

ORDINANCE NO. 12-2009

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK; BY AMENDING CHAPTER 78, ARTICLE 1, SECTION 78-2 ENTITLED "DEFINITIONS" TO ADD A NEW DEFINITION FOR THE TERM "TRANSIENT RESIDENTIAL USE " AND "GROUP HOME" AND TO AMEND THE DEFINITION OF "COMMUNITY RESIDENTIAL HOME" AND "SUBSTANCE ABUSE TREATMENT FACILITIES"; AMENDING CODE SECTION 78-61 ENTITLED "R-1AA RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-62 ENTITLED "R-1A RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-63 ENTITLED "R-1B RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-64 ENTITLED "R-1 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-65 ENTITLED "R-2A RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-66 ENTITLED "R-2 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-67 ENTITLED "R-3 RESIDENCE DISTRICTS"; AMENDING CODE SECTION 78-69 ENTITLED "C1-B BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-70 ENTITLED "C-1 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-71 ENTITLED "C-1 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-72 ENTITLED "C-2 BUSINESS DISTRICTS"; AMENDING CODE SECTION 78-73 ENTITLED "C-3 REGIONAL BUSINESS DISTRICT"; AMENDING CODE SECTION 78-74 ENTITLED "C-4 BUSINESS DISTRICT"; AMENDING CODE SECTION 78-75 ENTITLED "CLIC-1 CAMPUS LIGHT INDUSTRIAL/COMMERCIAL DISTRICT"; REPEALING SECTION 78-80 "STATUS OF SUBSTANCE ABUSE TREATMENT FACILITIES AND COMMUNITY RESIDENTIAL HOMES"; 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 such power and authority conferred upon it by the Florida Constitution and

Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to permitted and special exception zoning uses in the Town's zoning districts, which have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, it is the intent of the Town to enact regulations which are consistent with State and Federal law; and

WHEREAS, transient residential uses often maximize occupancy, causing increased pressure on infrastructure, including: garbage, sewer, water, and roadways; and

WHEREAS, transient residential uses can result in increased noise and traffic in single-family residential communities; and

WHEREAS, unless regulations are placed on the number and location of transient uses, such uses could overwhelm the non-transient related single-family residential neighborhoods, making those neighborhoods and the Town of Lake Park less attractive places to reside; and

WHEREAS, transient residential uses can be incompatible with permanent residential uses if not properly planned, controlled and regulated; and

WHEREAS, the rapid turnover in occupancy associated with transient residential uses can be a disruptive influence on the peaceful use and enjoyment of single family residential areas; and

WHEREAS, reserving land for single family residences preserves the character of neighborhoods, securing "zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people." *See, City of Edmonds v. Oxford House*, 514 U.S. 725 (1995); and

WHEREAS, Congress intended the Fair Housing Act (FHA) to “prohibit the use of zoning regulations to limit the ability of the handicapped to live in the residence of their choice in the community; however, the FHA does not pre-empt or abolish a municipality’s power to regulate land use and pass zoning laws.” *See, Jeffrey O. v. City of Boca Raton*, 511 F.Supp.2d 1339 (S.D. Fla. 2007); and

WHEREAS, transient residential uses can displace permanent single family residential dwellings and thus reduce the number of permanent residents in the Town and cause a reduction in state revenue sharing funds necessary to support the services that influence the quality of life for residents, commercial interests, and visitors to the Town of Lake Park; and

WHEREAS, uncontrolled and unregulated transient residential uses is found to have a negative impact on the Town of Lake Park's economy, property values, law enforcement, traffic, safety, and the general health, safety, and welfare of the citizens of the Town of Lake Park; and

WHEREAS, the State of Florida has recognized that leases, rentals, licenses, and subleases or otherwise allowing in any manner the use of a residential dwelling unit for under twelve (12) months in duration is a transient use and is therefore taxed by the State of Florida at a rate of six (6) percent of the total rental amount charged; and

WHEREAS, the State of Florida regulates group homes and community residential homes by §419.001, Fla. Stat., which provides distance requirements of 1,000 feet between any group home with six (6) or fewer residents, and distance requirements of 1,200 feet between community residential homes for community residential homes

with seven (7) to fourteen (14) residents, which state regulations reduce the impact of such homes upon single-family zoning districts; and

WHEREAS, the State of Florida regulates Substance Abuse Treatment Facilities by Chapter 397, Fla. Stat., requiring state licensing of service providers; and

