

**ARTICLE 16: Reserved**

**ARTICLE 17: Reserved**

**ARTICLE 18: Reserved**

**ARTICLE 19: Reserved**

**ARTICLE 20: ADMINISTRATION**

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**20.00.00 General Administration**

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**20.01.00 Adoption of employee manual**

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There is hereby established, published and adopted an official set of guidelines to be followed by all employees of the City, to be entitled, *Employees Manual City of Lake Helen, Florida*.

(Ord. No. 79-8. §§ I, II, 12-20-79)

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**20.02.00 Personnel Review Board**

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1. Membership

The Personnel Review Board shall consist of three (3) members and one (1) person serving as an alternate member who are residents of the City of Lake Helen, and who shall be appointed by the City Commission. No paid or elected official or employee of the city may serve as a member of the Personnel Review Board. Members shall be appointed for three-year staggered terms, and may be reappointed for additional terms. The three (3) year term of office shall, regardless of actual date of a member's appointment or reappointment, be considered to commence on October 1<sup>st</sup> and to expire on September 30<sup>th</sup> in the third year of the term.

Members of the Personnel Review Board shall comply with all applicable federal, state and local laws regarding ethics, financial disclosure, open conduct of public business and public records. If any regular voting member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman shall automatically forfeit his/her appointment. Any vacancy occurring during the unexpired term of office of any member shall be filled by the City Commission for the remainder of the term. The vacancy shall be filled by the City Commission in as timely a period as is practicable.

2. Alternate Member

The Alternate Member shall attend all meetings and may participate in discussion for any item

before the Board; however, the Alternate shall not vote on any matter before the Board unless a regular member of the Board is absent and the Chair has informed the Board and any members of the public present that the alternate member will be acting as a regular member of the Board for purposes of the subject petition.

### 3. Officers

The Personnel Review Board shall elect a chairman, vice-chairman and secretary from among its members. The city shall provide clerical and staff assistance.

### 4. Rules of Procedure

The Personnel Review Board shall meet as needed to accomplish its assigned duties, and at such other times as it may deem necessary, for the transaction of its business.

Each meeting shall have been previously noticed and shall be open to the public per state requirements. All records of the Commission including its rules of procedure, minutes, and inventory shall be maintained and considered to be public records open to inspection by the public at the City Clerk's Office.

All board members shall operate within the requirements of the Sunshine Law of the State of Florida.

Members of the commission shall serve without compensation or honorarium, but shall be entitled to receive reimbursement for per diem and travel expenses for attendance at meetings or conferences outside the City of Lake Helen, provided that prior approval in writing is given by the City Administrator or his/her designee.

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#### **20.02.01 Purpose and duties**

- A. It is the purpose of the Personnel Review Board to hear all problems, grievances or complaints relating to city employees in a fair, impartial and objective manner and to make recommendations to the City Commission as a result of these hearings.
  - B. The Personnel Review Board shall:
    - 1. Hear appeals in cases of any regular status employee who has successfully completed his probationary period involving dismissals, demotions, suspensions or reductions in pay adverse actions;
    - 2. Hear appeals in cases involving employee examination results or position classification decisions;
    - 3. Hear appeals in cases involving allegations of illegal discrimination against employees in any personnel transactions;
    - 4. Render advisory opinions to the commission on personnel matters brought before the Personnel Review Board;
    - 5. Have the power to administer oaths, call witnesses, and may compel the production of books, records, and papers pertinent to any investigation or hearing.
- (Ord. No. 80-4, § II, 6-5-80)

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#### **20.02.02 Grievance Procedure**

- A. A grievance is a complaint, a view or opinion pertaining to employment conditions, relationships between employees and supervisors or relationships with other employees.
- B. Any employee having a complaint, view or opinion pertaining to employment conditions or relationships, shall first discuss the matter with their immediate supervisor. An answer from their supervisor shall be given to the employee within three (3) working days. If the employee is not satisfied with the answer, they shall follow the next step in the procedure.

- C. If the grievance is not resolved by the immediate supervisor to the satisfaction of the employee, the employee shall meet with the City Administrator. If the grievance is not resolved by the City Administrator to the satisfaction of the employee, the employee may submit the grievance to the City Clerk in writing.
- D. The procedure for convening the board shall be by request to the City Clerk who will notify the members of the board and establish a time and date for the meeting. The time will be after 5:00 p.m., and the date will be no later than seven (7) days after the request is made of the City Clerk. The City Clerk will notify will notify all parties of the meeting time and date.
- E. Hearing before the Personnel Review Board shall be conducted informally in accordance with the procedures established by the board, and shall not be bound by formal rules of evidence.
- F. The Personnel Review Board shall transmit its findings and advisory opinion in writing to the city commission with three (3) days of the completion of the hearing.
- G. Upon receipt of the findings and advisory opinion of the Personnel Review Board concerning the appeal, the City Commission shall put in writing the course of action it intends to follow. This course of action shall be determined at the next regular meeting of the City Commission.
- H. The decision of the City Commission with due consideration to the findings and advisory opinions of the Personnel Review Board, shall be final and the employee shall have no further right of administrative appeal.
- I. The employee and all parties affected shall be promptly notified in writing of the final decision of the City Commission.

(Ord. No. 80-4 § III, 6-5-80)

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### **20.03.00 Retirement**

It is hereby declared to be the policy and purpose of the city to extend, effective January 1, 1971, to the employees and officials thereof, not excluded by law or excepted herein, the benefits of the Florida Retirement System as authorized by Chapter 70-112, Laws of Florida, (F.S. § 121.051(2)(b)(I)) and amendments thereto, to cover by such plan all services which constitute employment as defined in section 2 of Chapter 70-112, Laws of Florida, (F.S. § 121.021) performed in the employ of the city by employees and officials thereof.

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### **20.03.01 Agreements**

The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the administrator of the Florida Retirement System for the purpose of extending the benefits provided by the Florida Retirement System to the employees and officials of this city as provided in 16.04.01 and 16.04.02, which agreement shall provide for such methods of administration of the plan by the city as are found by the administrator of the Florida Retirement System to be necessary and proper, and shall be effective with respect to services in employment covered by the agreement performed on and after the 1st day of January, 1971.

(Ord. No. 71-1, § 3, 2-4-71)

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### **20.03.02 Adoption**

The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of the Florida Retirement System, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.

