

**ORDINANCE NO. 01-2009**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CODE, CHAPTER 76, ARTICLE IV, SECTION 76-122 ENTITLED "CONSTRUCTION IN LAKE WORTH" TO ELIMINATE CERTAIN OUTDATED REGULATORY PROVISIONS, AND TO PROVIDE UPDATED REGULATIONS IN AN ATTEMPT TO FACILITATE FUTURE ORDERLY DEVELOPMENT WITHIN THE TOWN ALONG THE LAKE WORTH WATERWAY WHICH IS CONSISTENT WITH THE GOALS AND OBJECTIVES OF THE TOWN'S COMPREHENSIVE PLAN AND IS ALSO IN COMPLIANCE WITH STATE AND FEDERAL REGULATIONS GOVERNING CONSTRUCTION IN NAVIGABLE WATERWAYS, INCLUDING THE LAKE WORTH WATERWAY; 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 the power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town has previously adopted provisions in Chapter 76 of the Town Code pertaining to waterways in general, which include Article IV pertaining to lakeward construction, and Section 76-122 entitled "Construction in Lake Worth" which contains provisions governing the regulation of certain construction activities within the navigable waterway commonly known as "Lake Worth"; and

**WHEREAS**, at the request of Lake Park Owner LLC, which is the entity that is the owner of the Mariner's Key residential development located at 901 Lakeshore Drive in the Town, Town staff reviewed the provisions of Town Code Section 76-122; and

**WHEREAS**, Town staff has determined that Code Section 76-122 was adopted in 1966, which was prior to the enactment of many of the current state and federal regulations

governing construction in navigable waterways, including but not limited to the Lake Worth waterway, which is partially located within the Town's boundaries; and

**WHEREAS**, applicants wishing to conduct construction within the Lake Worth waterway must not only comply with the provisions of chapter 76 of the Town Code, but also must abide by more stringent state and federal environmental protection rules and regulations and apply for and obtain applicable permits from state and federal regulatory authorities; and

**WHEREAS**, Town staff has concluded that based on the current regulations set forth in Town Code Section 76-122, this Section should be amended to allow for more flexibility in development along and in the Lake Worth waterway, and to streamline the local approval process at the Town level, with improved coordination with other permitting entities whose regulatory jurisdiction within the Lake Worth waterway generally supercedes the regulatory authority of the Town; and

**WHEREAS**, to accomplish these objectives, Town staff has recommended that certain amendments to Town Code Section 76-122 be adopted which will assist the Town in protecting the development of the Town's Lake Worth waterfront in a manner that is consistent with applicable state and federal regulations, as well as to provide for a consistent, timely, and efficient review process at the local Town level; and

**WHEREAS**, specifically Town staff has recommended to the Town Commission that Section 76-122 be amended to delete all references to certain outdated regulations, such as location and dimension requirements for piers and similar waterway structures which are inconsistent with state and federal environmental regulations; and

**WHEREAS**, as a result of the proposed amendments to Section 76-122, piers, T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be permitted by the Town without discriminating against certain parcels that are not as wide as other parcels; and

**WHEREAS**, in addition Town staff has recommended that Section 76-122 be amended to require mandatory waterway construction review and approval by state and federal agencies and entities with regulatory jurisdiction, and to also require that the applicable regulatory state and federal agencies, including but not limited to, the United States Army Corps of Engineers, review and approve all proposed waterway construction to be located within the Lake Worth waterway which is within the corporate limits of the Town; and

**WHEREAS**, Town staff has further determined that the proposed text amendments to Town Code Section 76-122 will be consistent with the Town's adopted Comprehensive Plan in that the development of high-density residential uses are encouraged along the shoreline parcels of the Lake Worth waterway, and in addition, Element Seven of the Coastal Management Chapter of the Comprehensive Plan encourages multifamily uses to engage in recreation along the Town's waterfront; and

**WHEREAS**, the Coastal Management Chapter of the Town's adopted Comprehensive Plan also recognizes that private docks extend water ward into the Lake Worth waterway along the Lake Worth shoreline within the Town, but notes that there are no

natural resources which are endangered within the Town's portion of the northern area of the Lake Worth coastline; and

**WHEREAS**, the Town Commission has reviewed the recommendations of the Town staff, and has determined that amending Chapter 76, Article IV, Section 76-122 of the Town Code will provide a more efficient and effective review process which is consistent with current state and federal law, and also that the proposed amendments to Code Section 76-122 are 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 findings of fact and conclusions of law of the Town Commission.

