proposer, which conforms in all material respects to the request for proposal.

**RESPONSIVE PROPOSER:** A proposer who has submitted a proposal, which at a minimum conforms in all material respects to the request for proposal.

**SALES TAX RECOVERY:** An option, resulting from the Town's tax exempt status, reserved by the Town to purchase all, any, or none of the materials and equipment included in each contract agreement directly from the manufacturer or supplier.

**SOLE SOURCE:** The only existing source of an item which meets the needs of the user department as determined and documented by a reasonable analysis of the marketplace. If in the process of a public bid, only one response is received, the Town Manager or Finance Director may proceed as a Sole Source Purchase.

**SPECIFICATION:** A concise statement of terms, conditions and a set of requirements to be satisfied by a product, material, service, or process used in an Invitation for Bids, Request for Proposals, and Request for Statement of Qualifications. It may include a description of any requirement for inspecting, testing, or preparing a commodity, service, or construction item for delivery.

**SURETY BONDS:** A document from the contractor, which is issued to guarantee that an obligation will be fulfilled. The nature of the obligation determines the type of bond that will be issued. The types of surety bonds include: license and permit bonds, public official bonds, bid, performance, labor, material and payment bonds.

**SUSPENSION:** The temporary debarment of a vendor for a period not to exceed three (3) years.

**TOWN:** When herein referenced refers to the Town of Lake Park.

**WARRANTY:** The representation, either expressed or implied, that a certain fact regarding the subject matter of a contract is presently true or will be true.

**Sec. 2-246. Organization.**

The Finance Department shall be the agency through which the ~~the~~ Town will conduct all of its procurement and contracting for all supplies, material, equipment, contractual services, professional and consultant services, construction and/or combination of goods and services. A properly completed purchase requisition should be completed and approved by the appropriate department head prior to submission to the Finance Department. When a field purchase order is used, a requisition need not be completed but the field purchase order should be approved by the Department Head, and a copy of the field purchase order promptly sent to the Finance Department.

**Sec. 2-247. Procurement methods.**

a) *Twenty-five thousand dollars or more estimated cost:* Any purchase with an estimated cost of \$25,000.00 or more except in an emergency situation (as determined by the Town Manager), or when involving single-source commodities (as determined by the Finance Director or Town Manager) must have an invitation to bid or request for proposal formally advertised in a newspaper of general circulation in the county, ~~21 days~~ for a period of time as specified in

Section 2-248(c) prior to the date set for submittal of bids or proposals. All purchases with an estimated cost of \$25,000 or more shall require Town Commission approval.

(b) *Ten thousand dollars through \$24,999.99.* All purchases having a value between Ten thousand dollars (\$10,000.00) through \$24,999.99 must have at least three written quotes from vendors. The results should be summarized by the cost center procuring the commodity or service, and the purchase reviewed by the Finance Director, and approved by the Town Manager. Three quotes are not required in emergency situations or when involving single-source commodities, as determined by the Finance Director or Town Manager. All purchases with an estimated cost of \$10,000.00 or more shall require Town Commission approval.

(c) ~~Five~~Fifteen *hundred dollars through \$9,999.99:* All purchases having a value ~~over~~ of \$500.00~~\$1,500.00~~ through \$9,999.99 must have at least three phone quotes documented by the procuring department. The documentation should include the vendor name, phone number, contact person, and quoted price. The Town Manager, Finance Director or the designee's assistant must approve all purchases between the amounts of ~~\$500.00~~\$1,500.00 and \$9,999.99. Appropriate quotes should be submitted to the Finance Department with the purchase requisition.

(d) *One cent through \$499.99*~~\$1,499.99~~. All purchases having a value between \$0.01 and ~~\$499.99~~\$1,499.99 may be made using a field purchase order (FPO). It is the responsibility of the procuring department to ensure that items are obtained at a competitive price, and that the department has not exceeded the line-item budgetary appropriation for the items purchased. The procuring department shall not use field purchase orders to make more than one purchase of the same item within five business days if the total cost is more than ~~\$499.99~~\$1,499.99.

~~**EXCEPTION:** *One cent through \$1,500.00. Public Works FPO:* An exception is made for the purchase limits for Public Works Department (only) due to the nature of purchases such as construction materials, mechanical parts, landscaping materials, irrigation system parts etc. on a routine basis. All other requirements for bid solicitation and reporting remain the same.~~

(e) *Review of purchases.* The Finance Department may review ~~such~~ purchases from time to time to ensure the validity of the purchase, including but not limited to, a confirmation of the need for the items purchased, verification of the department's report and its supporting documentation, the adherence to these purchasing procedures, and the overall integrity of the process used. One copy of each field purchase order shall be immediately forwarded to the Finance Department by the user department after completion of the purchase.

(f) **Aggregate Annual Amounts:** All references to bids and purchases and amounts established for bid parameters shall be deemed to be aggregate annual amounts, to the extent feasibly by each department. The total annual expected value of the purchase is to be used to determine the type of bid process to be applied. There shall be no artificial division of orders, piecemeal orders or other plans of order diversion or pyramiding to avoid said requirement.

(g) **Unauthorized Purchases Prohibited:** Unless specifically identified and approved it shall be prohibited for any Town employee to order the purchase of any goods or services or make a contract other than through the Finance Director unless otherwise provided herein. Any purchase or contract made contrary to the provisions hereof are not authorized and shall not be binding

upon the Town, even though said goods and/or services are used or consumed in support of the effort of the Town.

**Sec. 2-248. Competitive sealed bid process.**

(a) **THRESHOLD AMOUNT.** The threshold dollar amount established as policy by the Town Commission at and above which the competitive sealed bid process shall be used, except as otherwise provided herein shall be \$25,000.00.

(b) **INVITATION FOR BIDS.** Shall include the specifications, scope of service, all terms and conditions applicable to the bid and shall set forth the evaluation criteria to be used to determine the award.

(c) **PUBLICATION OF NOTICE.** Public notice of the invitation to bid shall be published in a newspaper of general circulation in the county ~~for 21 days for a period of time, as determined herein,~~ prior to bid submittal deadline, and posted on the Town of Lake Park web site. ~~Bid Notice shall be sent directly to prospective bidders that are on the vendor file relevant to the specific commodity.~~ The public notice shall state the place, date, and time of bid opening.

(1) For Bids estimated to be from twenty five thousand dollars (\$25,000.00) or more and expected to be under two hundred thousand dollars (\$200,000.00), the public notice of the invitation to Bid shall provide a minimum of 21 days for submission of bids.

(2) For bids estimated to be over two hundred thousand dollars (\$200,000.00) public notice of the Invitation to Bid shall provide at least thirty (30) days for submission of bids unless determined by the Town Manager or Finance Director to not be in the best interest of the Town.

(d) **BID SUBMISSION:** Bids must be received, in a sealed envelope, no later than the time and date and at the location specified. Any bids received later or at any other location than specified will not be accepted and shall be returned unopened to the bidder. It shall be the bidders' sole responsibility to ensure that their bid reaches the specified place for receipt of bids by the specified time. The Town shall bear no responsibility for any failure of the U.S. Postal Service, other courier service or Town employee to successfully deliver a bid to the designated delivery location. It is noted that bidders shall be allowed to withdraw their bids at any time prior to bid opening.

(1) All bids and accompanying documentation received from bidders in response to an invitation to bid, become the property of the Town, and will not be returned to the bidders. In the event of a contract award, all documentation produced as part of the contract shall become the exclusive property of the Town.

(e) **BID ACCEPTANCE AND EVALUATION:** Bids shall be accepted from all qualified vendors except as otherwise provided herein and shall be evaluated based on the requirements set forth in the Invitation for Bid. Unsolicited alternates will not be considered.

The Town may, at any time and in its sole discretion, reject all bids and/or re-advertise for bids using the same or different specifications and terms and conditions.

(f) **BID OPENING.** Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place specified in the invitation to bid. At the time of public opening, the Town Clerk or designee will officiate at all public bid opening of sealed bids, and shall announce and record the name of each bidder, the amount of each bid and such other relevant information as the Town Manager deems appropriate.