(Ord. No. 71-1, § 7, 2-4-71)

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**20.03.03 Appropriation for city contribution**

There shall be appropriated from available funds, derived from the general government fund and utility fund, the amounts and the times as may be required to pay promptly the contributions and assessments required of the city, as employer, by applicable state laws or regulations, which shall be paid over to the lawfully designated administrator of the Florida Retirement System at the times and in the manner provided by law and regulation.

(Ord. No. 71-1, § 5, 2-4-71)

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**20.03.04 Records and reports**

The city shall keep the records and make the reports as may be required by applicable state laws or regulations, and shall adhere to all laws and regulations relating to the Florida Retirement System.

(Ord. No. 71.1, § 8, 2-4-71)

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**20.03.05 Custodian and reporting agent**

The clerk is hereby designated the custodian of appropriated funds for the employer's contributions as provided in 20.03.05 and the reporting agent and is charged with the duty of maintaining records for the purposes of this division.

(Ord. No. 71-1, § 8, 2-4-71)

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**20.03.06 Alternative Retirement Plan and Trust**

It is hereby declared an alternative retirement plan and opt-out of the Florida Retirement System is established. The City has joined the Florida Municipal Pension Trust Fund Defined Contribution Plan and trust for those employees who shall qualify as participants hereunder, to be known as the Retirement Plan and Trust for the general employees of the City of Lake Helen.

(Ord. 95-5, § 1-1-96; Ord. 96-9, § 6-20-96)16.04.09

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**20.03.07 Adoption**

The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions hereunto appertaining, of the Florida Municipal Pension Trust Fund, for and on behalf of the employees of its departments and agencies to be covered under the agreement.

(Ord. 95-5, § 1-1-96; Ord. 96-9, § 6-20-96)

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**20.03.08 Retirement and Trust for the Police Officers of the City**

Technical corrections that have no fiscal impact on Ordinance 95-5, hereby ratify and confirm the provisions of the Florida Municipal Pension Trust Fund and establish a retirement plan and trust for the Police Officers of the City.

(Ord., 95-5, § 1-1-96; Ord. 96-9, § 6-20-96)

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**20.03.09 Records and reports**

The city shall keep the records and make the reports as may be required by applicable state laws of regulations and shall adhere to all laws and regulations relating to the Florida Municipal Pension Trust Fund. The Plan administrator will be Florida League of Cities Inc.

(Ord. 95-5, § 1-1-96; Ord. 96-9, § 6-20-96)

## **ARTICLE 21: ADULT ENTERTAINMENT**

### **21.00.00 GENERAL**

This Article shall be known and may be cited as the "Adult Entertainment Article."

#### **21.00.01 Authority**

This article is enacted under the home rule power of the City of Lake Helen in the interest of the health, peace, safety, and general welfare of the people of Lake Helen and under the authority of the City of Lake Helen (hereinafter referred to as "City") to regulate public conduct and the public commercial exploitation of sex, without any express or implied threat to suppress or prohibit any legitimate speech or expression.

#### **21.00.02 Purpose**

The intent of the City Commissioners in adopting this Article is to establish reasonable and uniform regulations for the adult entertainment industry that will protect the health, safety, property values, and general welfare of the people, businesses, and industries of the City.

#### **21.00.03 Findings of Fact**

Based on evidence and testimony presented to the City Commissioners and on findings incorporated in the various reports, articles, testimony and other documents, including but not limited to: Testimony of H. Robert Showers before the U.S. Senate Judiciary Committee concerning the influence of pornography on crime; Articles of Dr. Victor Cline of the University of Utah including "A Psychologist's View of Pornography: and "Addictive Nature of Pornography"; The American Family Association report entitled "Pornography: A Report"; a letter from a former nude dancer; Oklahoma State Bureau of Investigation crime report; USA Today article on pornography peep shows and the decline of morality; Christian Science Monitor article on cities put smut business in its place; City of Amarillo, Texas a study on zoning and other methods of regulating adult entertainment in Amarillo; City of Phoenix, Arizona, Adult Business Study; Cleveland, Ohio, Police Department report on increased crime rate in areas of smut shop outlets; City of Houston, Texas, study by committee on the proposed regulation of sexually oriented businesses; City of Indianapolis, Indiana, a comprehensive adult business study; and Florida Statutes, Chapter 847, Obscene Literature; Profanity; the City Commission hereby finds:

- A. Commercial establishments exist or may exist within nearby cities or counties in Central Florida where books, magazines, periodicals or other printed material, or photographs, films, motion pictures, prints, videotapes, slides, or other visual representations or recordings, or recordings or other audio matter, or instruments, novelties, devices, or paraphernalia which depict, illustrate, describe or relate to specified sexual activities or specified anatomical areas are possessed, displayed, exhibited, distributed and/or sold.
- B. Commercial establishments exist or may exist within nearby cities or counties in Central Florida where dancers, entertainers, performers, or other individuals, for commercial gain, perform or are presented while displaying or exposing specified anatomical areas; or engage in straddle dancing or touching with customers.
- C. When activities described in subsections A and B are present in establishments, other activities which are illegal, unsafe, or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against

persons and property.

- D. When the activities described in subsections A and B are competitively exploited in establishments, they tend to attract an undesirable number of transients; blight neighborhoods, adversely affect neighboring businesses, lower real property values, promote the particular crimes described in subsection C, and ultimately lead residents and businesses to move to other locations.
- E. The establishments in which the activities described in subsections A and B occur often are constructed, in part or in whole, of substandard materials, maintained in a manner reflecting disregard for the health and safety of the occupants, and have exterior signs or appearance that lower the surrounding property values and contribute to urban decline.
- F. The activities described in subsections A and B occur at establishments which operate for the purpose of making a profit and, as such, are subject to regulations by the City in the interest of the health, safety, economy, property values, and general welfare of the people, businesses, and industries of the City.
- G. The activities described in subsections A and B often occur in establishments concurrent with the sale and consumption of alcoholic beverages.
- H. The concurrence of the sale and consumption of alcoholic beverages with the activities described in subsections A and B leads to a further increase in criminal activity, unsafe activity, and disturbances of the peace and order of the surrounding community.
- I. The concurrence of the sale and consumption of alcoholic beverages with the activities described in subsections A and B creates additional hazards to the health and safety of persons in attendance and further depreciates the value of adjoining real property harming the economic welfare of the surrounding community and adversely affecting the quality of life, tone of commerce, and community environment.
- J. In order to preserve and safeguard the health, safety, property values, and general welfare of the people, businesses, and industries of the City, it is necessary and advisable for the City to regulate the sale and consumption of alcoholic beverages at establishments where the activities described in subsections A and B occur.
- K. Employees of establishments at which the activities described in subsections A and B occur engage in a higher incidence of certain types of unhealthy or criminal behavior than employees of other establishments.
- L. Physical contact or touching within establishments at which the activities described in subsections A and B occur between employees exhibiting specified anatomical areas and customers, poses a threat to the health of both and promotes the spread of communicable and social diseases.
- M. In order to preserve and safeguard the health, safety, and general welfare of the people of the City, it is necessary and advisable for the City to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in subsections A and B occur.
- N. The potential dangers to the health, safety, and general welfare of the people of the City posed by permitting an establishment at which the activities described in subsections A and B occur to operate without first meeting the requirements for obtaining a license under this ordinance are so great as to require the licensure of such establishments prior to their being permitted to operate.