WHEREAS, the Town of Lake Park has provided for state regulated group homes and community residential homes and substance abuse treatment facilities, and desires to update its zoning code consistent with the State law; and

WHEREAS, the Town of Lake Park has provided for a reasonable accommodation process for applicants serving disabled individuals, in recognition of Federal and State law; and

WHEREAS, the Lake Park Planning and Zoning Board has reviewed this Ordinance at a duly noticed public hearing held before the Planning and Zoning Board on August 24, 2009, and has recommended adoption of the changes to the Town's Land Development Regulations regarding the regulation of transient rental units; and

WHEREAS, the Town Commission and the Planning and Zoning Board both find that this Ordinance is consistent with the Town's Comprehensive Plan.

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 the Town Commission.

Section 2. Chapter 78, Article 1, Section 78-2 of the Code of Ordinances of the Town of Lake Park is hereby amended to add the following definitions of "Group home" and "Transient residential use" and to amend the definitions of "Community residential

home” and “Substance Abuse Treatment Facilities”, to read as follows:

Sec. 78-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Community residential home means, as defined in F.S. ch. 419, a dwelling unit licensed to serve clients of the state department of children and family services, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical emotional and social needs of the residents, and which meet the notification requirements of F.S. ch. 419. ~~The site selection and location criteria, specifically including, but not limited to, the separation and distance requirements of F.S. ch. 419, are incorporated herein, and are also applicable to homes of six or fewer residents which otherwise meet the definition of a community residential home, and as are regulated pursuant to section 78-79(15).~~

* * *

Group home means a dwelling unit that pursuant to F.S. ch. 419 is a type of community residential home licensed to serve clients of the state department of children and family services, which provides a living environment for six or fewer unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional and social needs of the residents.

* * *

Substance abuse treatment facility means a service provider or facility that is:
(1) ~~Licensed~~ licensed or required to be licensed pursuant to F.S. § 397.311(18); ~~or~~
(2) ~~Used for room and board only in and in which treatment and rehabilitation activities are provided at locations other than the primary residential facility, whether or not the facilities used for room and board and for treatment and rehabilitation, are operated under the auspices of the same provider. For the purposes of this subsection (2) of this definition, service providers or facilities which require tenants, or occupants, to participate in treatment and rehabilitation activities, or perform testing to determine whether tenants or occupants are drug and/or alcohol free, as a term or condition of, or essential component of, the tenancy or occupancy, shall be deemed to satisfy the "treatment and rehabilitation activities" component of the definition contained in this section. Community residential homes are separately defined in this section, and in F.S. § 419.001, and are not substance abuse treatment facilities.~~

* * *

Transient residential use means a dwelling that is operated or used in such a way that it has a turnover in occupancy of more than two (2) times in any one (1) year, and shall include but not be limited to rooming houses with such turnover. Occupancy by the real property owner(s) of the dwelling unit shall not be counted toward the frequency of turnover, as long as the turnover of other occupants does not exceed more than two (2) times in any one (1) year.

Section 3. Chapter 78, Article III, Sections 78-61, 78-62, 78-63, 78-64, 78-65, 78-66, 78-67, 78-69, 78-71, 78-72, 78-73, 78-74 and 78-75 of the Code of Ordinances of the Town of Lake Park, Florida are hereby amended to read as follows:

Sec. 78-61. R-1AA residence districts.

Within R-1AA residence districts, the following regulations shall apply:

* * *

(2) *Uses permitted.* Residence district R-1AA shall include single-family residence and multiple-family structures as specified below:

* * *

d. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

e. Community residential home is a permitted use provided that any community residential home is not located within a radius of 1,200 feet of another existing community residential home.

f. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility; and substance abuse treatment facility that provides room and board for seven to fourteen residents, provided that it is not located within a radius of 1,200 feet of another such existing substance abuse treatment facility, and further provided that the operator of any such facility obtains a business tax receipt from the town.

g. Transient residential uses are permitted.

* * *

Sec. 78-62. R-1A residence districts.

Within R-1A residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-1A residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

d. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

e. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility and further provided that the operator of any such facility obtains a business tax receipt from the town.

* * *

(7) Transient residential use is a prohibited use in the R-1A residence zoning district. Provided, however, that existing transient residential uses in the R-1A residence zoning district may continue until the expiration of the current lease agreement between an existing occupant and the real property owner, or twelve (12) months after the effective date of this ordinance, whichever occurs first.