(g) **PUBLIC RECORD:** Upon award recommendation or ten (10) days after opening, bids become public records and shall be subject to public disclosure consistent with Chapter 119, Florida State Statutes.

(h) **CANCELLING OR POSTPONING INVITATION TO BID.** The Town Manager or Finance Director may, prior to bid opening, elect to cancel an invitation to bid or postpone the date and/or time of bid submission or opening. In such situations, an addendum will be issued.

(i) **Withdrawal of Bids:** A bidder can withdraw their bid up to the time listed for receipt of bids. If a bidder unilaterally withdraws their bid without permission after bid opening, the Finance Director may suspend the vendor from participating in future bids for up to three (3) years.

(j) **Corrections to bids:** The following shall govern the corrections of information submitted in a bid when the information is a material factor in determining the responsiveness of the bid.

(1) Errors in extension of unit prices or in multiplication, division, addition or subtraction in a bid may be corrected by the Finance Director or designee prior to award. In such cases, the unit prices bid shall not be changed. When bidders quote in words and in figures on items on the bid sheet and the words and figures do not agree, the words shall govern and the figures shall be disregarded.

(2) Nothing herein is intended to prohibit the acceptance of a voluntary reduction in price from the low bidder after recommendation to award bid to the low bidder, provided such reduction is not conditioned on, or does not result in, the modification or deletion of any specifications or conditions contained in the Invitation to Bid.

(k) **Responsible Bidder:** Factors to be considered in determining whether the standard of responsibility for bidders/proposers has been met include whether, in the Town's determination, a prospective vendor/contractor has:

(1) Appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements.

(2) A satisfactory record of performance on similar projects

(3) A satisfactory record of integrity

(4) Qualified legally to contract with the Town

(l) **RESPONSIVE BIDDER:** A bid shall be considered responsive only if it conforms to the requirements of the Invitation for Bids concerning pricing, surety, insurance, specifications of the commodities or services requested, inclusion of required documents and signed forms and any other matter unequivocally stated in the Invitation for Bids.

(m) **TIE BIDS.** If two (2) or more bidders are tied, the tie may be broken and the successful bidder selected by the following criteria presented in order of importance and consideration:

- a. Quality of the items or services bid if such quality is ascertainable.
- b. Delivery time if provided in the bid by the bidders.
- c. Certification of a "Drug-Free Workplace Program" which meets criteria established in F.S. § 287.087.
- d. Location of the vendor with the following award preferences:
  - i. A Town of Lake Park vendor.
  - ii. A Palm Beach County vendor.
  - iii. A Florida vendor.
  - iv. A minority business enterprise certified pursuant to the provisions of Section 288.703, Fla. Stat., as amended from time to time.
- e. If the above criteria are impossible to determine with any reasonableness or do not resolve the issue, the award will be given to that bidder whose bid was received earliest in time by the Town as indicated by the time clock stamp impressed upon the bid envelope of each bidder.

(n) **BID AWARD:** Award will ordinarily be made to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. Notice of intent to award, along with a tabulation of the bid/proposal results, shall be posted by the Town Clerk on the Town's website five business days prior to the Commission award. All bidders, proposers, offerors or contractors affected by the proposed award of contract will also be notified by the Town Clerk at the time of posting, via telefax or other means, of the intended award. and The award shall be effective upon approval of the Town Commission and upon issuance of a purchase order, execution of a contract, or written notice of award by the Finance Director or Town Manager. The Town may reject any bid prior to such issuance. In the event only one bid is received, the Town may award to the sole bidder if the bid is deemed to be reasonable and in the best interests of the Town or to request new bids. In the event all bids exceed budgeted funds, the Finance Director, with direction of the Town Manager, in cooperation with affected Department Director, is authorized, when time or economic considerations preclude re-solicitation to negotiate an adjustment of the bid price and/or bid specifications with the low responsive and responsible bidder in order to bring the bid within the amount of budgeted funds.

(o) **REJECTION OR AWARD OF BIDS.**

(1) The Town reserves the right to accept or reject any and all bids and/or to make award to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation to bid and whose award will, in the opinion of the Town, be in the best interest of and most advantageous to the Town.

(2) Factors to be considered in determining whether the standard of responsibility has been met include whether, in the Town's determination, a prospective vendor/contractor has:

- a. Appropriate financial, material, equipment, facility, and personnel resources, experience, knowledge, and expertise, or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;
- b. A satisfactory record of performance on similar projects;
- c. A satisfactory record of integrity;
- d. Qualified legally to contract with the Town; and
- e. Supplied all necessary information in connection with the inquiry concerning responsibility including but not limited to any licenses, permits, insurance, or organization papers required.

The prospective vendor/contractor shall supply information requested by the Town concerning the responsibility of such vendor/contractor. If such vendor/contractor fails to supply the requested information, the Town shall base the determination of responsibility upon any available information or may find the prospective vendor/contractor nonresponsive if such information is not submitted within the time specified by the Finance Director.

(3) The Town may conduct a prequalification process in which the responsibility of potential vendors/contractors is evaluated and may then limit acceptance of bids or proposals to those vendors/contractors deemed qualified in such process.

(p) *Changes and amendments.* The Finance Director and/or Town Manager may authorize changes/amendments for construction, and goods and/or services within the overall scope of the project or procurement of up to a cumulative amount of ~~20~~10 percent or ~~\$5,000.00~~\$10,000.00, whichever is lower. If the amendment/change order exceeds the maximum amounts herein, the amount of the amendment/change order must be approved by the Town Commission. If the change is outside the scope of the original project or procurement as determined by the Finance Director and/or Town Manager, a new invitation to bid must be issued, unless an emergency or sole source situation exists. Should an emergency or sole source situation exist, a new contract with the existing contractor may be negotiated and presented to the Town Commission for approval, provided such contractor is qualified and available to perform on the new project, or is capable of securing the services of a qualified subcontractor. Extensions of time frames for completion of contracts may be authorized by the Finance Director and/or Town Manager.

#### **Sec. 2-249. Competitive sealed proposal process.**

When it is determined by the Town Manager that the use of competitive sealed bidding is either not practical or not advantageous to the Town, the competitive proposal process may be used as an alternative to the competitive bid process.

(a) **Public Notice:** Public notice of the Request for Proposal or Request for Statement of Qualification shall be given in the same manner as provided for competitive sealed bidding except all RFP or RFQ require a minimum of ~~thirty~~ twenty one (21) days for submission of

proposals unless determined by the Finance Director to be not in the best interest of the Town.

- (b) **Evaluation Factors:** The Request for Proposals shall state the relative importance of price and other evaluation factors as listed in the Request for Proposal.
- (c) **Submission:** Proposals must be received no later than the specified time and date and at the location specified for submission in the Request for Proposal (RFP) or Request for Statement of Qualifications (RFQ). No proposal shall be accepted after such time or at any other location than specified; any proposal received later or at any other location than specified shall be returned unopened.
- (d) **Proposal Cancellation or Postponement:** The Town Manager, Finance Director or designee may, prior to the RFP or RFQ due date, elect to cancel or postpone the date and/or time for submission or opening. In such situations an addendum will be issued.
- (e) **Discussion with Responsible Proposer and Revisions to Proposals:** As provided in the Request for Proposals, discussions may be conducted with any responsible proposer who submits a proposal determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Proposer shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no exchange of information regarding the content or feasibility of the proposals by competing vendors.
- (f) **Proposal Evaluation:** Award shall be made to the most responsive, responsible proposer whose proposal is determined to be the most advantageous to the Town in accordance with the evaluation criteria contained in the RFP/RFQ. Evaluation of proposals may be made in a multi-step selection process as set forth in the RFP or RFQ.
- ~~(g)~~ **Award:** Notice of the intent to award, along with a tabulation of the bid/proposal results, shall be posted by the Town Clerk on the Town's website five business days prior to the Commission award. All bidders, proposers, offerors or contractors affected by the proposed award of contract will also be notified by the Town Clerk at the time of posting, via telefax or other means, of the intended award. at the location set for proposal submission.
  - (1) The Town reserves the right to conduct negotiations with two (2) or more proposers who respond to an RFP.
  - (2) Negotiations involving the Consultants Competitive Negotiation Act (CCNA) will be conducted by a team selected by the ~~Purchasing Agent~~ Town Manager.
- (h) **Proposal vs. Bid:** All of the guidelines specified for Invitation to Bid will apply to Request for Proposals unless otherwise stated in the guidelines for Request for Proposals.
- (i) **Consultant Services:** Consultant Services for services other than for architecture,

engineering, landscape architectural or surveying and mapping services are acquired in compliance with policies outlined in Invitation to Bid and/or Request for Proposal.