- O. Requiring operators of establishments at which the activities described in subsections A and B occur to keep a list of information concerning current employees and certain recent past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects, and by preventing minors from working in such establishments.
- P. Prohibiting establishments at which the activities described in subsections A and B occur from operating within set distances of educational institutions, religious institutions, residence, areas zoned or designated for residential use, and parts, at which minors are customarily found, will serve to protect minors from the adverse effects of the activities that accompany such establishments.
- Q. Straddle dancing, unregulated private performances, and enclosed adult booths in establishments at which the activities described in subsection A and B occur have resulted in indiscriminate commercial sex between strangers and poses a threat to the health of the participants and promotes the spread of communicable sexually transmitted diseases. Straddle dancing is primarily conduct rather than communication or expression.

#### **21.00.04 Applicability**

This Adult Entertainment Article shall be effective throughout the City.

#### **21.01.00 DEFINITIONS**

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

**Adult** shall mean all persons eighteen years or older.

#### **Adult bookstore**

- A. Shall mean an establishment which advertises, sells or rents, or offers for sale or rent adult material.
- B. The provisions of A. are not intended to apply and it is an affirmative defense to an alleged violation of this Article regarding operating an adult bookstore without an adult entertainment license if the alleged violator shows that at the establishment:
  - 1. admission is not restricted to adults only, and
  - 2. all adult material is accessible only by employees, and
  - 3. it did not display merchandise or adult material in a manner that allowed such merchandise or adult material to be visible from outside of the structures at the establishment or to minors within the establishment, and
  - 4. the individual items of adult material offered for sale and/or rental comprise less than fifteen (15) percent of the total individual new items publicly displayed as stock in trade in any of the following categories: books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, videotapes, slides, or other visual representations, or recordings, or other audio matter or less than fifteen (15) percent of the individual used items publicly displayed at the establishment as stock in trade in the same categories set out above.

**Adult booth** shall mean a small enclosure inside an adult entertainment establishment accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth, or other booth used to view "adult materials" but does not

include a restroom or foyer through which the public enters or exits the establishments.

**Adult entertainment establishment** shall mean an adult theater, an adult bookstore, or an adult performance establishment operated for commercial or pecuniary gain, regardless of whether such establishment is licensed under this Article. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. An establishment which has an occupational license shall be presumed to be "operated for commercial or pecuniary gain." An establishment with an adult entertainment license shall be presumed to be an adult entertainment establishment.

**Adult material** shall mean any one or more of the following regardless of whether it is new or used:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videotapes, slides, or other visual representations, or recordings, or other audio matter, which have as their primary or dominant theme matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
- B. Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities, excluding contraceptive devices.

**Adult motel** shall mean any motel, hotel, boarding house, rooming house or other place of temporary lodging which includes the word "adult" in any name it uses or otherwise advertises the presentation of films, motion pictures, videotapes, slides or other photographic reproductions, which have as their primary or dominate theme matters depicting, illustrating, or relating to specified sexual activities or specified anatomical areas. The term "adult motel" is included within the definition of "adult theater".

**Adult performance establishment**

- A. shall mean an establishment where any employee:
  - 1. displays or exposes any specified anatomical area to a person other than another employee, regardless of whether the employee actually engages in dancing.
  - 2. wears any covering, tape, pastie, or other device which simulates or otherwise gives the appearance of the display or exposure of any specified anatomical area, regardless of whether the employee actually engages in dancing;
  - 3. offers, solicits, or contracts to display or expose any specified anatomical area while dancing or performing with a person other than another employee in consideration for any tip, remuneration or compensation from or on behalf of that person;
  - 4. engages in a private performance.
- B. The provisions of A. are not intended to apply and it shall be an affirmative defense to an alleged violation that an establishment is not an adult performance establishment if the establishment is a bona fide private club whose membership as a whole engages in social nudism or naturalism as in a nudist resort or camp, or such other establishment in which the predominant business or attraction of the establishment is not the offering to customers of a product, service, or entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and, the establishment does not advertise or promote materials relating to or employees depicting, describing, displaying, exposing, or simulating specified sexual activities or specified anatomical areas.
- C. An adult performance establishment shall not be deemed a place provided or set apart for the purpose of exposing or exhibiting a person's sexual organs in a manner contrary to the first sentence of Section 800.03, Florida Statutes, the State's indecent exposure statute, as



set forth in the decision of the Supreme Court of Florida in the case of *Hoffman v. Carson*, 250 So.2d 891,893 (Fla. 1971), appeal dismissed 404 U.S. 981 (1971).

**Adult theater** formerly known as or otherwise known as "adult motion picture theater" means an establishment which consists of an enclosed building, or a portion or part of an enclosed building, or an open-air area regularly used for viewing by persons of films, motion pictures, video cassettes, slides or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or specified anatomical areas. Adult motels are included within the definition of adult theater. An establishment which has adult booths is considered to be an adult theater.

