

ORDINANCE NO. 10-2004

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, CHAPTER 32, ARTICLE I, SECTION 32-2 ENTITLED "DEFINITIONS" TO ADD DEFINITIONS; REPEALING SECTION 32-30 ENTITLED "COMMUNITY RESIDENTIAL HOMES RESTRICTED TO SPECIFIC DISTRICTS"; AMENDING CHAPTER 32, ARTICLE III, SECTION 32-46 ENTITLED "R-2 RESIDENCE DISTRICTS" TO PROVIDE FOR COMMUNITY RESIDENTIAL HOMES OF 7-14 RESIDENTS, WITH SEPARATION REQUIREMENTS; AMENDING SECTION 32-47 ENTITLED "R-3 RESIDENCE DISTRICTS" TO PROVIDE FOR COMMUNITY RESIDENTIAL HOMES OF 7-14 RESIDENTS, WITH SEPARATION REQUIREMENTS; AMENDING SECTION 32-48 ENTITLED "C-1-A BUSINESS DISTRICTS" TO PROVIDE FOR COMMUNITY RESIDENTIAL HOMES OF 7-14 RESIDENTS, WITH SEPARATION REQUIREMENTS; AMENDING SECTION 32-49 ENTITLED "C-1-B BUSINESS DISTRICTS" TO PROVIDE FOR COMMUNITY RESIDENTIAL HOMES OF 7-14 RESIDENTS, WITH SEPARATION REQUIREMENTS; AMENDING SECTION 32-51 ENTITLED "C-1 BUSINESS DISTRICTS" TO PROVIDE FOR SUBSTANCE ABUSE TREATMENT FACILITIES WITH SEPARATION REQUIREMENTS; AMENDING SECTION 32-55 ENTITLED "GENERAL PROVISIONS AND EXCEPTIONS"; CREATING NEW SECTION 32-59 ENTITLED "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 land use and zoning, which have been codified at Chapter 32 of the Code of Ordinances; and

**WHEREAS**, the Town's staff has conducted a study and analysis of the codified provisions of the Town Code of Ordinances and state and federal law, in order to determine which provisions of the Town's Code require amendment, repeal, modification, or revision; and

**WHEREAS**, Town staff has identified several provisions of the Code which require amendment in order to, among other things, comply with existing statutory and judicial law; and

**WHEREAS**, among the revisions which have been identified as necessary and in the public interest and general welfare of the Town, are changes and modifications to the Town Code pertaining to community residential homes and substance abuse treatment facilities; and

**WHEREAS**, the Town desires to regulate community residential homes and substance abuse treatment facilities in a manner which is consistent with state and federal law, specifically including but not limited to, the State and Federal Fair Housing Acts and the Americans with Disabilities Act; and

**WHEREAS**, it is the intent of the Town to enact regulations which are consistent with State and Federal legislation, and which do not discriminate against individuals recovering from substance abuse; and

**WHEREAS**, the amendments to the Town Code as set forth herein, are not intended and shall not be construed to, supercede state statutory requirements pertaining to the location and site selection of community residential homes, and substance abuse treatment facilities; and

**WHEREAS**, in regulating community residential homes and substance abuse treatment facilities, the Town recognizes the need to balance its desire to preserve the quality of life in the community, and the character of the Town and its zoning scheme, against the goals and objectives of the State and Federal Fair Housing Acts and the Americans with Disabilities Act; and

**WHEREAS**, the Town wishes to enact zoning regulations which provide adequate housing opportunities for residents of community residential homes, and substance abuse treatment facilities, and which promote the goals of the state and federal fair housing acts and the Americans with Disabilities Act, but do not result in adverse impacts to the Town's zoning scheme; and

**WHEREAS**, Town staff has determined that it is in the public interest and general welfare of the Town, to enact zoning regulations that permit community residential homes (which house 7 to 14 unrelated residents), as more specifically defined herein, in all of the Town's multi-family residential zoning districts, subject to separation requirements and applicable statutory and licensing requirements; and