* * *

Sec. 78-63. R-1B residence districts.

Within R-1B residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-1B residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

g. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

h. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility and further provided that the operator of any such facility obtains a business tax receipt from the town.

i. Transient residential use is a prohibited use in the R-1B residence zoning district. Provided, however, that existing transient residential uses in the R-1B residence zoning district may continue until the expiration of the current lease agreement between an existing occupant and the real property owner, or twelve (12) months after the effective date of this ordinance, whichever occurs first.

* * *

Sec. 78-64. R-1 residence districts.

Within R-1 residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-1 residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

f. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

g. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility and further provided that the operator of any such facility obtains a business tax receipt from the town.

* * *

(7) Transient residential use is a prohibited use in the R-1 residence zoning district. Provided, however, that existing transient residential uses in the R-1 residence zoning district may continue until the expiration of the current lease agreement between an existing occupant and the real property owner, or twelve (12) months after the effective date of this ordinance, whichever occurs first.

* * *

Sec. 78-65. R-2A residence districts.

Within R-2A residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-2A residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

g. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

h. Community residential home is a permitted use provided that any community residential home is not located within a radius of 1,200 feet of another existing community residential home.

i. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility; and substance abuse treatment facility that provides room and board for seven to fourteen residents, provided that it is not located within a radius of 1,200 feet of another such existing substance abuse treatment, and further provided that the operator of any such facility obtains a business tax receipt from the town.

j. Transient residential use.

* * *

Sec. 78-66. R-2 residence districts.

Within R-2 residence districts, the following regulations shall apply:

(1) *Uses permitted.* Within any R-2 residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

g. Multifamily dwellings or apartment houses and community residential homes, provided that any such community residential home is not located

within a radius of ~~1,000~~ 1,200 feet of another such home ~~or within 1,000 feet of a single family zoning district~~. No garage apartment shall be permitted as an accessory use on a lot or parcel of land with a two-story dwelling (duplex) or a multiple-family structure.

* * *

l. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

m. By special exception, substance abuse treatment facility that provides room and board for six or fewer residents, provided that it is not located within a radius of 1,000 feet of another such existing substance abuse treatment facility; and substance abuse treatment facility that provides room and board for seven to fourteen residents, provided that it is not located within a radius of 1,200 feet of another such existing substance abuse treatment facility, and further provided that the operator of any such facility obtains a business tax receipt from the town.

n. Transient residential use.

* * *

Sec. 78-67. R-3 residence districts.

Within R-3 residence districts, the following regulations shall apply:

(1) Uses permitted. Within any R-3 residence district, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged unless otherwise permitted by these regulations, except for the following uses:

* * *

g. Multifamily dwellings or apartment houses and community residential homes, provided that any such community residential home is not located within a radius of ~~1,000~~ 1,200 feet of another such home ~~or within 1,000 feet of a single family zoning district~~. No garage apartment shall be permitted as an accessory use on a lot or parcel of land with a two-story dwelling (duplex) or a multiple-family structure.

* * *

n. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

o. By special exception, substance abuse treatment facility, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

p. Transient residential use.

* * *

Sec. 78-69. C1-B business districts.

Within C1-B business districts, the following regulations shall apply:

- (1) *Uses permitted.* Within C1-B business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

h. Multifamily dwellings or apartment houses and community residential homes, provided that any such community residential home is not located within a radius of ~~1,000~~ 1,200 feet of another such home ~~or within 1,000 feet of a single family zoning district.~~ No garage apartment shall be permitted as an accessory use on a lot or parcel of land with a two-story dwelling (duplex) or a multiple-family structure.

* * *

s. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

t. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be not located within a radius of 1,000 feet of another existing facility.

u. Transient residential use.

* * *

Sec. 78-71. C-1 business districts.

Within C-1 business districts, the following regulations shall apply:

- (1) *Uses permitted.* Within C-1 business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged,

unless otherwise permitted by these regulations, except for the following uses:

* * *

s. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility or within 1,500 feet of a residential zoning district.

t. Transient residential use

* * *

Sec. 78-72. C-2 business districts.

Within C-2 business districts, the following regulations shall apply:

(1) *Uses permitted.* Within C-2 business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the following uses:

* * *

q. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

r. Transient residential use.