**Alcoholic beverage** shall mean a beverage containing more than one (1) percent of alcohol by weight. It shall be prima-facie evidence that a beverage is an alcoholic beverage if there is proof that the beverage in question was or is known as beer, wine, whiskey, moonshine whiskey, moonshine, shine, rum, gin, tequila, bourbon, vodka, scotch, scotch whiskey, brandy, malt liquor, or by any other similar name or names, or was contained in a bottle or can labeled as any of the above names, or a name similar thereto, and the bottle or can bears the manufacturer's insignia, name or trademark. Any person who, by experience in the handling of alcoholic beverages, or who by taste, smell, or drinking of such alcoholic beverages, has knowledge of the alcoholic nature thereof, may testify as to his opinion about whether such beverage is an alcoholic beverage.

**Conviction** shall mean a determination of guilt resulting from a plea or trial, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.

**Department** shall mean the Building Inspector, County Fire Department, State health department, Police Department, Planning Board, or County tax collector, including the respective directors, employees, officers and agents thereof.

**Educational institution** shall mean a premise or site upon which there is an institution of learning for minors, whether public or private, which conducts regular classes and/or courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, or the Florida Council of Independent Schools. The term "educational institution" includes a premises or site upon which there is a day care center, nursery school, kindergarten, elementary school, junior high school, senior high school, and any special institution of learning. "Educational institution: shall also include a vocational institution, professional institution or an institution of higher education, including a community college, junior college, four year college or university.

**Employee** shall mean a person who works, performs, or provides services at an adult entertainment establishment, irrespective of whether said person is paid a salary or wage.

**Establishment** shall mean any site or premises, or portion thereof, upon which any person, corporation, or business conducts activities or operations for commercial or pecuniary gain. "Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. An establishment which has an occupational license shall be presumed to be "operated for commercial or pecuniary gain".

**Law enforcement officer** shall mean an officer who is on official duty for a law enforcement agency.

**Licensee** shall mean any person whose application for an adult entertainment establishment has been granted and who owns, operates or controls the establishment, or any person whose application for an employee license has been granted.

**Minor** shall mean all persons under eighteen (18) years of age.

**Operator** shall mean any person who engages in or performs any activity necessary to, or which facilitates, the operation of an adult entertainment establishment, including but not limited to, the licensee, manager, owner, doorman, bouncer, bartender, disc jockey, sales clerk, ticket taker, or movie projectionist.

**Park** shall mean a tract of land within a city or unincorporated area of a county which is kept for ornament or recreation and which is maintained as public property.

**Pre-existing** shall mean as follows:

- A. When used together with the term “adult entertainment establishment,” “religious institution,” “educational institution” or “commercial establishment that in any matter sells or dispenses alcohol,” or “residence” the word “pre-existing” shall mean:
  1. the establishment, institution, or residence is already being lawfully used or lawfully occupied; or
  2. a building permit for the establishment, institution, or residence has been lawfully issued, all fees associated with the permit have been paid, and the permit has not expired; or
  3. an application or plan to allow the establishment, institution, or residence to be constructed, used, or occupied has been filed and is undergoing review or is approved, with or without conditions.
- B. When used together with the term park," the word "pre-existing" shall mean:
  1. the park is already being used; or
  2. the park site has been approved or otherwise designated by the appropriate governing body.

**Private performance** shall mean modeling, posing, or the display or exposure of any specified anatomical area by an employee of an adult entertainment establishment to a person other than another employee, while the person is in an area not accessible during such display to all other persons in the establishment or, while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.

**Public nudity** shall mean to display or expose at an adult entertainment establishment less than complete and opaquely covered:

- A. human genitals or pubic region,
- B. the cleavage of the human buttocks,
- C. the areola of the human female breast.

**Religious institution** shall mean a premises or site which is used primarily or exclusively for religious worship and related religious activities.

**Specified anatomical areas** means:

- A. Less than completely and opaquely covered:
  1. human genitals or pubic region; or
  2. any part of the human buttocks; or
  3. that portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above

the top of the areola (the colored ring around the nipple). This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.

- B. Human male genitals in a discernible erect or turgid state, even if completely and opaquely covered.

**Specified criminal act** shall mean:

- A. A violation of this Adult Entertainment Article; or
- B. Any offense under the following chapters of the Florida Statutes: Chapter 794 regarding sexual battery; Chapter 796 regarding prostitution; Chapter 800 regarding lewdness and indecent exposure; and Chapter 847 regarding obscene literature; or
- C. An offense under an analogous statute of a state other than Florida, or an analogous ordinance of another county or city.

**Specified sexual activity** shall mean:

- A. Exhibition or depiction of human genitals in a state of sexual stimulation, arousal, erection or tumescence; or
- B. Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast; or
- C. Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellatio, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, or urolagnia; or
- D. Excretory functions as part of or in connection with any of the activities set forth in subsections A, B or C.

**Straddle dance** also known as a "lap dance" or "face dance," shall mean either of the following acts:

- A. The use by an employee of any part of his or her body to touch the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of any employee with a person while at the establishment. It shall be a "straddle dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing any specified anatomical area. It shall also be a straddle dance regardless of whether the touch or touching is direct or through a medium.
- B. The straddling of the legs of an employee over any part of the body of a person other than another employee at the establishment, regardless of whether there is a touch or touching.

**Transfer** means and includes any of the following;

- A. the sale, lease, or sublease of the establishment;
- B. the transfer of securities which constitute a controlling interest in the establishment, whether by sale, exchange, or similar means; or
- C. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the establishment, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

## **21.02.00 ENFORCEMENT**

The provisions of this ordinance may be enforced by:

- A. A suit brought by the City in the Circuit Court to restrain, enjoin, or prevent a violation of this Article; or
- B. Enforcement proceedings by the City Code Enforcement Board; or
- C. Criminal prosecution as provided in this Article.