- (1) Architectural, engineering, landscape architectural or surveying and mapping services are acquired using Florida Statute, Section 287.55, known as the Consultants Competitive Negotiation Act (CCNA).
- (2) Design build contracts shall be established in compliance with Florida Statute, Section 287.055, known as the Consultants Competitive Negotiation Act (CCNA).

(j) **Continuing Consultant Services:** The Consultant's Competitive Negotiation Act (CCNA) does not provide criteria for negotiating a contract for Continuing Consultant Services. The Town has established selection criteria among consultants under Continuing Consultant Services Contracts. Consultant Services required for any project, which is within the scope of a Continuing Service Contract with the Town, which services are within the scope of the Consultant Competitive Negotiations Act, shall be awarded as follows:

- (1) The Town Manager and Department Head in charge of the project for which such services are required shall determine which of the service providers then under continuing contract with the Town are potentially capable of providing the required services.
- (2) The Town Manager or Finance Director shall then request each such provider submit a proposed Scope of Services and a fee quotation. The Department Head shall review the proposals received. In the event he/she determines it to be in the best interest of the Town, prior to completing his/her review, to enter into negotiations with any service provider which has submitted a proposal with respect to the proposed scope of services, the proposed fee, or both, in order to have the project completed in the most efficient and economical manner possible; upon the conclusion of any such negotiations, the department head shall complete review of the proposals.
- (3) Upon completion of the proposals review, the Department Head shall prepare and submit to the Finance Director and Town Manager his/her recommendation as to which service provider should, in his/her professional judgment, receive authorization to perform the work. In making such determination he/she shall take into account factors set forth in Florida Statute, Section 287.055 (4)(b), with respect to service providers then under continuing contracts with the Town and the price for which the services are to be rendered.
- (4) The Town Manager will be the approving authority for all price proposals under ten thousand dollars (\$10,000.00); for all price proposals over ten thousand dollars (\$10,000.00) the Town Manager will review and make his/her recommendation to the Town Commission for approval.

**Sec. 2-250. Alternative source selection.**

(a) *Small purchases.* Any purchase for an amount less than the mandatory bid amount may be made in accordance with those procedures promulgated in the Code; provided, however, no purchase shall be artificially divided so as to constitute a purchase for an amount less than the mandatory bid amount.

(b) *Sole source purchases.* The Town Manager may make or authorize a purchase without competitive bid when the appropriate department head has documented in writing that such good and/or service is the only item that meets the need and is available through only one source of supply. Sole source purchases greater than \$5,000.00 must be approved by the Town Manager. In addition, all sole source purchases exceeding ~~the mandatory bid amount~~ \$10,000.00 shall be approved by the Town Commission. Written determinations documenting sole source purchases shall be retained for a period of at least three years.

(c) *Emergency purchases.* The Town Manager or the Finance Director may make or authorize emergency purchases as defined herein. The appropriate Department Head shall document in writing that such goods and/or services needs to be purchased on an emergency basis. ~~and~~ Emergency purchases of \$10,000 or more shall be approved by the Town Commission at the next regularly scheduled Commission meeting. Written determinations documenting emergency purchases shall be retained for a period of at least three years.

(d) Authority to waive bidding. Bidding may be waived when it is determined to be not practicable or advantageous for the Town as declared by the Town Commission.

~~(d)~~ (e) *Cooperative purchases.* Notwithstanding any requirements of this division, the Town Manager or the Finance Director may purchase goods and/or services under contract with the federal, state, or municipal governments or any other governmental agency or political subdivision providing the vendor extends the same terms and conditions of the contract to the Town. Such purchases shall be subject to the approval levels specified in section 2-247.

~~(e)~~ (f) *Field purchase orders.* Field purchase orders may be utilized for purchases ~~up to \$500.00~~ of less than \$1,500.00. Field purchase orders do not require the preparation of a purchase requisition by the procuring department ~~nor~~ or the approval of the Finance Director prior to the procurement of a commodity and/or service. The procuring department is responsible for ensuring that a competitive price is received for the commodity and/or service ordered, and that the budgetary appropriation for the commodity and/or service purchased is not over expanded. The Town Manager or the Finance Department shall determine the integrity of such purchases.

~~(f)~~ (g) *Construction services.* The procurement of construction services by the Town ~~and the Community Redevelopment Agency~~ shall be acquired in accordance with the competitive sealed bid process outlined in section 2-248.

(1) Bid security shall be required for all competitive sealed bidding for construction contracts when the total cost of construction is estimated by the Town Manager or the Finance Director to exceed ~~\$100,000.00~~ \$200,000.00. Bid security shall be an original bid bond executed by a surety company admitted and authorized to do business in the State of Florida. Cash, a certificate of deposit, treasurer's check, or a certified cashier's check satisfactory to the Town may be tendered in lieu of the bid bond. Nothing contained herein shall prevent the Town from requiring bid security on construction contracts under \$200,000.00 as determined in the discretion of the Town Manager to be in the best

interest of the Town. Bid security shall be in an amount deemed sufficient by the Town Manager to insure bid compliance but in no event shall the bid security be less than five percent of the bid amount.

(2) Bids or proposals which are submitted without the required bid security shall be rejected.

(3) Any person, firm or entity who enters into a written construction contract with the Town which is for \$200,000.00 or more, shall before commencing the work, execute and deliver to the Town within the time specified by the contract or procurement documents, a payment and performance bond, each in the amount equal to or greater than 100 percent of the total contract price, unless the amount of the bonds is reduced to a lesser amount as determined by the Town Commission, but in no event shall the amount of each bond be less than 100 percent of the total contract price. The bonds shall be issued by a surety insurer authorized to do business in the State of Florida as a surety. The required bonds shall also be recorded in the public records of Palm Beach County. At the discretion of the Town Commission, any person or entity entering into a construction contract which is for \$200,000.00 or less may be exempted from executing the payment and performance bond.

(4) In lieu of the bond required by this section, a contractor may file with the Town an alternative form of security in the form of cash, a money order, a certified check, a cashier's check, an irrevocable letter of credit, or a security of a type listed in F.S. Ch. 625, pt. II. Any such alternative form of security shall be for the same purpose and be subject to the same conditions as those applicable to the bond required by this section. The determination of the value of an alternative form of security shall be made by the Town Manager.

(5) The bond must state on its front page: the name, principal business address, and phone number of the contractor, the surety, the owner of the property being improved, and, if different from the owner, the contracting public entity; the contract number assigned by the contracting public entity; and a description of the project sufficient to identify it, such as a legal description or the street address of the property being improved, and a general description of the improvement. Such bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in F.S. § 713.01, as amended, who furnish labor, services, or materials for the prosecution of the work provided for in the contract.

(6) If at any time after the execution of the contract and the surety bonds, the Town deems the surety or sureties upon such bonds to be unsatisfactory or, if for any reason such bonds cease to be adequate to cover the requirements of the contract, the Town may require the contractor, at its sole expense and within five days after the receipt of notice from the Town, to furnish an additional bond in such form and amount and with such surety as shall be satisfactory to the Town. In such event, no further payment to the contractor shall be deemed to be due under the contract until such new or additional security shall be furnished in manner and form satisfactory to the Town as to protect the interests of the Town and ensure the payment of persons supplying labor and materials under the contract. Final payment of all construction projects shall be approved by the

Town Manager after certification of completion from the Community Development Director.

(7) Nothing herein shall prohibit the Town from deleting line items within the invitation to bid and purchasing said items directly from a supplier in an amount not exceeding the bid amount per line item of the successful bidder, without further bidding, in an effort to benefit from the Town's tax exempt status.

