

ORDINANCE NO. 01-2010

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CHARTER TO COMPLY WITH A CONSENT DECREE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA; AMENDING OF ARTICLE IV, SECTION 1, ENTITLED "ELECTED OFFICERS"; AMENDING ARTICLE XVI, SECTION 17, ENTITLED "RUN-OFF"; AMENDING ARTICLE XVI, SECTION 22, ENTITLED "FORM OF BALLOT"; 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 the power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, prior to July 1, 1973 the Town Commission adopted a municipal Charter, which contains among other matters, provisions pertaining to officials elected to the office of Town Commission; and

WHEREAS, both Section 166.021(4) and Section 166.031, Fla. Stat. (2007), set forth the procedures to be followed in amending municipal charters adopted prior to July 1, 1973, and which charters have not been subsequently readopted; and

WHEREAS, pursuant to the provisions of Section 166.021(4), Fla. Stat. (2007), amendments to municipal charter provisions which were adopted prior to July 1, 1973, such as the Town's Charter, may be made by ordinance if the proposed changes do not affect the basic organizational and administrative structure of the municipal government, and if the proposed changes do not fall within any of the statutorily excluded areas which expressly require a referendum in order to adopt the proposed charter amendment; and

WHEREAS, the provisions of Section 166.021(4), Florida Statutes pre-empted by the supremacy clause and that certain Consent Decree by the United States District Court for the Southern District of Florida; and

WHEREAS, the Consent Decree requires that the Town change the manner in which candidates for Commission seats are elected by imposing a method known a "Limited Voting" which supersedes and replaces the current method of at-large elections by staggered Commission seats.

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 the legislative findings of the Town Commission.

Section 2. The municipal Charter for the Town of Lake Park, Article IV, Section 1, 2 & 3 are hereby amended to read as follows:

ARTICLE IV. [ELECTIVE OFFICERS]

Section 1. Elective officers.

The elective officers under this charter shall be the Mayor and the members of the Town Commission. The Mayor and members of the Town Commission shall all be elected in a general election in accordance with the terms and schedule set forth in Section 3, below ~~specific groups with specific designations~~ as follows:

Mayor

Commissioner ~~Group A~~

Commissioner ~~Group B~~

Commissioner ~~Group C~~

Commissioner ~~Group D~~

Section 2. Ballot designations.

Section 3. Term of elected office; schedule of election of Mayor and Commissioners.

The Mayor and Commissioners shall be elected for terms of three (3) years each, ~~except as set forth to the contrary herein. In the municipal election of 1961, the Commissioner Group A shall be elected for a term of three (3) years. In the municipal election of 1962, the Commissioner Group B shall be elected for a term of three (3) years. In the municipal election of 1963, the Mayor shall be elected for a term of three (3) years, and the office of Mayor shall be up for reelection at three (3) year intervals~~

~~thereafter; the Commissioner Group D shall be elected for a term of two (2) years; and the Commissioner Group C shall be elected for a term of one (1) year. In the municipal election of 1964, the Commissioners Groups A and C shall be elected for terms of three (3) years each, and the offices of Groups A and C shall be up for reelection at three (3) year intervals thereafter. In the municipal election of 1965, the Commissioners Groups B and D shall be up for reelection at three (3) year intervals thereafter. The regular town election for the four commission seats shall be the second Tuesday in March and each election year, thereafter, beginning in March of 2010. Such town elections shall be general elections. Electors shall vote for one qualified candidate amongst those Commissioners who appear on the ballot at that election and each successive election for the office of Commissioner. At any general election held under the provisions of this charter, the four Commissioner candidates who shall have received the four greatest number of votes cast shall be elected. Should two or more candidates for Commissioner receive the fourth greatest number of votes cast, those candidates shall be listed on a ballot for a run-off election which shall be held two weeks following the regular election for the office of Commissioner.~~

The regular town election for the Mayor shall be the second Tuesday in March of 2011. Such election shall be a general election. Electors shall vote for one qualified candidate amongst those candidates for Mayor who appear on the ballot. The candidate receiving the greatest number of votes cast shall be elected as the Mayor. In the event two or more candidates receive the same number of votes cast, then a run-off election pursuant to Section 17 of Article 16 shall be held two weeks after the original election to elect a candidate to fill the office of Mayor.