#### **21.02.01 Responsibilities of Departments**

Ultimate responsibility for the administration of this ordinance is vested in the City Commissioners. The other departments are responsible for the following:

- A. The City Clerk is responsible for granting, denying, revoking, renewing, suspending, and cancelling adult entertainment licenses for proposed and existing adult entertainment establishments as set out in Section 21.03.00 et seq. (Licensing) of this Article.
- B. The City Police Department is responsible for verifying information contained on an application made pursuant to Section 21.03.02 et seq., or on a renewal application made pursuant to Section 21.03.05 et seq., for inspecting proposed, or existing adult entertainment establishments in order to ascertain compliance with applicable criminal statutes and ordinances, including those set forth in this Article, for determining whether adult entertainment license applicants have been convicted of a felony or a specified criminal act within the previous five years, and for enforcing applicable criminal statutes and ordinances, including those set forth in this Article.
- C. The City Building Inspector is responsible for inspecting any proposed establishment or existing adult entertainment establishment in order to ascertain compliance with Section 21.05.00 et seq. (General Operating Rules) of this Article and all applicable building codes, health codes, statutes, ordinances, and regulations.
- D. The County Fire Department, Lake Helen Station, is responsible for inspecting any proposed or existing adult entertainment establishment in order to ascertain compliance with Section 21.05.00 et seq. (General Operating Rules) et seq. of this Article and all applicable fire codes, statutes, ordinances, and regulations.
- E. The City Planning and Land Development Regulations Commission (PLDRC) is responsible for ascertaining whether the location of any proposed adult entertainment establishment complies with all distance, zoning, and location requirements of Section 21.04.00 et seq. (Distance Restrictions) of this Article, applicable portions of Section 21.05.00 et seq. (General Operating Rules) of this Article and all applicable zoning regulations in the City and whether existing adult entertainment establishments are in compliance with Section 21.04.00 et seq. and Section 21.05.00 et seq. of this Article and all applicable zoning regulations and land use laws.

#### **21.02.02 Appeals**

Any decision of the City Clerk pursuant to Section 21.03.00 et seq. (Licensing) of this Article may be immediately reviewed as a matter of right by the Circuit Court upon the filing of an appropriate pleading by an aggrieved party. Any appeal must be filed within thirty (30) days from the effective date of the City Clerk's decision.

#### **21.02.03 Notice**

Any notice required under this Article shall be accomplished by sending a written notification by certified mail to the mailing address set forth on the application for the license. This mailing address

shall be considered the correct mailing address unless the City Clerk has been otherwise notified in writing.

**21.02.04 Immunity from Prosecution**

The City or any of its departments or agents or any law enforcement officer shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon an adult entertainment establishment while acting within the scope of the authority under this Article.

**21.02.05 Construction**

This Article shall be liberally construed to accomplish its purpose of licensing, regulating and dispersing adult entertainment and related activities. Unless otherwise indicated, all provisions of this Article shall apply equally to all persons, regardless of sex. Masculine pronouns, such as "he," "his," and "him," as employed in this Article, shall also be construed to apply to feminine pronouns and neutral pronouns, unless the context suggests otherwise. Words used in the singular number shall include the plural number, unless the context suggests otherwise.

**21.02.06 Severability**

If any portion of this Article, or any application thereof, is declared to be void, unconstitutional or invalid for any reason, such portion or provision, or the application thereof, shall be severable from this Article. The remaining portions and provisions of this Article and all applications thereof shall remain in full force and effect. No void, unconstitutional or invalid portion or proscribed provision, or application thereof, was an inducement to the enactment of this Article.

**21.03.00 LICENSING**

**21.03.01 License Required; Classifications**

A. Requirement.

No adult entertainment establishment shall be permitted to operate without having been first granted an adult entertainment license by the City Administrator or his/her designee under this Article.

B. Classifications.

Adult entertainment establishment licenses referred to in this Article shall be classified as follows:

1. Adult bookstore;
2. Adult theater; or
3. Adult performance establishment.

C. Single Classification of License.

An adult entertainment license for a particular adult entertainment establishment shall be limited to one (1) classification of license.

**21.03.02 Application for License; Application Fee; Consent by Applicant**

A. Required.

Any person desiring to operate an adult entertainment establishment shall file with the City Clerk a sworn license application on standard application forms supplied by the City.

B. Contents of Application.

The completed application shall contain the following information and shall be accompanied by the following documents:

1. If the applicant is:
  - a. An individual, the individual shall state his legal name and any aliases and submit satisfactory proof that he is eighteen (18) years of age or older; or
  - b. A partnership, the partnership shall state its complete name, the names and mailing addresses of all partners whether general or limited, the residence address of at least one person authorized to accept service of process, and provide a copy of any existing partnership agreement; or
  - c. A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing with the Florida. Secretary of State, the names and capacity of all officers, directors and stockholders (if a corporation, then provide the names and capacity of all officers, directors and stockholders), the name and address of the registered corporate agent for service of process, and provide a copy of its articles of incorporation;
2. If the applicant intends to conduct the establishment under a name other than that of the applicant, the establishment's fictitious name registration under Florida Statutes Section 865.09;

**State Law reference --** Fictitious Name Registration, Section 865.90, F.S.

3. Whether the applicant or any of the other individuals listed pursuant to subsection 1. has, within the five year period immediately preceding the date of the application, been convicted of a felony of any state or of the United States or any specified criminal act and, if so, the specified crime involved, the date of conviction and the place of conviction;
4. Whether the applicant or any other individuals listed pursuant to subsection 1. owns or operates another adult entertainment establishment and, if so, the names and locations of such establishments.
5. Whether the applicant or any of the other individuals listed pursuant to subsection 1. has had a previous license under this Article, or under an Article in another jurisdiction regulating adult entertainment establishments, suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subsection 1. has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license under this Article has previously been suspended or revoked, including the

name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation;

6. Whether the applicant or any other individuals listed pursuant to subsection 1. holds any other licenses under the Article or other Articles elsewhere and, if so, the names and locations of such other licensed establishments;
7. The single classification of license for which the applicant is filing;
8. The location of the proposed establishment, including a legal description of the property site, and legal street address;
9. The applicant mailing address, business addresses, residential address, and business and residential telephone numbers; and
10. A site plan drawn to appropriate scale of the proposed establishment, including, but not limited to:
  - a. All property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways;
  - b. All windows, doors, entrances and exits, fixed structural features, walls, stages, partitions, projection booths, admission booths, adult booths, manager's stations (which shall not exceed 32 square feet of floor area), concession booths, stands, counters and similar structures;
  - c. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size;
  - d. Complying with all relevant provisions of Article 2 (Land Use) and Article 4 (Development Design Standards) of the City's Land Development Regulations;
11. A recent photograph and set of fingerprints of the applicant (if a corporation, the president of the corporation; if a partnership, the individual partners). The photograph shall be a recent photograph not smaller than 2 x 3 inches depicting the front view of the head, face and shoulders of each person;
12. The applicant's social security number or employer's tax identification number and either the applicant's driver's license number or the number of a state or federally issued identification card.