**WHEREAS**, Town staff has determined that it is in the public interest and general welfare of the Town, to enact zoning regulations that permit community residential homes, which house 6 or fewer residents, and which otherwise meet the definition of a community

residential home, in all of the Town's residential zoning districts, subject to separation requirements and applicable statutory and licensing requirements; and

**WHEREAS**, the Town further recognizes that substance abuse treatment facilities are generally larger in scale, operation, and occupancy of residents, and are different in use and function from community residential homes. As such, substance abuse treatment facilities are more commercial than residential in nature and use, are more appropriately located outside residential districts, and within zoning districts that can best accommodate the higher occupancy levels, and greater intensities of the operation of such facilities; and

**WHEREAS**, Town staff has further determined that it is in the best interest of the Town, to enact zoning regulations which permit substance abuse treatment facilities, (which house 14 or more residents), as more specifically defined herein, in the C-1 zoning district, subject to separation requirements, and applicable statutory and licensing requirements; and

**WHEREAS**, after researching and reviewing the current state and federal requirements pertaining to the local zoning and regulation of community residential homes and substance abuse treatment facilities, Town staff has recommended to the Town Commission that certain amendments to Section 32-2, 32-30, 32-46, 32-47, 32-48-, 32-49, 32-51, 32-55, and 32-59 of the Town Code be adopted; and

**WHEREAS**, the Town Commission has reviewed the recommendations of the Town staff, and has determined that amending Sections 32-2, 32-30, 32-46, 32-47, 32-48, 32-49, 32-51, 32-55, and 32-59 of Chapter 32 of the Town's Code of Ordinances, is necessary to further the public's health, safety and 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 the Town Commission.

**Section 2.** Chapter 32, Article I, Section 32-2, of the Code of Ordinances of the Town of Lake Park, Florida is hereby amended to read as follows:

**Sec. 32-2. Definitions.**

As used in this chapter, the following words and phrases shall have the meanings indicated:

*Community residential home* as defined in F.S. ch. 419 ~~419~~, shall mean a dwelling unit licensed to serve clients of the ~~Department of health and rehabilitation~~ Children and Family Services, which provides a living environment for 7 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. The site selection and location criteria, specifically including, but not limited to the separation and distance requirements of Chapter 419, F.S. 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 32-55(17).

*Resident of a community residential home* shall mean a frail elder as defined in Section 400.618, F.S.; a physically disabled or handicapped person as defined in Section 760.22(7)(a); a developmentally disabled person as defined in Section 393.063(12), F.S.; a non-dangerous mentally ill person as defined in Section 394.455(18), F.S.; or a child as defined in Section 39.01(14), Section 984.03(9) or (12), or Section 985.03(8), F.S.

*Social Service Activities* shall mean the administration of any community-oriented service, including offices, meetings, storage, library and similar administrative uses. It shall not mean any social service activities, including without limitation, substance rehabilitation services, counseling activities and services, shelter for the homeless or abused, food/meal distribution for the needy, job training, and teen oriented programs.

*Substance abuse treatment facility* shall mean a service provider or facility that is:

- 1) licensed or required to be licensed pursuant to Section 397.311(18), F.S., or

2) used for room and board only, 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 subparagraph (2), 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 Section 419.001, F.S., and are not substance abuse treatment facilities.

**Section 3.** Chapter 32, Article I, Section 32-30, of the Code of Ordinances of the Town of Lake Park, Florida is hereby repealed as follows:

**Sec.32-30. — Community residential homes restricted to specific districts.**

(a) — ~~The term "community residential home" means a dwelling unit licensed to serve clients of the department of health and rehabilitative services, which provides a living environment for seven (7) to fourteen (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.~~

(b) — ~~Community residential homes, as defined above, shall only be permitted in residential zoning districts which allow multifamily dwellings of three (3) units or more.~~

**Section 4.** Chapter 32, Article III, Sections 32-46, 32-47, 32-48, 32-49, 32-51, 32-52, and 32-55 of the Code of Ordinances of the Town of Lake Park, Florida are hereby amended to read as follows:

**Sec. 32-46. 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:

h. Multi-family dwellings or apartment houses, and community residential homes, provided that any such home is not located within a radius of 1,000 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.

