

ORDINANCE NO. 16 - 2014

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78 OF THE TOWN CODE TO CREATE A NEW ARTICLE XI ENTITLED "FLEXIBLE LAND DEVELOPMENT REGULATIONS"; PROVIDING FOR A PURPOSE AND INTENT; PROVIDING THE COMMUNITY DEVELOPMENT DIRECTOR WITH THE ADMINISTRATIVE AUTHORITY TO WAIVE CERTAIN ZONING REGULATIONS TO FACILITATE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE TOWN; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; 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 Chapters 163, Florida Statutes; and

WHEREAS, the Town Commission has adopted certain land development regulations which have been codified in Chapter 78 of the Town Code, entitled "Zoning"; and

WHEREAS, the Town Commission finds that the public's health, safety and general welfare would be furthered by the creation of flexible land development regulations and that the adoption of these regulations will facilitate the development and redevelopment of certain non-residential areas promoting economic development within the Town; and

WHEREAS, the Town Commission finds that it is appropriate and necessary to authorize the Community Development Director to apply these flexible land development regulations to parcels of land that are less than 1.0 acres in size; and

WHEREAS, the Town Commission finds that under some circumstances it is appropriate to allow the Community Development Director to grant limited waivers of certain Town Code standards to create a more practical use of a property, to promote consistency in the development or redevelopment of properties; and

WHEREAS, the Town Commission finds that granting the Community Development Director the administrative authority with the discretion to apply these flexible land development regulations to parcels of less than 1.0 acre in non-residential zoning districts would facilitate good planning practices and promote the development and redevelopment of the Town.

NOW, THEREFORE, be it ordained by the Town Commission of the Town of Lake Park, Florida that:

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

Section 2. Chapter 78 of the Town Code entitled "Zoning" is hereby amended to create a new Article XI entitled "Flexible Land Development Regulations" as follows:

Article XI. FLEXIBLE LAND DEVELOPMENT REGULATIONS

Sec. 78-320. Purpose and intent.

The purpose of this Article is to facilitate and promote re-development and new development of properties which are less than 1.0 acres in the Town's non-residential zoning districts. It is the intent of this Article to provide for waivers of certain land development regulations where, in doing so, the existing patterns of development or redevelopment would be promoted in furtherance of the public's health, safety and general welfare. It is not the intent of this Article to provide a process whereby property owners may substantially increase the buildable portion of a particular property.

Sec. 78-321. Scope of the standards.

(a) The Community Development Director is hereby authorized to provide for relief from the land development regulations of this Chapter for properties provided the proposed development or redevelopment pertains to a parcel of land which is less than 1.0 acres and is located in a non-residential zoning district. The Community Development Director may grant waivers of the land development regulations pertaining to building setbacks, the number of required parking spaces, and landscape buffers where there has been a determination that:

- (1) The parcel of land cannot be developed or redeveloped and meet these standards as set forth in this Chapter; and
- (2) The proposed development or redevelopment of the parcel is consistent with the purpose and intent of this Article; and
- (3) The proposed development or redevelopment of the parcel would promote its reuse to a use which improves the quality of development within the parcel's general vicinity; and
- (4) The proposed development of the parcel would foster the development of a vacant parcel or redevelopment of a parcel; and
- (5) The proposed development or redevelopment would facilitate or promote additional private investment, development or redevelopment in the general vicinity of the parcel.

Sec. 78-322. Reviewing Authority

- (a) The Community Development Director is hereby authorized to review and administratively approve applications for the development or redevelopment of properties located in non-residential zoning districts which are less than 1,0 acres.
- (b) The Community Development Director may impose such conditions on the proposed development or redevelopment of a parcel of land which is deemed appropriate and necessary to ensure consistency with the intent of this Chapter, and consistency with the Comprehensive Plan.
- (c) The decision of the Community Development Director shall be in writing and shall be incorporated into the Development Order which is approved for the property which is the subject of an application.

Sec. 78-323. Applications

- (a) Applications for administrative waivers to the land development regulations of this Chapter shall be submitted, together with the applicable administrative fee, which is equivalent to the variance fee on the fee schedule approved by Resolution, to the Department of Community Development, and shall be accompanied by a site plan, survey, or other sealed plan which is sufficient to identify the development or redevelopment of the parcel of land which is the subject of the waiver request.
- (b) The application shall identify those land development regulations from which the applicant seeks a full or partial waiver; explain the reason for each waiver requested; and the extent to which the requested waiver, if granted, would depart from the land development regulations established by this Chapter.
- (c) The Community Development Director may require applicants to provide additional information to explain or justify a requested waiver.
- (d) As a condition of the approval, the Community Development Director may require an applicant to exceed certain land development regulations or meet other standards as mitigation for the waiver or partial waiver of the standards of this Chapter.

Sec. 78-324. Limitations on flexible land development regulations.

- (a) Each waiver shall not exceed 20% of the individual land development regulation.
- (b) The waiver of any one of the individual land development regulations listed in Section 78-325 shall not exceed 20% of the code requirement.
- (c) These flexible land development regulations are only be permitted in nonresidential zoning districts.