C. Application Fee.

Each application shall be accompanied by a nonrefundable fee of five hundred dollars (\$500.00) for application and investigation.

D. Incomplete Application.

In the event the City Clerk determines or learns at any time that the applicant has not properly completed the application for a proposed establishment,

the City Clerk shall promptly notify the applicant of such fact and shall allow the applicant ten (10) days to properly complete the application. (The time period for granting or denying a license under Section 21.03.04 et seq. shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application).

E. Consent

By applying for a license under this article, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise of their responsibilities under this Article by the agents or departments of the City.

**21.03.03 Processing of Application; Investigation; Findings**

A. Processing.

Upon receipt of a complete application properly filed with the City Clerk and upon payment of the nonrefundable application fee the City Clerk shall immediately stamp the application with the date it was received and shall immediately thereafter send photocopies of the application and all attachments to the Police Department, the Building Inspector, and Fire Department, and the PLDRC.

B. Investigation.

Each department shall promptly conduct an investigation of the applicant, application, and the proposed establishment in accordance with its responsibilities summarized in Section 21.02.01 et seq. of this Article to determine whether false, incomplete, or incorrect information was given on the application or whether the proposed establishment will be in violation of any provision of Section 21.04.00 et seq. (Distance Restrictions) or Section 21.05.00 et seq. (General Operating Rules) of this Article or of any applicable building, fire, health, or land use statute, code, ordinance, regulation, lease, deed restriction, or court order.

C. Findings.

After investigation, each department shall report its findings in writing and shall forward its findings to the City Clerk within thirty (30) days from the date of proper filing of the application and shall state whether the department finds that false, incomplete, or incorrect information was given on the application or whether the proposed establishment will be in violation of any provision of Section 21.04.00 et seq. (Distance Restrictions) or Section 21.05.00 et seq. (General Operating Rules) of this or of any building, fire, health, or land use statute, code, ordinance, regulation, lease deed restriction, or court order.

**21.03.04 Grant; Denial; Rejection**

A. Time Period for Granting or Denying License.

The City Clerk shall grant or deny an application for a license under this Article, Section 21.03.00 et seq. (Licensing) within forty-five (45) days from the date of its proper filing. Upon the expiration of the forty-fifth (45th) day, the applicant shall be permitted to begin operating the establishment



for which a license is sought, unless and until the City Clerk has notified the applicant of a denial of the application and states the reasons for that denial.

B. Granting of Application for License.

The City Clerk will approve the issuance of a license to an application unless the City Clerk finds one or more of the following to be true:

1. An applicant is under 18 years of age.
2. An applicant has been employed in an adult entertainment establishment in a managerial capacity in the City or any other jurisdiction within the preceding 12 months and has demonstrated an inability to operate or manage an adult entertainment establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
3. The application and investigation fee or the license fee required by the Article have not been paid.
4. An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon the applicant in relation to the adult entertainment establishment.
5. An applicant has failed to provide information required in order to determine the qualifications of the applicant under this Article for issuance of the license, or has falsely answered a question or request of information on the application form.
6. An applicant or the proposed establishment is in violation of or is not in compliance with this Article or of any applicable building, fire, health, or land use statute, code, ordinance, regulation, lease deed restriction, or court order.
7. An applicant has been convicted of a violation of a provision of this Article, or of a provision of an Article in another jurisdiction regulating adult entertainment establishments, within two years immediately preceding the application. The fact that a conviction is being appealed shall have not effect.
8. An applicant has been convicted of a crime:
  - a. involving:
    - (1) any of the offenses as described in the Florida Statutes Chapter 794 regarding Sexual Battery; Chapter 796 regarding Prostitution; Chapter 798 regarding Lewd and Lascivious Behavior; Chapter 800 regarding Lewdness and Indecent Exposure; Chapter 847 regarding Obscene Literature; Chapter 826 regarding Bigamy and Incest and Chapter 491.0112 regarding Sexual Misconduct of a Psychotherapist.

- (2) any similar offenses to those described above under the criminal or penal code of Florida, other states, Lake Helen, other cities, or other countries;
- (3) facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses;

b. for which:

- (1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
- (2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
- (3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

c. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

d. An applicant who has been convicted of an offense listed above may qualify for a license only when the time period required by this section has elapsed.

C. Rejection of Application

If a person applies for a license at a particular location within a period of nine months from the date of denial of a previous application for a license at the location, and the applicant has not demonstrated there has been an intervening change in the circumstances which would lead to a different decision regarding the former reason(s) for denial, the application shall be rejected.

**21.03.05 Contents of Licenses; Term; Renewal; Expiration; Cancellation; Reports; Consent**

A. Contents

An adult entertainment license shall state the name of the licensee, the name of the establishment, the street address of the establishment, the classification of the license, the date of issuance, and the date of expiration.

B. Term

All licenses issued under this Article shall be annual licenses which shall commence running on October 1st, if they have been paid for, and shall expire on September 30th of the following year. If a license is issued after October 1st, but by March 31<sup>st</sup> of the following year, the applicant shall

pay the applicable license fee. If a license is issued after March 31<sup>st</sup>, but by October 1<sup>st</sup> of the same year, the applicant shall pay one-half the applicable license fee.

C. Renewals

Each adult entertainment establishment licensed under this Article shall apply to renew their licenses annually. Subject to other provisions of this Article, and unless the City Clerk finds one or more of the provisions of Section 21.03.04 B (1 through 8) of this Article to be true, a licensee under this Article shall be entitled to a renewal of his annual license from year to year, as a matter of course, by October 1st by:

1. Presenting the license for the previous year;
2. Paying the appropriate license fee; and
3. Completing a renewal application which includes that information set forth in Section 21.03.02 B (1- 9 and 11-12).

D. Expiration

A license that is not renewed under this Article by October 1<sup>st</sup> of each year shall expire. An expired license may be renewed by November 30<sup>th</sup> of the same year upon presentment of an affidavit stating that no adult entertainment activity has taken place at the establishment subsequent to expiration, upon completing those items listed in C above, and upon payment of a penalty of ten percent (10%) of the appropriate license fee for the months of October and November, or fraction thereof.

E. Cancellation

All expired licenses not renewed by November 30<sup>th</sup> shall be cancelled summarily by the City Clerk.