Section 4. Filling of vacancy on commission.

In the case of death, disability, resignation or removal of the Mayor or any member of the Town Commission, or in the event that a Commissioner or the Mayor ceases to remain a bona fide legal resident of the Town, a vacancy on the Town Commission shall exist, and such vacancy shall be filled by the appointment of a new temporary Commissioner by the remaining members of the Town Commission, until ~~an~~ the next election can be held to fill such vacancy for that office is. The election to fill the vacancy on the Commission shall be held within sixty (60) calendar days after the date of the death, disability, resignation, removal of the Mayor or Commissioner, or the change of legal residency of a Commissioner or the Mayor to a location outside the corporate limits of the Town, unless a general election of the Town of Lake Park is to be held within ninety (90) calendar days thereafter, whereupon such election may be combined with the general election. ~~No person specially appointed to fill the vacancy may be a candidate for the office to which he is appointed in the next following election to fill that office.~~

Section 3. Article 16. Section 17 of the Town Charter entitled "Run-off" is hereby amended

to read as follows:

~~Section 17. Run-off.~~ STRIKE THROUGH THE SECTION 17 AND RUN-OFF too

~~Whenever a general or special election is held to fill any elective office in the Town of Lake Park, the candidates receiving a majority of the votes cast at such election to fill such offices shall be declared to be duly elected; provided that in the event no candidates for a particular elective office~~

~~shall receive a majority of the votes cast at such election to fill such office, then a run-off election shall be held two (2) weeks after the original or special election to elect a candidate to fill such office; provided further that in such event only the names of the two (2) candidates having received the greatest number of votes in the general or special election for such office shall be submitted to the voters and the one receiving the majority number of votes in such run-off election shall be declared to be duly elected to such office; provided further that should two (2) or more candidates receive an equal number of votes to any such office so that it cannot be determined which two (2) had received the greatest and the next greatest number of votes, then the names of all such candidates shall be submitted at the run-off election and the candidate receiving the greatest number of votes at such election would be declared elected to such office.~~

Section 4. Article 16, Section 22 of the Town Charter entitled "Form of Ballot" is hereby amended to read as follows:

Section 22. Form of ballot.

That the official ballot (if ballot is used) to be used in all elections shall be substantially in the words, figures and form as follows; to wit:

OFFICIAL BALLOT
DATE ____, YEAR _____
TOWN OF LAKE PARK, FLORIDA

Mark a Cross Mark (x) before the name of the Candidate ~~and/or Candidates~~ of your own choice

TABLE INSET:

For Commissioner, Group D (Vote for only one)
() JOHN DOE
() RICHARD CATHERINE DOE
() BOB WHITE
() ROBERT KELSEY LINK
() JOE SMITH

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.

Upon First Reading this 6 day of January, 2010, the foregoing Ordinance, was offered by Commissioner Daly, who moved its approval. The motion was seconded by Commissioner Rumsey and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR JEFF CAREY	<u>/</u>	_____
COMMISSIONER ED DALY	<u>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 10 DAY OF January, 2010

Upon Second Reading this 20 day of January, 2010, the foregoing Ordinance, was offered by Commissioner Rumsey, who moved its adoption. The motion was seconded by Commissioner Osterman and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR JEFF CAREY	<u>/</u>	_____
COMMISSIONER ED DALY	_____	<u>Absent</u>
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 01-2010** duly passed and adopted this 20 day of January, 2010.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian M. Lemley
Town Clerk, Vivian M. Lemley
(Town Seal)
LAKE PARK
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird