

ORDINANCE NO. 02-2009

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN CHARTER AT ARTICLE IV, SECTION 4, ENTITLED "FILLING A VACANCY ON THE COMMISSION" TO ADDRESS THE FILLING OF VACANCIES ON THE TOWN COMMISSION CREATED WHEN A SITTING MAYOR OR COMMISSIONER CEASES TO REMAIN A LEGAL RESIDENT OF THE TOWN DURING THE TERM OF OFFICE; PROVIDING FOR THE AMENDMENT OF ARTICLE VI, SECTION 1, ENTITLED "QUALIFICATIONS OF TOWN MANAGER" TO INCREASE THE MINIMUM LEVEL OF EXPERIENCE FOR THE OFFICE OF TOWN MANAGER FROM TWO YEARS TO NOT LESS THAN FIVE YEARS IN PUBLIC ADMINISTRATION AT THE ADMINISTRATIVE LEVEL; PROVIDING FOR THE AMENDMENT OF ARTICLE VI, SECTION 1 TO REMOVE A PROVISION WHICH ALLOWS THE COMMISSION TO DESIGNATE THE MAYOR OR A COMMISSIONER TO EXECUTE THE FUNCTIONS OF TOWN MANAGER DURING THE TOWN MANAGER'S REMOVAL, ABSENCE OR DISABILITY; 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 the operation of the Town under a Town Commission-Town Manager form of government, and qualification pre-requisites for the position of Town Manager, which have been codified in the Town Charter in Article IV, Section 4, and also Article VI, Section 1; 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 Town Manager has recommended to the Town Commission that Article IV, Section 4 of the Town Charter be amended to expressly provide for the filling of vacancies in the Town Commission which may be created if a sitting Mayor or Commissioner ceases to remain a bona fide resident of the Town of Lake Park, Florida during the remainder of his or her term of office as a Mayor or Commissioner for the Town; and

WHEREAS, the Town Manager has recommended to the Town Commission that Article VI, Section 1 of the Town Charter be amended to increase the minimum number of years of experience necessary to qualify for the position of Town Manager from the current two (2) years as currently provided in Article VI, Section 1 of the Charter, to not less than five (5) years of experience; and

WHEREAS, the Town Manager has recommended to the Town Commission that Article VI, Section 1 be amended to remove a provision which allows the Commission to designate the Mayor or a member of the Commission to execute the functions of Town Manager during the Town Manager's removal, absence or disability; and

WHEREAS, these proposed Charter amendments may be effectuated through the adoption

of an Ordinance amending these Sections of the Charter, and without the need for a referendum pursuant to Section 166.021(4), Fla. Stat. (2007); and

WHEREAS, the Town Commission has reviewed the recommendations of the Town Manager, and has determined that adopting an Ordinance amending Article IV, Section 4 and Article VI, Section 1 of the Town Charter, is 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 the legislative findings of the Town Commission.

Section 2. The municipal Charter for the Town of Lake Park, Article IV, Section 4 entitled "Filling a vacancy on the Commission" is hereby amended to read as follows:

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 shall 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 election can be held to fill such vacancy. The ~~Such~~ election to fill the vacancy on the Commission shall be held within sixty (60) calendar days after the date of the death, disability, resignation, or removal of the ~~said~~ 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 shall be held within ninety (90) calendar days thereafter, whereupon such election may be combined with the ~~said~~ general election. No person specially appointed to fill the ~~such~~ vacancy may be a candidate for the office to which he is appointed in the next following election to fill that office.

Section 3. The Municipal Charter of the Town of Lake Park Article VI, Section 1 entitled "Qualifications of Town Manager" is hereby amended to read as follows:

Section 1. Qualifications of town manager.

The Town Commission shall appoint a Town Manager who shall be the administrative head of the municipal government under the laws of the Town as enacted by the Town Commission and under the general supervision of the Town Commission. The Town Manager shall be properly qualified, or the minimum qualifications being that he is a college graduate or his experience, training, and education equivalent to that of a college graduate as determined by the members of the Town Commission and that he has ~~had~~ at least ~~two (2) years~~² five (5) years experience as a full-time employee in Public Administration at the Administrative level. Before the appointment of a new Town Manager or during the absence or disability of the Town Manager, the Town Commission may designate as an acting or interim Town Manager, any competent person, including the Mayor-Commissioner or any other member of the Commission any person which the Commission deems sufficiently qualified and competent to temporarily execute the functions of the office of Town Manager, however such person need not possess the afore-stated minimum qualifications for the full time position of Town Manager.

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 21 day of January, 2009, the foregoing Ordinance, was offered by Commissioner Balius who moved its approval. 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 ED DALY	<u>/</u>	_____
COMMISSIONER CHUCK BALIUS	<u>/</u>	_____
COMMISSIONER JEFF CAREY	<u>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 25 DAY OF January, 2009

Upon Second Reading this 4 day of February, 2009, the foregoing Ordinance, was offered by Commissioner Osterman 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	<u>/</u>	_____
VICE MAYOR ED DALY	<u>/</u>	_____
COMMISSIONER CHUCK BALIUS	<u>/</u>	_____
COMMISSIONER JEFF CAREY	<u>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 02-2009** duly passed and adopted this 4 day of February, 2009.

TOWN OF LAKE PARK, FLORIDA
 BY: Desca DuBois
 Mayor, Desca DuBois

ATTEST:
Vivian Medley
 Town Clerk, Vivian M. Lemley
 (Town Seal)
 TOWN SEAL

Approved as to form and legal sufficiency:
Thomas J. Baird
 Town Attorney, Thomas J. Baird