F. Reports and records

Each licensee shall keep such records and make such reports as may be required by the City Clerk and the departments to implement this Article and to carry out its purpose. Whenever the information required by or provided under Section 21.03.02 B. has changed, the licensee shall promptly report to the City Clerk the changed information.

G. Consent

By holding a license under this Article, the licensee shall be deemed to have consented to the provisions of this Article and to the exercise by the City Clerk and the departments of their responsibilities under this Article.

**21.03.06 Annual License Fee**

A. Levy

There are hereby levied the following annual license fees under this Article for an adult entertainment establishment:

1. An adult bookstore: seven hundred fifty dollars (\$750.00);
2. An adult theater, as follows:

- a. Having only adult booths - thirty five dollars (\$35.00) for each booth;
  - b. Having only a hall or auditorium - three dollars and fifty cents (\$3.50) for each seat;
  - c. Having only an area outdoors designed to permit viewing by customers seated in vehicles - three dollars and fifty cents (\$3.50) for each parking space;
  - d. Having a combination of a, b, and/or c, the cumulative license fee applicable to each under such subsections;
  - e. Adult motel - seven hundred and fifty dollars (\$750.00), plus seventy-five (\$75.00) dollars per room over ten (10) rooms;
3. An adult performance establishment: seven hundred and fifty dollars (\$750.00).

**B. Fees Regulatory**

The annual license fees collected under this Article are declared to be regulatory fees which are collected for the purpose of examination and inspection of adult entertainment establishments under this Article and the administration thereof. These regulatory fees are in addition to and not in lieu of the occupational license taxes imposed by other ordinances.

**21.03.07 Transfer**

**A. Requirements**

An adult entertainment license is not transferable to another person by surrendering possession, control, or operation of the licensed establishment. An adult entertainment license may be transferred to another person only upon satisfaction of the following requirements:

1. A license transfer is applied for to the City Clerk by filing an application setting forth the information called for under Section 21.03.02 et seq. (Application for License...) and the application has been granted by the City Clerk after investigation by the Police Department; and
2. Satisfactory proof is provided that control of the establishment has been or will be transferred through a bona fide sale, rental or other transaction; and
3. An application fee is paid pursuant to Section 21.03.02 C.

**B. Effect of Suspension or Revocation Procedures**

No license may be transferred pursuant to subsection A when the City Clerk has notified the licensee that suspension or revocation proceedings have been or will be brought against the licensee.

**C. No Transfer to a Different Location**

A licensee shall not transfer his license to another location.

**D. Attempted Improper Transfer Void**

Any attempted transfer of a license either directly or indirectly in violation of this Section is hereby declared void.

**21.03.08 Change in the Name of Establishment**

No licensee may change the name of an adult entertainment establishment unless and until he satisfies each of the following requirements:

- A. Gives the City Clerk thirty (30) days' notice in writing of the proposed name change;
- B. Pays the City a five dollar (\$5.00) change-of-name fee; and
- C. Complies with Florida Statutes Section 865.09.

**21.03.09 Suspension**

- A. Violation of Building, Fire, Health, or Zoning Statute, Article, Ordinance, or Regulation

In the event a department learns or finds upon sufficient cause that a licensed adult entertainment establishment is operating in violation of a building, fire, health, or zoning statute, code, ordinance or regulations, whether federal, state, or local, contrary to the respective general requirements of Section 21.05.00 et seq. (General Operating Rules) of this Article, the department shall promptly notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven (7) day period the department shall notify the City Clerk, who shall forthwith suspend the license, and shall notify the licensee of the suspension. The suspension shall remain in effect until the department which reported the violation notifies the City Clerk in writing that the violation of the provision in question has been corrected. The department shall notify the City Clerk of any correction within seven (7) days from determining that the violation has been corrected.

- B. Illegal Transfer

In the event the City Clerk learns or finds upon sufficient cause that a licensee engaged in a license transfer contrary to Section 21.03.07 et seq., he shall forthwith suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect until the City Clerk is satisfied that the requirements of Section 21.03.07 A, have been met.

- C. Convictions for Violations of this Article

1. In the event two (2) or more violations of any specified criminal act occur at an adult entertainment establishment within a two-year period, the City Clerk shall, upon receiving evidence of the third conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of sixty (60) days.

2. In the event one (1) or more violations of any specified criminal act occur at the same establishment with a period of two (2) years from the date of the violation from which the conviction resulted for which

the license was suspended for sixty (60) days under Section C, 1. but not including any time during which the license was suspended for sixty (60) days, the City Clerk shall, upon receiving evidence of the first violation, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

3. The transfer or renewal of a license pursuant to this Article shall not defeat the terms of the Sections C, 1. and 2.
4. The fact that a conviction is appealed shall have no effect on the suspension of the license.

D. Effective Date of Suspension

All periods of suspension shall begin ten (10) days after the date the City Clerk mails the notice of suspension to the licensee or the date the licensee delivers his license to the City Clerk, whichever happens first.

**21.03.10 Revocation**

A. False Information

In the event the City Clerk receives evidence that a license was granted based upon false information, misrepresentation of fact, or mistake of fact, the City Clerk shall forthwith revoke the license, and notify the licensee of the revocation.

B. Repeat Convictions

1. In the event one (1) or more violations of any specified criminal act occur at an adult entertainment establishment which has had a license suspended for a period of one hundred eighty (180) days pursuant to Section 21.03.09 C, 2., and the violation occurs within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for one hundred eighty (180) days, the City Clerk shall, upon receiving evidence of a conviction for the subsequent violation, forthwith revoke the license, and notify the licensee of the revocation.
2. The transfer or renewal of a license pursuant to this Article shall not defeat the terms of subsection B, 1.
3. The fact that a conviction is appealed shall have no effect on the suspension of the license.

C. Effect of Revocation

If a license is revoked, the licensee shall not be allowed to obtain another adult entertainment license for a period of two (2) years, and no license shall be issued again to any other person or entity for the location upon which the adult entertainment establishment was situated.

D. Effective Date of Revocation

The revocation shall take effect ten (10) days after the date the City Clerk

mails the notice of revocation to the licensee or on the date the licensee delivers his license to the City Clerk, whichever happens first.

**21.03.11 Application for Employee License; Application Fee; Consent by Applicant**

A. Required

Any person desiring to be an employee of an adult entertainment establishment shall file with the City Clerk a sworn license application on standard application forms supplied by the City.