**Sec. 2-251. Contract document.**

(a) *General provisions.* Every procurement of contractual services shall be evidenced by a written agreement embodying all provisions and conditions of the procurement of such services, which provisions and conditions shall not be limited to:

(1) A provision that bills for fees or other compensations for services or expenses be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(2) A provision allowing unilateral cancellation by the agency for the refusal by the contractor to allow public access to all documents, papers, letters, or other material subject to the provisions of F.S. ch. 119 and made or received by the contractor in conjunction with the contract.

(3) Where feasible, a provision dividing the contract into units of deliverables, which shall include, but not be limited to, reports, findings, and drafts, that must be received and accepted in writing by the contract manager prior to payment.

(4) A provision specifying the criteria and the final date by which such criteria must be met for completion of the contract.

(5) Where applicable, a provision specifying that the contract may be renewed on a yearly basis for a maximum of two years after the initial contract, the terms under which the cost may change as determined in the invitation to bid or request for proposal; and that renewals shall be contingent upon satisfactory performance evaluations by the agency and subject to the availability of appropriate funds.

(b) **SIGNING OF WRITTEN AGREEMENT.** The written agreement shall be signed by the Town Manager and/or the Mayor and the contractor prior to the rendering of any contractual service, except in the case of a valid emergency as certified by the Town Manager.

**Sec. 2-252. Protested solicitations and awards.**

(a) **RIGHT TO PROTEST.** Any actual, or prospective bidder or proposer who is allegedly aggrieved in connection with the solicitation or pending award of a contract may protest to the Finance Director.

(b) **NOTICE.**

(1) A notice of bid protest must be submitted to the office of the Finance Director no later than 5:00 p.m., local time, three business days from the time of initial posting of notice of intent to award. ~~after the bid award.~~ The notice of bid protest

must be in writing, and must identify the protestant and the solicitation involved, and shall include a factual summary of the basis of the protest.

(2) *Formal bid protest submission.* A formal written protest must be filed at the office of the Finance Director no later than 5:00 p.m., local time, within five business days after the date of filing the notice of bid protest. The formal written bid protest shall contain at a minimum the following information:

- a. Identification of the name, address and contact information of the protestor and the solicitation involved;
- b. A clear, brief, statement of the facts, legal arguments, and other grounds on which the protest is based;
- c. Identification of any applicable statutes, or ordinances, or other legal authorities which the protestor deems applicable to the; and
- d. Clearly state, in writing, the specific nature of the relief requested by protestor.
- e. Any additional written or physical materials, objects, statements, and arguments, which the protestor deems relevant to the issues raised in the request for review.

The protestant shall mail a copy of the notice of protest and the formal written protest to any person with whom the protestant is in dispute, and shall provide the Town Manager with evidence of such mailing.

(3) A formal written protest is considered filed with the Town when it is received by the Finance Director. Accordingly, a protest is not timely filed unless it is received by the Finance Department within the times specified above. Failure to file a written notice of bid protest and subsequent formal written protest within the time period specified shall result in relinquishment of all rights of protest by the vendor and abrogation of any further bid protest proceedings.

(4) These protest procedures shall be the sole remedy for challenging an award of bid or proposal. Bidders and proposers are prohibited from attempts to influence, persuade or promote through any other channels or means. Such attempts shall be cause for suspension in accordance with section 2-253(a).

(c) *Authority to resolve.* The Finance Director shall attempt to resolve the protest in a fair and equitable manner, and shall render a written decision within 10 business days to the protestant. The protestant may appeal such decision, in writing to the Finance Director within five business days of the date of the written decision, whereby a protest committee, comprised of the Finance Director, Town Manager, Town Attorney, and the Department Head of the using department, shall have the authority to settle and resolve the protest.

(d) *Proceedings.* The Finance Director shall serve as the presiding officer of the protest committee in a nonvoting capacity. The Town Clerk shall give reasonable notice to all substantially affected persons or businesses prior to the date scheduled to consider the appeal of the protest.

(1) At or prior to the protest proceeding, the protestant may submit any written or physical materials, objects, statements, affidavits, and arguments which the protestant deems relevant to the issues raised.

(2) In the proceeding, the protestant, or its representative or counsel, may also make an oral presentation of the evidence and arguments. However, neither direct nor cross examination of witnesses will be permitted, although the presiding officer and other committee members may make whatever inquiries deemed pertinent to a determination of the protest.

(3) The judicial rules of evidence shall not apply and the committee shall base its decision on such information adduced in the course of the proceeding upon which reasonable prudent persons rely in the conduct of their affairs.

(4) A quorum of the committee consists of a majority of committee members. A decision shall be rendered by a majority vote of the committee members in attendance.

(5) If it is deemed that the solicitation or award is in violation of law or the procedures outlined in this resolution, the solicitation or award shall be cancelled or revised.

(6) If it is determined that the solicitation or award should be upheld, the Finance Director shall promptly issue a decision on behalf of the committee in writing stating the reason for the action with a copy furnished to the protestant and all substantially affected persons or businesses. The decision shall be final and conclusive as to the Town. Any party may arrange for the proceedings to be stenographically recorded, and shall bear the expense of such recording. The proceedings shall be open to the general public.

(e) *Stay of procurement during protests.* In the event of a timely protest, the Finance Director shall not proceed further with the solicitation or with the pending award of the contract until the Finance Director, with the advice of the Town Attorney and after consultation with the using department makes a determination that the award of the contract without delay is necessary to protect substantial interests of the Town.

(f) *Reservation of powers to settle actions pending before the courts.* Nothing in this section is intended to affect the existing powers of the Town Commission to settle actions pending before the courts.

(g) *Damages.* In the event of the court upholding the protestant's claim, the court awarded damages on behalf of the protestant shall be solely limited to bid/proposal preparation costs.

### **Sec. 2-253. Suspension and debarment.**

(a) *Authority.* The Finance Director may suspend or debar for cause the right of a vendor to be included on a vendor list and any bid or response from that vendor rejected; provided, however, the Commission shall have the power to waive or lift such suspension or debarment.

(b) *Suspension.* A vendor may be suspended for a period not to exceed two years as determined by the Finance Director based upon the following:

- (1) Vendor defaults or fails to fully comply with the conditions, specifications, or terms of a bid, quotation, proposal or contract with the Town;
- (2) Vendor commits any fraud or misrepresentation in connection with a bid, quotation proposal or contract with the Town;
- (3) Vendor is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (4) Vendor is charged by a court of competent jurisdiction with the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a town government contractor. If charges are dismissed or the vendor found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the vendor to Town;
- (5) Vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or compounds its debts or assigns over its estate or effects for payment thereof, or has a receiver or trustee appointed over its property;
- (6) Vendor commission or any act or omission to perform any act which is grounds for debarment;
- (7) Vendor violates the ethical standards set forth in local, state, or federal law;
- (8) Vendor fails to comply with the minority business enterprise participation or minority business enterprise requirements of an awarded contract; or
- (9) Any other cause the Finance Director determines to be so serious and compelling as to materially and adversely affect responsibility of a business as a town government contractor, including but not limited to suspension by another governmental entity for substantial cause.

(c) *Debarment.* A vendor may be permanently debarred for the following:

- (1) Default or failure to fully comply with the conditions, specifications, drawings, or terms of a bid, proposal or contract with the Town twice in any three-year period.
- (2) Conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the vendor's commercial enterprise stated in subsections (b)(3) and (b)(4) of this section. If the conviction or judgment is reversed through the appellate process, the debarment shall be removed immediately upon written notification and proof of final court disposition from the vendor to the Town.

(d) *Decision.* After the Finance Director has determined there is cause to suspend or debar a vendor, the Finance Director shall notify the vendor in writing of the debarment or the period of suspension and the reasons for the action taken.

(e) *Public entity crime.* Any vendor who has been convicted of a public entity crime, as defined by F.S. § 287.133, shall not be able to transact business with the Town to the extent as specified in F.S. § 287.133(3)(a).

(f) *Finality of decision.* The suspension or debarment shall be final and conclusive unless the suspended or debarred vendor initiates protest proceedings pursuant to section 2-252 within 21 days after the date of notification.