**Section 2.** Chapter 76, Article IV, Section 76-122 entitled "Construction in Lake Worth" is hereby amended to read as follows:

**Sec. 76-122. Construction in the Lake Worth waterway.**

All piers, docks or other approved structures to be constructed lakeward of the bulkhead line of the ~~town in~~ Lake Worth waterway, as recorded in Plat Book 27, page 1, public records of Palm Beach County, Florida, shall meet the following regulations and requirements:

(1) The design of any pier to be constructed under the provisions of this section shall be performed by an engineer licensed and registered in the state, and detailed construction drawings shall be submitted bearing the certification and seal of such engineer. Any building, covering or superstructure located on or over any pier, dock or other approved structure to be constructed lakeward of the bulkhead line, as set forth above, shall comply with all building code provisions in force at the time of construction, including requirements for permits, inspections and construction detail.

(2) No permit for any pier shall be issued by the town until the proposed installation has been granted a ~~Department of the Army~~ permit from the United States Army Corps. of Engineers for construction in navigable waters, together with a current and unexpired written and approval for the proposed installation issued by the Trustees of the Internal Improvement

Ffund, and a current and unexpired written approval for the proposed installation from either the Florida Department of Environmental Protection and/or the South Florida Water Management District, and a copy of all such current and unexpired permits and approvals has been received by the town. Nothing contained in this section shall be construed to affect the rights or obligations connected with spoil areas located in the Lake Worth waterway, within 100 feet lakeward of the bulkhead line referred to above and the granting of a permit by the town does not release the applicant from personally determining what, if any, effects such spoil areas may have upon any construction done in accordance with this section.

~~(3) No pier shall extend beyond a line 100 feet lakeward from and parallel to the bulkhead line of the town, as recorded in Plat Book 27, page 1, of the public records of Palm Beach County, Florida. T-heads, L-heads, finger piers, wave breaks, boat lifts, and dolphin and mooring piles may be installed provided that the proposed structure to be constructed and installed in the Lake Worth waterway complies with the design and permitting criteria set forth herein above.~~

~~(4) The centerline of all piers shall be on a uniform alignment approximately perpendicular to the centerline of the main reach of Lake Shore Drive.~~

~~(5) Piers may be constructed with "L" heads of 25 feet or "T" heads of 50 feet. A finger pier shall not exceed 25 feet in length and a maximum of six feet and a minimum of three feet in width. It shall not extend channelward beyond the main pier.~~

~~(6) No point on any pier shall be closer than 50 feet to either side property line projected along a line parallel to the pier centerline or closer than 100 feet to any part of another pier.~~

~~(7) All piers shall be constructed with all major components including piling, beams, decks, etc., constructed of reinforced concrete. Piers shall have a maximum width of ten feet and a minimum width of six feet.~~

~~(8) Dolphin or mooring posts may be installed adjacent to piers, provided they are not located more than 35 feet from any point on the pier.~~

**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

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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 7th day of January, 2009, the foregoing Ordinance, was offered by Commissioner Carey who moved its approval. The motion was seconded by Commissioner Balius and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE MAYOR ED DALY	<u>Absent</u>	<input type="checkbox"/>
COMMISSIONER CHUCK BALIUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER JEFF CAREY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER PATRICIA OSTERMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PUBLISHED IN THE PALM BEACH POST THIS 11 DAY OF January, 2009

Upon Second Reading this 21 day of January, 2009, the foregoing Ordinance, was offered by Commissioner Carey who moved its adoption. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE MAYOR ED DALY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER CHUCK BALIUS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER JEFF CAREY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
COMMISSIONER PATRICIA OSTERMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared **Ordinance No. 01-2009** duly passed and adopted this 21 day of January, 2009.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois  
Mayor, Desca DuBois

ATTEST:

Vivian M. Lemley  
Town Clerk, Vivian M. Lemley

TOWN OF LAKE PARK  
SEAL

FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird  
Town Attorney, Thomas J. Baird