- (d) Waiver of the land development regulations of this Chapter that create a substantial inconsistency with the existing pattern of development of the surrounding area are not permitted.

Sec. 78-325. Land Development Regulations eligible for waivers.

(a) Building Setbacks. Up to 20% of the land development regulations for the front, side yard, side and rear setbacks may be waived, upon the Community Development Director's determination that one or more of the following conditions exists.

(1) There are site or structural conditions, such as, but not limited to: the lot size is less than 1.0 acre; or the lot has topographic limitations that require placement of a structure into the required setback area;

(b) Off-street parking. Up to 20% of the required number of parking spaces required by Article V of this Chapter, may be waived upon the Community Development Director's determination that one or more of the following conditions exists or is provided:

(1) A parking needs analysis for the proposed use demonstrates that less parking spaces than are required by Article V will meet the parking demand for the existing or proposed use. The parking needs analysis shall be prepared by a Florida registered engineer or architect, certified planner, or other professional who has the demonstrated qualifications to do such analysis.

(2) The proposed use is an adaptive re-use within an existing structure and there is insufficient space on site to accommodate all of the required parking provided that a parking needs analysis pursuant to (1) above is submitted.

(3) An addition to an existing structure is proposed and new parking will be provided on site to accommodate the additional square footage without reducing the amount of parking serving the existing structure or site prior to the proposed addition.

Provided, however, all properties shall comply with ADA requirements, respective loading requirements for certain uses, and no property shall have less than five parking spaces.

(c) Landscape Buffer Widths. Up to 20% of the required landscape buffers may be waived upon the Community Development Director's determination that one or more of the following conditions exists:

(1) Site is less than 1.0 acre;

- (2) Is adjacent to more than one right-of-way thereby allowing all rights-of-way other than the front street to be eligible for a reduction; and

Provided, however, that the waiver would not result in a buffer width of less than six feet.

(d) Landscape Buffers: Those areas of the Town which specifies a particular species of vegetation, hedges, or trees, their quantity, quality, or height requirements which conflict with the requirements of another public agency, or public or private utility, may be waived pursuant to Section 78-326 and the Town may require mitigation in accordance with Section 78-326. A letter from the agency or utility on letterhead which explains the agency or utility's conflicting standard and that no alternative design is possible is required to be submitted to the Community Development Director, and retained by the Department in the property file which is the subject of the waiver.

Sec. 78-326. Conditions/Mitigation.

The Community Development Director may:

- (a) Impose conditions or limitations upon the waivers granted pursuant to this Article in order to implement the spirit and intent of the provisions of this Chapter;
(b) Require mitigation on or off site in exchange for the granting of waivers pursuant to this Article.

Sec. 78-327. Variances.

If the Community Development Director approves a waiver of one or more of the and development regulations in Section 78-325, the parcel of land which has been granted the waiver shall not be eligible for additional waivers, or to petition the Town for variance relief from one or more of the land development regulations which have been waived. This Section shall not prevent a property owner from applying for variances to standards which are not eligible for waivers pursuant to this Article.

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

Upon First Reading this 17 day of December, 2014, the foregoing Ordinance was offered by Vice-Mayor Glas-Castro, who moved its approval. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>Absent</u>	_____
COMMISSIONER KATHLEEN RAPOZA	_____	_____

PUBLISHED IN THE PALM BEACH POST THIS 28 DAY OF December, 2014

Upon Second Reading this 7 day of January, 2015, the foregoing Ordinance, was offered by Commissioner Rapoza, who moved its adoption. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 16-2014** duly passed and adopted this 7 day of January, 2015.

TOWN OF LAKE PARK, FLORIDA

BY: James DuBois
Mayor, James DuBois

ATTEST:

Vivian Mendez
Town Clerk, Vivian Mendez
(Town Seal)
FLORIDA
LAKE PARK

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

RECEIPT

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

Please take notice that on Wednesday, January 7, 2015 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 Ordinance on second reading and proposed adoption thereof:

Ordinance No. 16-2014

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78 OF THE TOWN CODE TO CREATE A NEW ARTICLE XI ENTITLED "FLEXIBLE LAND DEVELOPMENT REGULATIONS"; PROVIDING FOR A PURPOSE AND INTENT; PROVIDING THE COMMUNITY DEVELOPMENT DIRECTOR WITH THE ADMINISTRATIVE AUTHORITY TO WAIVE CERTAIN ZONING REGULATIONS TO FACILITATE ECONOMIC DEVELOPMENT AND REDEVELOPMENT IN THE TOWN; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Ordinance No. 17-2014

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE XI, ENTITLED "ARCHITECTURAL DESIGN GUIDELINES FOR NONRESIDENTIAL BUILDINGS" AND RENUMBERING ARTICLE XI AS XII; PROVIDING FOR THE AMENDMENT OF SECTION 78-330 ENTITLED "GENERAL PROVISIONS"; AMENDING SECTION 78-333 ENTITLED "BUILDING FAÇADE AND ELEVATION"; AMENDING 78-337 ENTITLED "PREFERRED ROOF MATERIALS AND STYLES"; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; 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

PUB: The Palm Beach Post 12-28/2014
#349318