#### **Sec. 2-254. Inspections and tests.**

(a) The Finance Director or appropriate Department Head may inspect, or arrange for the inspection of, all deliveries of supplies, materials, equipment or contractual services to determine conformance with specifications set forth in the order of contract.

(b) Any using department which has the staff and facilities for adequate inspection may be authorized by the Finance Director to inspect deliveries made to it.

(c) The Finance Director shall have the authority to require chemical and/or physical tests or samples submitted with bids and, samples of deliveries which are necessary to determine their quality and conformance with the specifications. For such tests, the Finance Director shall have the authority to make use of any facilities of the Town where such tests may be competently performed or an outside laboratory may be utilized. Should the product fail such testing, the Town may require the vendor to pay the town for any expense incurred in testing.

#### **Sec. 2-255. Equal opportunity/minority and women business enterprises.**

(a) The Town shall use its best efforts to ensure that minority and women businesses shall have an equitable opportunity to participate in the Town's procurement process and that no business shall be excluded from participation in, denied benefits of, or otherwise discriminated against in connection with the award and performance of any contracts with the Town because of race, color, religion, natural origin, age, sexual orientation, gender, marital status, handicap or physical impairment.

(b) This division shall be read consistently with the Florida Civil Rights Act, F.S. ch. 760, and shall not repeal existing or subsequently enacted town minority/women business enterprise ordinances.

#### **Sec. 2-256. Conflict of interest.**

(a) The standards of conflict for public offices, employees, government and attorneys as set forth in F.S. § 112.313 are hereby adopted and incorporated herein by reference as if fully set forth herein.

(b) The Finance Director, every member of the Finance Director's staff, and any employee of the Town engaged in the procurement of goods and/or services are prohibited from accepting or receiving any money, rebate, gift or anything of value or any promise of future reward or compensation, from any person, firm or corporation to which any purchase or contract may be awarded. This prohibition shall not apply to holiday gifts with a value of \$25.00 or less.

**Secs. 2-257--2-280. Reserved.**

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase 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 4. Repeal of Laws in Conflict.** All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5. Codification.** The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "section", "article", or any other appropriate word.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon adoption.

# TAB 7

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. 7

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> <b>PUBLIC HEARING</b><br><input checked="" type="checkbox"/> <b>Ordinance on Second Reading</b><br><input type="checkbox"/> Public Hearing<br><br><input type="checkbox"/> ORDINANCE ON FIRST READING<br><br><input type="checkbox"/> GENERAL APPROVAL OF ITEM<br><br><input type="checkbox"/> Other: | <input type="checkbox"/> RESOLUTION<br><br><input type="checkbox"/> DISCUSSION<br><br><input type="checkbox"/> BID/RFP AWARD<br><br><input type="checkbox"/> CONSENT AGENDA |
|---|---|

SUBJECT: Ordinance codifying the use of parking meters

RECOMMENDED MOTION/ACTION: Approval

**Approved by Town Manager** \_\_\_\_\_ **Date:** \_\_\_\_\_

<b>Originating Department:</b> Community Development	Costs: \$ N/A  Funding Source:  Acct. #	Attachments:
<b>Department Review:</b> <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input checked="" type="checkbox"/> Community Development _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** This is an ordinance to provide for the rules and regulations for the installation, use and enforcement of parking meters within the boundaries of the Town. It also prohibits parking on Lake Shore Drive and the streets between Lake Shore Drive and Federal Highway. This is designed to limit congestion and parking on streets where there are no meters.

**ORDINANCE NO. 10-2009**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES ENTITLED "TRAFFIC AND MOTOR VEHICLES", PROVIDING FOR THE AMENDMENT OF ARTICLE I, SECTION 30-2 ENTITLED "PROHIBITED PARKING"; PROVIDING FOR THE CREATION OF NEW ARTICLE IV TO BE ENTITLED "PARKING METERS"; CREATING NEW SECTION 30-71 TO BE ENTITLED "PARKING METERS; PARKING METERED SPACES, ZONES; INSTALLATION"; CREATING A NEW SECTION 30-72 TO BE ENTITLED PARKING WHEN METER/METER RECEIPT INDICATES VIOLATION; MAXIMUM PERIOD; DAYS EFFECTIVE; PARKING WITHIN SPACES"; CREATING A NEW SECTION 30-73 TO BE ENTITLED "COLLECTION OF MONEY"; CREATING A NEW SECTION 30-74 TO BE ENTITLED "USE OF SLUGS, ETC.; DAMAGING METERS"; CREATING A NEW SECTION 30-75 TO BE ENTITLED "ENFORCEMENT"; CREATING A NEW SECTION 30-76 TO BE ENTITLED "DEFINITIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida ("Town") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission has adopted general provisions pertaining to traffic and motor vehicles, including parking regulations and offenses, which have been codified at Chapter 30, Article I, of the Code of Ordinances; and

**WHEREAS**, the Town Commission has determined that it is in the best interests of the Town and its residents, to amend the current parking regulations set forth in Section 30-2 (a) of the Town Code, to prohibit parking in additional areas, which regulations will be consistent in part, with the provisions of the State Uniform Traffic Control Law pertaining to stopping, standing and parking of vehicles in specified places (i.e., Chapter 316, Section 315.1945, Fla. Stat.); and

**WHEREAS**, Town staff has recommended to the Town Commission that Code Sections 30-2 of Chapter 30, Article 1, be amended to the parking of vehicles in specified places as specified herein: and

**WHEREAS**, Town staff has recommend to the Commission that it create a new Article IV, Sections 30-72, 30-73, 3-74, 30-75, 30-76 of Chapter 30; and

**WHEREAS**, the Town Commission has reviewed the recommendations of the Town staff and has determined that amending Section 30-2 (a) of Chapter 30, Article 1 and creating a new Article IV, Sections 30-72, 30-73, 30-74, 30-75 & 30-76 of Chapter 30, of the Town's Code of Ordinances is necessary to further the public health, safety and general welfare.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The whereas clauses are incorporated herein as true and correct and as the legislative findings of the Town Commission.

**Section 2.** Chapter 30, Article I, Section 30-2 (a) of the Code of Ordinances of the Town of Lake Park, Florida are hereby amended to read as follows:

**Sec. 30-2. Prohibited parking.**

(a) Streets and service alleys.

(1) The on-street parking on any portion of Park Avenue is strictly prohibited except in designated parking stalls or areas which are designated by town signage for the temporary stopping or standing of motor vehicles for the limited purpose of passenger drop-off and pick-up.

~~(2) No parking shall be permitted on the 100 block of East Jasmine Drive, between the hours of 6:00 a.m. and 6:00 p.m., except Sundays and holidays.~~

(2) No parking shall be permitted at any time within the 700, 800 and/or 900 block service alleys, except in designated parking stalls approved by the town commission.

(3) No parking shall be permitted at any time along the eastern side of Miller Way.

(4) No parking shall be permitted at any time along the eastern side of Reed Road.

- (5) No parking shall be permitted at any time along the eastern side of Brant Road.
- (6) No parking shall be permitted at any time along the eastern side of 12th Street.
- (7) No parking shall be permitted at any time along the eastern side of 13th Street.
- (8) No parking shall be permitted at any time along the eastern side of 14th Street.
- (9) No parking shall be permitted at any time along the eastern side of 15th Street.
- (10) No parking shall be permitted at any time along the southern side of Newman Road.
- (11) No parking shall be permitted at any time along the southern side of Kinetic Road.
- (12) No parking shall be permitted at any time on 10th Street between Park Avenue and Northlake Blvd.
- (13) No parking shall be permitted at any time on Watertower Road.
- (14) No parking shall be permitted at any time on Gateway Road.
- (15) No parking shall be permitted at any time on South Killian Drive.
- (16) No parking shall be permitted at any time on West Killian Drive.
- (17) No parking shall be permitted at any time on North Killian Drive.
- (18) No parking shall be permitted at any time on 10th Court.
- (19) Parking shall be permitted along 10th Street between Park Avenue and Silver Beach Road only in designated parking stalls or areas which are designated by town signage.
- (20) No parking shall be permitted at any time on Lake Shore Drive except in designated metered parking spaces.
- (21) No parking shall be permitted at any time on Cypress Drive between Lake Shore Drive and Federal Highway.
- (22) No parking shall be permitted at any time on Date Palm Drive between Lake Shore Drive and Federal Highway.
- (23) No parking shall be permitted at any time on Evergreen Drive between Lake Shore Drive and Federal Highway.
- (24) No parking shall be permitted at any time on Foresteria Drive between Lake Shore Drive and Federal Highway. except in designated metered parking spaces.
- (25) No parking shall be permitted at any time on Greenbriar Drive between Lake Shore Drive and Federal Highway except in designated metered parking spaces.
- (26) No parking shall be permitted at any time on Hawthorne Drive between Lake Shore Drive and Federal Highway.
- (27) No parking shall be permitted at any time on East Ilex Drive between Lake Shore Drive and Federal Highway.
- (28) No parking shall be permitted at any time on East Jasmine Drive between Lake Shore Drive and Federal Highway.