* * *

Sec. 78-73. C-3 regional business district.

The C-3 regional business district is designed for the reuse and/or redevelopment of commercial property. It contains special regulations and procedures that are integrated with those of the Village of North Palm Beach to avoid conflicts that could otherwise be created by the location of the town/village boundary. Within C-3 business districts, the following regulations shall apply:

(1) *Uses permitted.* Within C-2 business districts, no building, structure or land shall be used and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by these regulations, except for the

following uses:

* * *

c. Community residential homes, subject to the provisions of F.S. ch. 419, provided that any such community residential home is not located within a radius of 1,200 feet of another such community residential home, and child care facilities as defined in F.S. ch. 402.

* * *

j. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not located within a radius of 1,000 feet of another existing facility.

k. Transient residential use.

l. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

* * *

Sec. 78-74. C-4 business district.

Within the C-4 business district, the following regulations shall apply:

(1) *General description.* This district is intended to be located between the western boundary of Section 20 of Township 42 South, Range 43 East and the Florida East Coast (FEC.) right-of-way to the east, bounded on the south by the northern boundaries of parcels 307, 316 and 306, the eastern boundary of parcel 306 and then easterly on Watertower Road on a line extending to the Florida East Coast Railroad and on the north by the south boundary line of the existing C-1 commercial (business) district, as is shown on the Town of Lake Park Official Zoning Map. This area is served by major roads but is not feasible for heavy commercial or industrial developments. The regulations for this district are intended to encourage development compatible with surrounding or abutting districts, with suitable open spaces, landscapes and parking spaces. The intent of this district is to limit development to a concentration of permitted uses, by confining those permitted uses to business offices, wholesaling, retailing and light manufacturing activities.

(2) *Uses permitted.* Within the C-4 business district, no building, structure or land shall be used, and no building shall be erected, structurally altered or enlarged, unless otherwise permitted by those regulations, except for the

following uses:

* * *

s. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

t. Transient residential use.

* * *

Sec. 78-75. CLIC-1 campus light industrial/commercial district.

Within the CLIC campus light industrial/commercial district, the following regulations shall apply:

(1) *Purpose and intent.* It is the purpose of the CLIC district to allow the development of a mixed-use, campus light industrial/commercial employment center. The location of this district abutting the MU mixed-use residential/commercial/light industrial district provides opportunities for employment in close proximity to higher population densities, thereby promoting walk-to-work activity and reduced traffic congestion. The regulations for this district are intended to encourage development compatible with surrounding or abutting zoning districts, with suitable open spaces, on-site landscaping and parking areas. A landscape buffer along Silver Beach Road is required so that this district will not be incompatible with residential land uses on the south side of Silver Beach Road.

(2) *Uses permitted.* Within the CLIC zoning district, no building, structure, land or water use shall be permitted and no building shall be erected, structurally altered or enlarged, except for the following uses:

a. Any of the following uses shall be permitted:

* * *

16. By special exception, substance abuse treatment facilities, provided that the operator of any such facility obtains a business tax receipt from the town and any such facility shall not be located within a radius of 1,000 feet of another existing facility.

17. Transient residential use.

18. Community residential homes, provided that any such community residential home is not located within a radius of 1,200 feet of another such home.
19. Group home is a permitted use provided that any group home is not located within a radius of 1,000 feet of another existing group home.

* * *

Section 4. Chapter 78, Article III, Section 78-80 of the Code of Ordinances of the Town of Lake Park, Florida is hereby repealed as follows:

Sec. 78-80. Status of substance abuse treatment facilities and community residential homes.

~~Any substance abuse treatment facility and/or community residential home which was in existence as of the date of the ordinance from which this section is derived, and which is rendered a nonconforming use in the zoning district in which it is located by the adoption of the ordinance from which this Code is derived, must comply with all provisions and requirements of this chapter, which may require, but not be limited to, the termination of the use and operation of any such facility or home, no later than 18 months from the effective date of the ordinance from which this section is derived.~~

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 2 day of September, 2009, the foregoing Ordinance, was offered by Commissioner Rumsey 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 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 6 DAY OF September, 2009

Upon Second Reading this 16 day of September, 2009, 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>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 12-2009** duly passed and adopted this 16 day of September, 2009.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian M. Lemley
Town Clerk, Vivian M. Lemley
(Town Seal)
TOWN OF LAKE PARK
SEAL

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

FLORIDA