**Sec. 32-47. 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:

h. Multi-family dwellings or apartment houses, and community residential homes, provided that any such home is not located within a radius of 1,000 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.

**Sec. 32-48. C-1A business districts.**

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

- (1) *Uses permitted.* Within any C-1A business 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:

h. Multi-family dwellings or apartment houses, and community residential homes, provided that any such home is not located within a radius of 1,000 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.

**Sec. 32-49. C-1B business districts.**

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

- (1) *Uses permitted.* Within any C-1B business 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:

h. Multi-family dwellings or apartment houses, and community residential homes, provided that any such home is not located within a radius of 1,000 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.

**Sec. 32-51. C-1 business districts.**

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

- (1) *Uses permitted.* Within any 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. substance abuse treatment facilities, provided that 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.

- (2) *Building height limit.* No building or structure shall exceed two (2) stories or thirty (30) feet in height and the minimum external height shall not be less than thirteen (13) feet. The minimum internal height from floor to ceiling shall be eight (8) feet.

a. ~~For dwelling structures, the same as for R-Z residence districts.~~

b- a. The minimum width and length of any store building shall be twenty-five (25) feet.

**Sec. 32-55. General provisions and exceptions.**

The provisions of this article shall be subject to the following provisions and exceptions:

~~(15) Foster care facilities and group homes shall be permitted in residential districts provided that no such use shall be located on property within a one thousand-foot radius of property containing a similar use, and as provided pursuant to statutory law. For purposes of this section, a foster care facility shall be defined as a facility which houses foster residents and provides a family living environment for the residents, including such~~



~~supervision and care as may be necessary to meet the physical, emotional and social needs of the residents and serving either children or adult foster residents. A group home is a facility which provides a living environment for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents. Adult congregate living facilities comparable in size to group homes are included in this definition. Permitted density of adult congregate living facilities shall be determined utilized the established building site area requirements for the applicable district on the basis that each four beds or portion thereof shall constitute one dwelling unit. Group homes shall not include rooming or boarding homes, clubs, monasteries or convents, hotels, residential treatment facilities, nursing homes or emergency shelters.~~

(16) (15) Paved driveways in conformance with the provisions of this Code shall be required on all lots contained in residential zoning districts where a primary dwelling exists.

(17) (16) All proposed buildings or structures proposed in residential districts shall be appropriate in relation to the established character of other structures in the immediate area or neighboring areas in respect to significant design features such as material or quality or architectural design as viewed from any public or private right-of-way, except alleys.

(17) Homes of six or fewer residents which otherwise meet the definition of a community residential home, shall be deemed a single-family unit, and shall be allowed in single-family or multi-family residential zoning districts, provided that any such home is not located within a radius of 1,500 feet of another existing such home with six or fewer residents.

**Section 5.** Chapter 32, Article III, Section 32-59 of the Code of Ordinances of the Town of Lake Park, Florida is hereby created to read as follows:

**Sec. 32-59. 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 effective date of this Ordinance, and which is rendered a non-conforming use in the zoning district in which it is located by the adoption of this Ordinance, must comply with all provisions and requirements of this chapter, which may require, but is not limited to, the termination of the use and/or the operation of any such facility or home, no later than 180 days from the effective date of this Ordinance.

**Section 7. 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 8. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 9. Codification.** The sections of the Ordinance shall 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 10. Effective Date.** This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 7<sup>th</sup> day of April, 2004 the foregoing ORDINANCE was offered by Vice Mayor Balius who moved its approval. The motion was seconded by Commissioner Ed Daly, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	X	
VICE MAYOR CHUCK BALIUS	X	
COMMISSIONER PAUL GARRETSON	X	
COMMISSIONER JEFF CAREY	X	
COMMISSIONER ED DALY	X	