**Section 3.** Chapter 30, Article IV, Sections 30-71, 30-72, 30-73, 30-74, 30-75 & 30-76 are hereby created to read as follows:

#### **ARTICLE IV. PARKING METERS**

**Sec. 30-71. Parking meters; parking metered spaces, zones; installation.**

(a) The town manager may recommend the installation of parking meters and/or pay and display and pay by space stations, or other such devices and may cause to be installed same upon approval by the town commission, in specifically designated metered spaces. The parking meters/stations may be of whatever type as approved by the town commission.

(1) Parking metered zones are hereby established within the area and upon those streets or parts of streets designated by the town commission.

(2) Parking metered space rates shall be established and amended by the adoption of a resolution of the town commission.

(b) Deposit of U.S. currency by cash or credit card. Permission to park in a metered parking space shall be granted for the length of time indicated upon the deposit of a sum as required and indicated for the designated metered space.

**Sec. 30-72. Parking when meter/meter receipt indicates violation; maximum period; days effective; parking within spaces.**

(a) No person shall park any vehicle or permit any vehicle to remain parked in any parking metered space when the parking meter/meter receipt for the space occupied by such vehicle indicates a violation.

(b) No person shall park any vehicle or permit any vehicle to remain parked in any parking metered space for a continuous period of time greater than the maximum time provided for on the meter/meter receipt.

(c) When parking metered spaces are designated giving notice thereof, no person shall stop, stand or park a vehicle in any metered parking zone for a period of time longer than designated by said parking meters or meter receipts upon the deposit of a coin or card of the designated denomination on any day unless otherwise posted, upon any of the streets so marked by designation of the town commission.

(d) Every vehicle shall be parked wholly within the metered parking space for which the meter/meter receipt shows parking privilege has been granted.

(e) In any metered parking space regulated by a pay and display station, such meter receipt shall be prominently displayed upon the dashboard of the vehicle or be clearly visible from through the front window of the vehicle. Such meter receipt shall be displayed writing side up. Failure to have the meter receipt visible and readable shall be considered a violation and the vehicle shall be consider illegally parked.

(f) Every vehicle parked in a parking metered space other than a parallel space shall be parked with the front end or front part of such vehicle facing away from the street.

**Sec. 30-73. Collection of money.**

(a) The town manager or the town manager's designee shall regularly collect monies deposited in meters/metered stations located in the town, the receipts thereof to be turned over to the finance department.

**Sec. 30-74. Use of slugs, etc.; damaging meters.**

(a) It is unlawful to deposit in any parking meter/station any coin, slug, etc. that is bent, cut, torn, battered, or otherwise misshapen. It is unlawful for any unauthorized person to remove, deface, tamper with, open, break, destroy or damage any parking meter. It is unlawful for any person to willfully manipulate any parking meter in such a manner that the indicator will not operate and continue to show the correct amount of unexpired time. Any person doing so shall be subject to the penalties set forth in Section 877.08(2), (3) and (4), Florida Statutes.

(b) For special events as declared by the town manager it shall not be unlawful for any person to park in a metered parking space when the meter/meter receipt regulating such space shall indicate that parking in such space is an overtime violation.

(c) Tickets and Violation. It shall be the duty of the town manager, or such persons acting at the direction of the town manager to report:

(1) The number of each parking meter, meter receipt, or metered space which indicates that the vehicle occupying the parking space adjacent to such parking meter is or has been parked in violation of any of the provisions of this article.

(2) The state license number of such vehicle.

(3) Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

(d) Each such parking enforcement officer shall also attach to such vehicle a notice to the owner thereof that such vehicle has been parked in violation of the provisions of this division.

**Section 30-75. Enforcement**

(a) Each such vehicle owner ticketed for illegal parking shall pay the Town as a penalty for such violation a sum established by a resolution of the Town Commission. If such owner shall fail to pay the penalty within five days of notice of such violation, a Notice of Hearing may be issued ordering and directing the owner to appear before the town's special magistrate. If such alleged violator is found guilty of such violation, such violator shall be ordered to pay such amount as determined by the special magistrate

(b) Violations of the requirements of this article may be enforced by the Town through the Town's Code Compliance Procedure in accordance with the provisions of Chapter 162, Fla. Stat., and the Town Code. In the event of a violation of this article, the Town also reserves its rights to pursue any and all other legal remedies available to the Town.

(c) If a vehicle accumulates three or more unpaid and uncontested tickets the Town shall provide the Palm Beach County Clerk of Courts with a listing of all persons who have three or more outstanding parking violations or one or more handicapped parking zone violations issued by the city.

1. If a person's name appears on the list referred to in subsection (c), above, the county tax collector shall not issue a license plate or revalidation sticker to such person until such person's name no longer appears on such list or until the person presents a receipt showing that such parking fines and all applicable late charges or other related charges have been paid. The tax collector shall be entitled to receive monthly, as costs for implementing and administering this subsection, ten percent of the civil penalties and fines recovered from such persons.

(d) Any final order finding a violation of this article and imposing fines and costs for the violation, shall constitute a valid lien in favor of the Town against all real and personal property of the violator, as provided in Chapter 162, Fla. Stat., (2009), as amended from time to time.

### **Sec. 30-76. Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Parking meter* - A coin or card-operated device that registers the amount of time purchased for the parking of a motor vehicle, at the expiration of which the driver is liable for a fine.

*Pay and Display Parking Meter Station (Pay and Display)* – is a single parking meter station that covers/regulates multiple spaces. Users pay at the meter station and display the resulting meter receipt on the dashboard of the vehicle.

*Pay by Space Parking Meter Station* – is a single parking meter station that covers/regulates multiple parking spaces where each space has a specific identifying number. Users pay at the meter station and enter the number of their specific parking space into the meter station.

Parking Space – an area for the purpose of parking one motor vehicle.

**Severability.** If any section, subsection, sentence, clause, phrase 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 4.** **Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 5.** **Codification.** The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**Section 6.** **Effective Date.** This Ordinance shall take effect immediately upon adoption.

# TAB 8

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. 8

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> PUBLIC HEARING              | <input type="checkbox"/> RESOLUTION     |
| <input checked="" type="checkbox"/> Ordinance on Second Reading |   |
| <input type="checkbox"/> Public Hearing                         | <input type="checkbox"/> DISCUSSION     |
| <input type="checkbox"/> ORDINANCE ON FIRST READING             | <input type="checkbox"/> BID/RFP AWARD  |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM               | <input type="checkbox"/> CONSENT AGENDA |
| <input type="checkbox"/> Other:                                 |   |

**SUBJECT:** Creation of a method to register out of town businesses that conduct business in Lake Park but are not required to pay a business tax receipt.

**RECOMMENDED MOTION/ACTION:** Approval

**Approved by Town Manager** \_\_\_\_\_ **Date:** \_\_\_\_\_

<b>Originating Department:</b> Community Development	Costs: \$ N/A Funding Source: Acct. #	Attachments:
<b>Department Review:</b> <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input checked="" type="checkbox"/> Community Development _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ or Not applicable in this case _____: Please initial one.

