

RESOLUTION NO. 47-08-18

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, NOTIFYING PALM BEACH COUNTY THAT PURSUANT TO THIS RESOLUTION THE TOWN OF LAKE PARK HAS OPTED OUT OF ARTICLE III OF CHAPTER 15 ENTITLED “HOUSING, PLACES OF PUBLIC ACCOMMODATION”; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida (“Town”) is a municipal corporation of the State of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, Palm Beach County, through its Article III of Chapter 15 of the Palm Beach County Code (County Code), entitled “Housing and Places of Public Accommodation” has declared that it is the County’s policy to assure, within constitutional limitations, equal opportunity to all persons to live in available housing facilities regardless of race, sex, color, religion, national origin, disability, familial status, sexual orientation, age, marital status, or gender identify or expression, and to that end, to prohibit discrimination in housing by any person; and

WHEREAS, Article VIII, § 2(b) of the Florida Constitution “grants to each municipality the authority to conduct municipal government, perform municipal functions, render municipal services and exercise any power for municipal purposes, unless expressly prohibited by the constitution, general or special law or county charter”; and

WHEREAS, § 15-65 of Chapter 15, Article III of the Palm Beach County Code provides that the provisions of Article III constitutes a uniform law applicable in all the unincorporated and incorporated areas of the County, to the extent permitted under the Florida Constitution, Article VIII, Section 1; and

WHEREAS, Article VIII, § 1 of the Florida Constitution provides that the charter of a county “shall provide which shall prevail in the event of conflict between county and municipal ordinances”; and

WHEREAS, Article I, § 1.3 of the Palm Beach County Charter provides that municipal ordinances shall prevail over county ordinances to the extent of any conflict regardless of the time of passage of the municipal ordinance; and

WHEREAS, The Palm Beach County Charter does not provide that Article III of Chapter 15 of the County Code prevails over ordinances of a municipality which also regulates housing practices; and

WHEREAS, both the County Code and the Town’s Code contain a definition of the term “family” and the two definitions conflict with one another; and

WHEREAS, the County Code’s definition of family is “...family includes the grandparents, parents, children, brothers and sisters, whether by marriage, legal adoption or blood, and their spouses and children, of either the property owner or spouse of the property owner; and the term ‘family’ also includes a single individual.”; and

WHEREAS, central to the conflict between the Town and County Codes’ definitions of the term family is the inclusion of the following language in the Town’s definition is “...one person or a group of two or more persons living together and interrelated by ... licit marriage”; and

WHEREAS, the Town’s Code §78-(6) has established a process which assures individuals including those with disabilities equal opportunity to housing facilities and this section of the Town’s Code conflicts with the County’s Code; and

WHEREAS, § 78-6 of the Town Code permits a group of disabled individuals who do not meet the definition of the term family, but who desire to reside together as a family, to seek a reasonable accommodation from the definition of the term “family”.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are the legislative findings of the Commission and are specifically incorporated herein.

Section 2. The Town Commission hereby finds that due to the conflict between the definition of the term “family” in the Town and County Codes, the County’s provisions in Chapter 15, Article III do not prevail over the Town Code’s definition of the term family.

Section 3. The Town Commission hereby finds that the provisions of Article III of Chapter 15 of the County’s Code conflict with the Town’s Reasonable Accommodation Procedures, specifically as related to an individual’s access to housing facilities in the Town. Accordingly, the County’s Code does not prevail over the Town’s Reasonable Accommodation Procedures set forth in Code § 78-6.

Section 4. The Commission further finds that the County’s Office of Equal Opportunity has failed to recognize the home rule authority granted to the Town by the Florida Constitution, and the provisions of the County’s Charter which provides that the Town’s ordinances prevail over County ordinance in the event of conflict.

Section 5. So that there is no further misunderstandings of constitutional law by the Palm Beach County Office of Equal Opportunity, as applied to the Town’s definition of the term family and its Reasonable Accommodation Procedures, the Commission hereby “Opts-Out” of Chapter 15, Article III of the County Code, entitled, “Housing, Places of Public Accommodation.”

Section 6. This Resolution shall take effect upon execution.

The foregoing Resolution was offered by Commissioner Michaud, who moved its adoption. The motion was seconded by Commissioner Flaherty and upon being put to a roll call vote, the vote was as follows:

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

The Town Commission thereupon declared the foregoing Resolution NO. 47-08-18 duly passed and adopted this 20 day of August, 2018.

TOWN OF LAKE PARK, FLORIDA

BY: Kimberly Glas-Castro
for MICHAEL O'ROURKE
MAYOR

ATTEST:

Vivian Mendez
VIVIAN MENDEZ
TOWN CLERK



Approved as to form and legal sufficiency:

BY: Thomas J. Baird
THOMAS J. BAIRD
TOWN ATTORNEY