Upon Second Reading this 21<sup>st</sup> day of April, 2004 the foregoing ORDINANCE was offered by Commissioner Balius who moved its adoption. The motion was seconded by Commissioner *CAREY* and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	X	
VICE MAYOR CHUCK BALIUS	X	
COMMISSIONER PAUL GARRETSON		<i>ABSENT</i>
COMMISSIONER JEFF CAREY	X	
COMMISSIONER ED DALY	X	

The Mayor thereupon declared Ordinance No.10-2004 duly passed and adopted this 21<sup>st</sup> day of April, 2004

TOWN OF LAKE PARK, FLORIDA

BY: *Paul Castro*  
Mayor Paul Castro

ATTEST:

Approved as to form and legal sufficiency:

*Carol Simpkins*

*Thomas J. Baird*

Carol Simpkins, Town Clerk  
(Town Seal)

Thomas J. Baird, Town Attorney



THE PALM BEACH POST  
Published Daily and Sunday  
West Palm Beach, Palm Beach County, Florida

PROOF OF PUBLICATION

STATE OF FLORIDA  
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Tracey Diglio, who on oath says that she is Telephone Sales Supervisor of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising, being Notice in the matter of Ordinance 10-2004 was published in said newspaper in the issues of April 11, 2004. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Tracey Diglio*

Sworn to and subscribed before this 12<sup>th</sup> day of April, A.D. 2004

*[Signature]*

Personally known XX or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



NO. 8115045  
LEGAL NOTICE OF  
PROPOSED ORDINANCE  
ADOPTION  
TOWN OF LAKE PARK  
Please take notice that on  
Wednesday, April 21, 2004  
at 7:30 p.m. the Commission  
of the Town of Lake  
Park, Florida in 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. 10-2004  
AN ORDINANCE OF THE  
TOWN COMMISSION OF  
THE TOWN OF LAKE  
PARK, FLORIDA, AMENDING  
THE CODE OF ORDINANCES  
OF THE TOWN OF LAKE PARK,  
CHAPTER 32, ARTICLE I, SECTION  
32-2 ENTITLED "DEFINITIONS" TO ADD  
DEFINITIONS; REPEALING SECTION  
32-30 ENTITLED "COMMUNITY RESIDENTIAL  
HOMES RESTRICTED TO SPECIFIC DISTRICTS";  
AMENDING CHAPTER 32,  
ARTICLE III, SECTION  
32-46 ENTITLED "R-2  
RESIDENCE DISTRICTS" TO PROVIDE FOR COMMUNITY  
RESIDENTIAL HOMES OF 7-14 RESIDENTS,  
WITH SEPARATION REQUIREMENTS;  
AMENDING SECTION 32-47 ENTITLED "R-3  
RESIDENCE DISTRICTS" TO PROVIDE FOR COMMUNITY  
RESIDENTIAL HOMES OF 7-14 RESIDENTS,  
WITH SEPARATION REQUIREMENTS;  
AMENDING SECTION 32-48 ENTITLED "CB-1-A  
BUSINESS DISTRICTS" TO PROVIDE FOR COMMUNITY  
RESIDENTIAL HOMES OF 7-14 RESIDENTS,  
WITH SEPARATION REQUIREMENTS;  
AMENDING SECTION 32-49 ENTITLED "C-1-B  
BUSINESS DISTRICTS" TO PROVIDE FOR COMMUNITY  
RESIDENTIAL HOMES OF 7-14 RESIDENTS,  
WITH SEPARATION REQUIREMENTS;  
AMENDING SECTION 32-51 ENTITLED "C-1  
BUSINESS DISTRICTS" TO PROVIDE FOR SUBSTANCE  
ABUSE TREATMENT FACILITIES WITH SEPARATION  
REQUIREMENTS; AMENDING SECTION 32-55  
ENTITLED "GENERAL PROVISIONS AND EXCEPTIONS";  
CREATING NEW SECTION 32-59 ENTITLED "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.  
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.  
Carol Simpkins, CMC  
Town Clerk  
Town of Lake Park, FL  
PUB: The Palm Beach Post  
April 11, 2004