**Summary Explanation/Background:** This is an ordinance that allows the Town to require businesses that are not required to pay a business tax receipt to register as an out of town vendor and pay a fee for processing the business registration. Many businesses do business in the town but do not have a permanent place of business in the town and if they have a business tax receipt from another town then they do not have to obtain a business tax receipt in Lake Park. Also, if the business is regulated by the state of Florida and does not have a place of business in the town it is exempt from the town's business tax receipt and the town's business registration. As an example, out of town attorneys are exempt from the registration because they are regulated by the state. Out of town landscape/mowing services are not regulated by the state and are therefore subject to the town's business registration. The fee for a business registration is set by resolution.



34           **WHEREAS**, after conducting an analysis of the operations of other south Florida  
35 municipalities with respect to the imposition of such a registration fee, Town staff has concluded  
36 that many municipalities have business registration programs pursuant to which, the  
37 municipalities register business enterprises; and

38           **WHEREAS**, Town staff is recommending that the Town Commission adopt this  
39 Ordinance which establishes an annual business registration fee for such businesses, professions,  
40 and occupations; and

41           **WHEREAS**, the Town will incur expenses as a result of regulating certain businesses in  
42 the interest of protecting its residents and visitors;

43           **WHEREAS**, in enacting this Ordinance and establishing a Town business registration fee  
44 procedure, the Town is authorized pursuant to Section 166. 021, F.S. to recover the  
45 administrative costs of this consumer protection activity on such businesses, occupations, and  
46 professions; and

47           **WHEREAS**, the Town Commission, after due notice and public hearings, has  
48 determined that the adoption of registration fees would further the public health, safety and  
49 general welfare.

50           **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**  
51 **THE TOWN OF LAKE PARK:**

52           **Section 1.** The whereas clauses are hereby incorporated as true and correct as the  
53 legislative findings of the Town Commission.

54           **Section 2.** Chapter 2, Article VI, Sections 2-320, 2-321, 2-322, 2-323, and 2-324 of the  
55 Code of Ordinances of the Town of Lake Park, Florida are hereby created to read as follows:



78 witnessed and notarized application on a Town generated application form to the Town's  
79 Finance Department , together with the applicable business registration fee prior to commencing  
80 any business activities or operations in the Town. As a prerequisite to obtaining a business  
81 registration receipt, the applicant shall present to the Town's Finance Department either: (1) a  
82 copy of the applicant's current certificate of good standing or fictitious name registration issued  
83 by the Division of Corporations of the Florida Department of State; or (2) a written and sworn  
84 statement, signed by the applicant, which sets forth the reasons why the applicant need not  
85 comply with the Fictitious Name Act, and (3) a copy of the applicant's then-current original  
86 business tax receipt issue by another municipality, county, or both. The applicant may also be  
87 required to provide the Town with additional relevant information pertaining to the operations of  
88 the business, occupation, or profession to be registered, should the Town deem that additional  
89 information and/or data is required to make an informed determination on the disposition of the  
90 application. If the application is determined to be technically sufficient and complete and the  
91 applicable business registration fee is paid in full, the Town shall issue the applicant a business  
92 registration receipt issued in the name of the business, occupation, profession, or other form of  
93 business entity.

94 **Sec. 2-322. Issuance of a business registration receipt.**

- 95 (a) Business registration receipts shall be sold by the Town's Finance Department  
96 beginning on August 1 of each year, are due and payable on or before September  
97 30 of each year, and expire on September 30 of the succeeding year. If  
98 September 30 falls on a weekend or holiday, the fee is due and payable on or  
99 before the first business day following September 30. A business registration

100 receipt is not valid for, and will not be issued for more than one (1) year. All  
101 business registration receipts expire on September 30 of each year.

102 (b) Business registration receipts that are not renewed when due and payable, shall be  
103 automatically deemed to be delinquent, and shall be subject to a delinquency  
104 penalty of 10% for the month of October, plus an additional 5% penalty for each  
105 subsequent month of the delinquency until paid in full. For each business  
106 registration receipt obtained between October 1 and March 31, the full annual  
107 business registration fee shall be paid by the applicant. For each business  
108 registration receipt obtained by applicants between the period of April 1 and  
109 September 1, one-half of the full annual business registration fees shall be paid by  
110 the applicant. Upon payment of the applicable business registration fee the Town  
111 shall issue a business registration receipt to the applicant, which receipt shall be  
112 valid for a period of one year, and must thereafter be renewed for each year  
113 thereafter the business, occupation or profession does business within the Town.

114 **Sec. 2-323. Conducting business based upon false statement prohibited.**

115 (a) It shall be unlawful for any person or entity to engage in any business,  
116 profession, or occupation which is subject to this article to engage in its business,  
117 occupation, or profession without a valid business registration receipt, or to  
118 conduct business using a business registration receipt, which was issued, based by  
119 the Town upon false statements made by a business tax receipt applicant or an  
120 applicant's agent.

121 (b) Any business registration receipt that was issued based upon any false statement,  
122 shall be deemed void *ab-initio*. In such event, the business registration receipt  
123 shall not vest the business registration receipt holder with any rights or privileges,  
124 nor shall the Town's issuance of the illegally issued business registration receipt  
125 serve as any affirmative or other defense such as estoppel or waiver against the  
126 Town. Furthermore, the illegally issued business registration receipt shall not  
127 immunize or protect the business registration receipt holder (or its agent who  
128 submitted same) from prosecution for transacting business without the requisite  
129 business registration receipt.

130 **Sec. 3-324. Enforcement of violations of registration requirements.**

131 (a) Violations of the requirements of this article may be enforced by the Town  
132 through the Town's Code Compliance Procedure in accordance with the  
133 provisions of Chapter 162, Fla. Stat., and the Town Code. In the event of a  
134 violation of this article, the Town also reserves its rights to pursue any and all  
135 other legal remedies available to the Town.

136 (b) In any quasi-judicial, judicial, or other proceeding which is based upon a  
137 violation(s) of this article, evidence that a person or entity is engaging in, or has  
138 engaged in a business, occupation, or profession or other form of business entity  
139 which requires a Town business registration receipt, including but not limited to  
140 evidence that the violator and/or the violator's agents or tenants, displayed and/or  
141 distributed advertising, signage, marketing materials and the like; placed business  
142 listings in trade journals, phone books, websites, and/or other forms of media;

143 and/or any other indicia that the alleged violator is holding itself out to the public  
144 as being engaged in a business, profession, occupation regulated by this article,  
145 shall constitute prima facie evidence of the existence of the alleged violation. In  
146 such case, there shall be a rebuttable presumption in favor of the Town that the  
147 alleged violator is or was, engaging in a business, occupation, profession in  
148 violation of this article, and the burden of proof shall be automatically shifted to,  
149 and placed upon the violator. Thereafter, the alleged violator may seek to rebut  
150 the presumption of a violation of this article by the presentation of relevant and  
151 competent substantial evidence.

152 (c) A code enforcement proceeding or judicial proceeding may be commenced by  
153 the Town against any person, or other entity that engages in, or manages any  
154 business, occupation, profession within the Town for failing to: (1) obtain a  
155 business registration receipt or for registering its business, occupation or  
156 profession based upon the submission of an application which contains false  
157 statements to the Town by the applicant or the applicant's agent, or, (2) failing to  
158 pay the applicable business registration fee.

159 (d) Anyone who is found in violation of the provisions of this article shall be subject  
160 to the imposition of a fine of up to \$250.00 per day, per violation, for each and  
161 every day that a violation continues. In addition, a violator found in violation shall  
162 also be subject to the imposition of the Town's delinquency penalty, and the  
163 imposition of the Town's administrative costs and legal fees, the imposition of  
164 liens on the real and personal property of the violator, and the award of any other

165 relief deemed necessary and appropriate by the presiding special magistrate,  
166 hearing officer, compliance board, judge or tribunal.

167 (e) Any final order finding a violation of this article and imposing fines and costs for  
168 the violation, shall constitute a valid lien in favor of the Town against all real and  
169 personal property of the violator, as provided in Chapter 162, Fla. Stat., (2009), as  
170 amended from time to time.

