

**ORDINANCE NO. 01-2019**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING SECTIONS 6-3, 6-5 AND 6-6 OF CHAPTER 6 OF THE TOWN CODE RELATED TO THE CONSUMPTION, POSSESSION AND SALE OF ALCOHOLIC BEVERAGES IN THE TOWN OF LAKE PARK; PROVIDING FOR THE CREATION OF SECTION 6-7 TO BE ENTITLED "PENALTY"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; 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 provisions in Chapter 6 of its Code of Ordinances (the Code) pertaining to the regulation of alcoholic beverages within the Town; and

**WHEREAS**, the Palm Beach County Sheriff's Office (PBSO) has recommended that the Town incorporate enforcement provisions in Chapter 6 to enhance the public health, safety and welfare.

**WHEREAS**, the Town Commission determined that the most appropriate way to implement the PBSO's recommendations is to amend Sections 6-3, 6-5 and 6-6 of the Code.

**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.** Sections 6-3, 6-5 and 6-6 of the Code are hereby amended to read as follows:

**Sec. 6-3. - Consumption and possession of alcoholic beverages in unlicensed establishments, public parking lots, public places and ways prohibited.**

- (a) *Restrictions on the consumption of alcoholic beverages at commercial establishments.* The consumption of alcohol on the premises of unlicensed commercial establishments is hereby prohibited.

No person shall consume alcoholic beverages or cause alcoholic beverages to be added to any other beverage on the premises of any commercial establishment unless the owner of the establishment is licensed to sell alcoholic beverages to be consumed on the premises. For the purposes of this section, the term "premises" shall include the parking area of the commercial establishment. No person licensed by the beverage department of the state, who is not licensed to sell alcoholic beverages to be consumed on the premises, shall knowingly furnish or provide any set-ups, glasses or other service to any person for the purpose of consuming alcoholic beverages on the premises. No owner of any commercial establishment who is not licensed by the beverage department of the state to sell alcoholic beverages to be consumed on the premises, or any operator or employee of any such establishment, shall knowingly sell, furnish or provide any set-ups, glasses or any other service to any person for the purpose of consuming alcoholic beverages on the premises.

- (b) *Consumption and/or possession of alcoholic beverages is prohibited in privately-owned parking lots; with exceptions.* It is unlawful for any vendor or for any agent, servant or employee of any such vendor, to permit the consumption of any alcoholic beverages in or upon any parking areas or other area outside of the building or room stated in the vendor's license certificate as the address thereof, when any part of such parking or area is adjacent to the building or premises in which the business license is operated, and when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such a licensed vendor or by any agent, servant or employee of such licensed vendor. The licensed vendors Establishments with a license that does not allow consumption on the premises, shall post and maintain a legible, painted or printed sign in at least two separate prominent places on such parking or other areas, with sufficient light directed thereon to be visible during the hours of darkness while such place of business is open, in letters of not less than three inches in height. Parking areas utilized by multiple businesses of this type may share signage. The signage shall state the following stating:

"WARNING"

"Drinking Consumption of alcoholic beverages on the exterior of this premises or in the parking lot or in the public right-of-way is strictly prohibited and subject to a \$500 fine not exceeding \$500 or up to 60 days in jail, or both- Town of Lake Park Ordinance"

- (1) It is unlawful for any person to consume an alcoholic beverage in or upon any parking area outside of and adjacent to a vendor's licensed premises when such parking or other area is owned, rented, leased, regulated, controlled or provided, directly or indirectly, by such vendor.
- (2) If any licensed vendor mentioned herein is a corporation, then the officers of such corporation shall be regarded as the owners thereof, for the purposes of enforcement of this section.
- (c) *Consumption and/or Possession of alcoholic beverages is prohibited in and upon public places and public ways, including but not limited to, parks, streets, benches, sidewalks, parking lots, alleys, etc.; with exceptions.* It shall be unlawful for any person to drink, consume and/or possess or carry an open container of alcoholic beverage on the premises outside of, or on any streets, alleys, sidewalks, benches, or parking areas, and on other lands open to the public and/or owned or controlled by the town which are open to the general public, provided however that the town commission may permit consumption and carrying of alcoholic beverages during special events pursuant to the special event permits issued in accordance with the special event provisions of this Code. For the purposes of this section, the Lake Park Harbor Marina, Lake Shore Park and Kelsey Park shall be excluded from the definition of "park" provided that any consumption of alcohol in these areas Kelsey Park must shall be pursuant to a special event permit which authorizes the sale and consumption of alcohol in the park areas listed herein Kelsey Park. The Town shall post and maintain a legible, painted or printed sign in at least two separate prominent places on such parking or other areas, with sufficient light directed thereon to be visible during the hours of darkness while such place of business is open for business, in letters of not less than three inches in height, stating:

"WARNING"

"Consumption of alcoholic beverages in any public places and public ways, including but not limited to, parks, streets, benches, sidewalks, parking lots, alleys is strictly prohibited and subject to a fine not exceeding \$500 or up to 60 days in jail, or both- Town of Lake Park Ordinance, unless a special event permit has been obtained."