171 **Section 3. Severability.** If any section, subsection, sentence, clause, phrase, or portion  
172 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent  
173 jurisdiction, such portion shall be deemed a separate, distinct and independent provision and  
174 such holding shall not affect the validity of the remaining portions thereof.

175 **Section 4. Repeal of laws in conflict.** All Ordinances or parts of Ordinances in conflict  
176 herewith are hereby repealed to the extent of such conflict.

177 **Section 5. Codification.** The Sections of the Ordinance may be re-numbered or re-  
178 lettered to accomplish such, and the word "Ordinance" may be changed to "Section", "article", or  
179 any other appropriate word.

180 **Section 6. Effective Date.** This Ordinance shall take effect immediately upon adoption.

# TAB 9

**Town of Lake Park Town Commission  
Agenda Request Form**

Meeting Date: September 2, 2009

Agenda Item No. **9**

- |  |   |
|--|---|
| <input type="checkbox"/> PUBLIC HEARING              | <input type="checkbox"/> RESOLUTION                   |
| <input type="checkbox"/> Ordinance on Second Reading |   |
| <input type="checkbox"/> Public Hearing              | <input checked="" type="checkbox"/> <b>DISCUSSION</b> |
| <input type="checkbox"/> ORDINANCE ON FIRST READING  | <input type="checkbox"/> BID/RFP AWARD                |
| <input type="checkbox"/> GENERAL APPROVAL OF ITEM    | <input type="checkbox"/> CONSENT AGENDA               |
| <input type="checkbox"/> Other:                      |   |

**SUBJECT:** Earl Stewart Demolition of Journey's Inn and subsequent use of the lot for vehicular parking for the dealership.

RECOMMENDED MOTION/ACTION:

Approved by Town Manager

*W. Davis*

Date:

*8/26/09*

<b>Originating Department:</b> Community Development	Costs: \$ N/A Funding Source: Acct. #	Attachments: <b>Staff Memo</b>
<b>Department Review:</b> <input type="checkbox"/> Town Attorney _____ <input type="checkbox"/> Community Affairs _____ <input checked="" type="checkbox"/> Community Development _____	<input type="checkbox"/> Finance _____ <input type="checkbox"/> Fire Dept _____ <input type="checkbox"/> Library _____ <input type="checkbox"/> PBSO _____	<input type="checkbox"/> Personnel _____ <input type="checkbox"/> Public Works _____ <input type="checkbox"/> Town Clerk _____ <input type="checkbox"/> Town Manager _____
<b>Advertised:</b> Date: _____ Paper: _____ <input type="checkbox"/> Not Required	All parties that have an interest in this agenda item must be notified of meeting date and time. The following box must be filled out to be on agenda.	Yes I have notified everyone _____ OR Not applicable in this case _____:  Please initial one.

**Summary Explanation/Background:** Please see attached staff memo

# Town of Lake Park Community Development Department



Meeting Date: September 2, 2009  
Memo Date: August 26, 2009

Patrick Sullivan, AICP, CED, Director

*PK*  
8/26/09

To: Town Commission

Re: Stewart Toyota Parking Lot

Earl Stewart has applied for a demolition permit to take down the Journey's Inn and the Cuban Restaurant. The permit application requires that a couple of issues be resolved prior to the issuance of the permit and the potential future use of the property. The applicant is requesting that he be allowed to demolish all the buildings on the Journey's Inn block. Once the buildings are demolished the foot prints of those buildings would be filled in and graded with crushed concrete. Any existing pavement would remain. He will also be removing all the foliage/vegetation that is growing on the interior of the site. That foliage consists of approximately 24 palm trees and 10 mature Birds of Paradise which Mr. Stewart has offered to donate to the town. While it is generally assumed that the site will be used for a parking lot once the buildings have been demolished, no such formal request has been made to this department.

In order to demolish the building the following must occur:

- A permit must be obtained from the Lake Park Building Department (this has been applied for)
- Any asbestos must be removed prior to demolition (this has been completed)
- An NPDES (National Pollutant Discharge Elimination System) permit must be obtained (to my knowledge this has not been applied for). It is required by the EPA.
- A plan for stormwater dispersal needs to be filed with the department and approved by the town engineer (this has not been done)

In addition, the town engineer does not recommend the use of crushed concrete due to the sediment that will continually wash off the concrete during a rain event.

Prior to the issuance of a demolition permit Mr. Stewart will be required to provide the NPDES permit and will have to have an approved stormwater pollution prevention plan.

The second part of this process has to do with the future use of the property following the demolition. It is my understanding that the future use of this property will be for a temporary parking lot for Stewart Toyota upon which new and used vehicles will be stored. This will continue until such time as Stewart Toyota is able to construct additional dealership buildings on this lot. As such, certain issues arise due to the nature of the use and they should be reviewed and decided by the Commission. The applicant is asking the Town to relax its code standards and the Commission will have to decide what level of relaxation is appropriate.

**Landscaping.** Our code requires all vehicular areas to be landscaped. The applicant is removing all the existing interior vegetation (24 mature palms, 10 mature Birds of Paradise). He has offered to donate the plants to the Town. There are no plans at this time to provide interior landscaping or to

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Community Development Department  
881-3319 fax 881-3323  
[psullivan@lakeparkflorida.gov](mailto:psullivan@lakeparkflorida.gov)

increase the landscape buffer that now exists around the boundaries of the property, which does not meet existing code.

*Staff recommends that minimal landscaping be required. At the very least the applicant should relocate the existing trees and plants that are already on the property. Since this use is temporary, staff would like to see a date certain that the property will come into compliance with the landscaping code.*

**Paving.** The applicant proposes to leave the existing asphalt. He plans to fill the demolished building footprints with crushed concrete. Our code requires vehicular lots to be paved with asphalt or constructed of an equivalent durable surface. The Town's engineer has recommended that the Town not allow crushed concrete to be used on the site:

"The plan shows backfilling the demolished areas with 12" compacted subgrade and 8" crushed concrete. If the surface is left as exposed crushed concrete, it will allow turbid runoff. This site has a direct connection to the Lake Shore Drive drainage system. Please provide modifications to the drainage system to prevent any turbid discharge. In addition, the slope of the site is likely to cause erosion of the crushed concrete surface which may require frequent maintenance. The applicant may wish to consider a gravel surface for the parking lot which may reduce turbid runoff and require less maintenance."

**Patrick A. Figurella, P.E. CG&A**

*Staff recommends that the demolition footprints be covered with a durable surface (which could include gravel) that will reduce any turbid runoff as a temporary solution until such time as appropriate paving plans can be approved.*

**Parking Plan.** The existing site has been used for storing vehicles from the Toyota dealership. Parking was allowed as a temporary solution until such time as permanent plans for the use of the site were applied for. The applicant is now asking for an extension of that temporary use. In addition, the fire department will require a parking plan for the site.

*Staff recommends that the Mr. Stewart be required to submit a parking site plan for the lot clearly noting that this is a temporary use and receive site approval from the fire department.*

**Drainage.** The demolition of the buildings can potentially change how stormwater runoff affects the area. Again, the Town engineer has expressed concern and requests a site plan that addresses stormwater:

Since the existing site does not appear to provide water quality treatment for stormwater runoff, please be advised that when site plans are submitted for the final modifications to the site they will have to meet SFWMD's (South Florida Water Management District) requirements for water quality and quantity.

**Patrick A. Figurella, P.E. CG&A**

Most likely, exfiltration trenches will be required to manage the stormwater runoff.

*Staff recommends that Mr. Stewart be required to submit a site plan that includes a stormwater plan that meets water quality and quantity standards*

**Timetable.** The use of this parking lot area has been represented as a temporary solution until such time as an expansion of the Toyota dealership is financially feasible. As of the date of this memo staff has not received any timetable that provides for turning the temporary lot into a permanent site that complies with the code.

*Staff recommends that Mr. Stewart commit to a timetable that clearly sets out a time frame for site improvements that will bring the property into compliance with the code within a reasonable amount of time.*

As a final note, it should be mentioned that the potential use of this lot has not been fully vetted by the public. The potential use of this site has not gone through the normal review process with proper advertising and certified mailings. Given the sensitivity of this site and previous concern by neighboring properties staff would recommend that a proper review process be conducted.

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