- (d) *Possession of alcoholic beverages in parking lots prohibited; exception.* It shall be unlawful for any person to possess or consume any alcoholic beverage in or within 500 feet of a commercial establishment parking lot in the town except in those areas in which such possession is permitted pursuant to the Beverage Law, special or general act of the state legislature, the Florida Administrative Code, or town permit, ordinance, resolution or administrative approval unless such alcoholic beverage is in the original container with the seal unbroken.
- (e) *Exemptions.* This section shall not apply to:
- (1) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign; or
  - (2) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages, provided that such alcoholic beverage is being transported solely for commercial purposes.
  - (3) Persons consuming alcoholic beverages at a special event, for which the town has issued a special event permit which includes the authorization for the sale and consumption of alcoholic beverages, and provided that the alcoholic beverages are not contained within a glass or metal container.
- (f) *Taking open container from licensed premises prohibited; vendor's responsibilities.* It is unlawful for any those vendors, their agents or employees who are or his their agents or employees, licensed to sell beer, wine, liquor or other alcoholic beverages within the Town unincorporated areas of the county, to knowingly allow any person to take from the licensed premises any opened beer, wine, liquor or other alcoholic beverage container, or to knowingly allow any person to take from the licensed premises any glass or other open or unsealed container containing an alcoholic beverage or any mixture containing an alcoholic beverage.
- (g) *Enforcement of section.* ~~It shall be the duty and responsibility of all town law enforcement and code enforcement officers to enforce the provisions of this section.~~ The Town's law enforcement agency, or other duly authorized law enforcement agency is hereby authorized to and shall strictly enforce the provisions of this chapter.

**Sec. 6-5. - Hours of sale.**

No person shall buy, sell, serve, consume or deliver, or permit the purchase, sale, service, consumption or delivery of, any alcoholic beverages for consumption on or off the premises of a licensed alcoholic beverage establishment between the hours of 2:00 a.m. and 7:00 a.m. of any day, including Sunday but excepting December 31 (New Year's Eve) which hours shall be 5:00 a.m. and 7:00 a.m., respectively. Those businesses or employees thereof who do not comply with this sections shall be subject to a fine not exceeding \$500 or up to 60 days in jail, or both.

The Town's law enforcement agency, or other duly authorized law enforcement agencies are hereby authorized to enforce the provisions of this chapter.

**Sec. 6-6. - Sale of alcohol near certain uses prohibited.**

(a) No person or entity may sell alcoholic beverages for consumption either on or off the premises where the place of sale is within 500 feet of real property that is being used as an elementary school, middle school, high school, or secondary school. Provided, however, that businesses located in the Park Avenue Downtown District on Park Avenue between 7th Street and 10th Street may be exempted from ~~this the~~ 500-foot distance regulation. Bring your own alcohol-type establishments whereby alcohol is not sold onsite, are exempt throughout the Town.

(b) The measurement provided in subsection (a) of this section shall be measured by drawing a straight line between the closest property lines of the place of sale and the real property being used as an elementary school, middle school, high school or secondary school.

(c) Consumption of alcohol in Kelsey Park, the Lake Park Harbor Marina, or Lake Shore Park must be pursuant to a special event permit, or permanent concession sales located on the premises, which authorizes the sale and consumption of alcohol in Kelsey Park, the Lake Park Harbor Marina, or Lake Shore Park.

Sec. 6-7 Penalty. Any person who violates any provision in this chapter shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days, or by both.

**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. 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 5. Repeal of Laws in Conflict.**

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

**Section 6. Effective Date.**

This Ordinance shall take effect immediately upon adoption by the Town Commission.



Upon First Reading this 6 day of February, 2019, the foregoing Ordinance was offered by Commissioner Michaud, who moved its approval. The motion was seconded by Commissioner Lynch and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER ANNE LYNCH	<u>/</u>	_____
COMMISSIONER ROGER MICHAUD	<u>/</u>	_____

**PUBLISHED IN THE PALM BEACH POST THIS 10 DAY OF February, 2019**

Upon Second Reading this 20 day of February, 2019, the foregoing Ordinance, was offered by Commissioner Flaherty, who moved its adoption. The motion was seconded by Vice-Mayor Glas-Castro and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR MICHAEL O'ROURKE	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER ANNE LYNCH	<u>/</u>	_____
COMMISSIONER ROGER MICHAUD	<u>/</u>	_____


The Mayor thereupon declared **Ordinance No.** 01-2019 duly passed and adopted this 20 day of February, 2019.

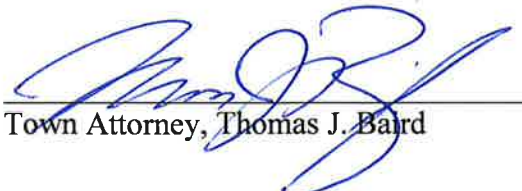
TOWN OF LAKE PARK, FLORIDA

BY:   
Mayor, Michael O'Rourke

ATTEST:

Approved as to form and legal sufficiency:

  
Town Clerk, Vivian Mendez  
**TOWN OF LAKE PARK**  
(Town Seal)  
**SEAL**  
**FLORIDA**

  
Town Attorney, Thomas J. Baird

**LEGAL NOTICE OF  
PROPOSED ORDINANCE  
TOWN OF LAKE PARK**

Please take notice that on Wednesday, February 20, 2019 at 6:30 p.m. or soon thereafter the Town Commission, of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

**ORDINANCE NO. 01-2019**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING SECTIONS 6-3, 6-5 AND 6-6 OF CHAPTER 6 OF THE TOWN CODE RELATED TO THE CONSUMPTION, POSSESSION AND SALE OF ALCOHOLIC BEVERAGES IN THE TOWN OF LAKE PARK; PROVIDING FOR THE CREATION OF SECTION 6-7 TO BE ENTITLED "PENALTY"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

If a person decides to appeal any decision made by the Town Commission with respect to any hearing, they 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. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, CMC, Town Clerk  
Town of Lake Park, Florida  
2-10/2019