B. Contents of Application

The completed application shall contain the following information and shall be accompanied by the following documents:

1. The applicant shall state his legal name and any aliases and submit satisfactory proof that he is eighteen (18) years of age or older.
2. Whether the applicant has, within the five year period immediately preceding the date of the application, been convicted of a felony of any state or of the United States or of any specified criminal act and, if so, the specific crime involved, the date of conviction and the place of conviction;
3. Whether the applicant owns or operates another adult entertainment establishment and, if so, the names and locations of such other establishments;
4. Whether the applicant has had a previous license under this Article, or under a code in another jurisdiction regulating adult entertainment establishments, suspended or revoked, including the jurisdiction where the license was suspended or revoked, as well as the date of the suspension or revocation;
5. The applicant's mailing address, business addresses, residential address, and business and residential telephone numbers; and
6. A recent photograph and set of fingerprints of the applicant. The photograph shall be a recent photograph not smaller than 2 x 3 inches depicting the front view of the head, face and shoulders of each person;
7. The applicant's social security number and either the applicant's driver's license number or the number of a state or federally issued identification card.

C. Application Fee

Each application shall be accompanied by a nonrefundable fee of fifty dollars (\$50.00) for application and investigation.

D. Incomplete Application

In the event the City Clerk determines or learns at any time that the applicant has not properly completed the application, the City Clerk shall promptly notify the applicant of such fact and shall allow the applicant ten (10) days to properly complete the application. (The time period for granting or

denying a license under Section 21.03.13 et seq. shall be stayed during the period in which the applicant is allowed an opportunity to properly complete the application.)

E. Consent

By applying for a license under this Article, the applicant shall be deemed to have consented to the provisions of this Article and to the exercise of their responsibilities under this Article by the agents or departments of the City.

**21.03.12 Processing of Application; Investigation; Findings**

A. Processing

Upon receipt of a complete application properly filed with the City Clerk and upon payment of the nonrefundable application fee, the City Clerk shall immediately stamp the application with the date it was received and shall immediately thereafter send photocopies of the application and all attachments to the Police Department.

B. Investigation

The Police Department shall promptly conduct an investigation of the applicant and application in accordance with its responsibilities summarized in Section 21.02.01 B. of this Article to determine whether false, incomplete, or incorrect information was given on the application.

C. Findings

After investigation, the Police Department shall report its findings in writing and shall forward its findings to the City Clerk within thirty (30) days from the date of proper filing of the application and shall state whether the department finds that false, incomplete, or incorrect information was given on the application.

**21.03.13 Grant; Denial; Rejection**

A. Time period for Granting or Denying License.

The City Clerk shall grant or deny an application for a license under this Article, Section 21.03.00 et seq. within thirty (30) days from the date of its proper filing. Upon the expiration of the thirtieth (30th) day, the applicant may be permitted to be an employee at an adult entertainment establishment, unless and until the City Clerk notifies the applicant of a denial of the application and states the reasons for that denial.

B. Granting of Application for License

The City Clerk will approve the issuance of a license to an applicant unless the City Clerk finds one or more of the following to be true:

1. An applicant is under 18 years of age.
2. An applicant has been employed in an adult entertainment establishment as an employee in the City or any other jurisdiction within the preceding 12 months and has demonstrated an inability to be employed at an adult entertainment establishment in a peaceful and law-abiding manner, thus necessitating action by law



enforcement officers.

3. The application and investigation fee or the license fee required by this Article have not been paid.
4. An applicant has failed to provide information required in order to determine the qualifications of the applicant under this Article for issuance of the license, or has falsely answered a question or request for information on the application form.
5. An applicant has been convicted of a violation of a provision of this Article, or of a provision of a code in another jurisdiction regulation adult entertainment establishments, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
6. An applicant has been convicted of a crime:
  - a. involving:
    - (1) any of the offenses as described in the Florida Statutes Chapter 794 regarding Sexual Battery; Chapter 796 regarding prostitution; Chapter 798 regarding Lewd and Lascivious Behavior; Chapter 800 regarding Lewdness and Indecent Exposure; Chapter 847 regarding Obscene Literature; Chapter 826 regarding Bigamy and Incest and Chapter 491.0112 regarding Sexual Misconduct of a Psychotherapist.
    - (2) any similar offenses to those described above under the criminal or penal code of Florida, other states, Lake Helen, other cities, or other countries;
    - (3) Facilitation, attempt, conspiracy, or solicitation to commit any of the foregoing offenses;
  - b. for which:
    - (1) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
    - (2) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is, of a felony offense; or
    - (3) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses of combination of misdemeanor offenses occurring within any 24-month period.

- c. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.
- d. An applicant who has been convicted of an offense listed above may qualify for a license only when the time period required by this section has elapsed.

**21.03.14 Contents of Employee licenses; Term; Renewal; Expiration; Cancellation; Reports; Consent**

A. Contents

An adult entertainment employee license shall state the name of the licensee, the street address of the licensee, the date of birth of the licensee, a photograph of the licensee, the date of issuance, and the date of expiration.

B. Term

All licenses issued under this Article shall be annual licenses which shall commence running on October 1<sup>st</sup>, if they have been paid for, and shall expire on September 30<sup>th</sup> of the following year. If a license is issued after October 1<sup>st</sup>, but by March 31<sup>st</sup> of the following year, the applicant shall pay the applicable license fee. If a license is issued after March 31<sup>st</sup>, but by October 1<sup>st</sup> of the same year, the applicant shall pay one-half the applicable license fee.

C. Renewals

Each employee licensed under this Article shall apply to renew their licenses annually. Subject to other provisions of this Article, and unless the City Clerk finds one or more of the provisions of Section 21.03.13 B, (1 through 6) of this Article to be true, a licensee under this Article shall be entitled to a renewal of his annual license from year to year, as a matter of course, by October 1<sup>st</sup> by:

- 1. Presenting the license for the previous year,
- 2. Paying the appropriate license fee, and
- 3. Completing a renewal application which includes that information set forth in Section 21.03.11 B, (1-7).

D. Expiration

A license that is not renewed under this Article by October 1<sup>st</sup> of each year shall expire.

E. Consent

By holding a license under this Article, the licensee shall be deemed to have consented to the provision of this Article and to the exercise by the City Clerk and the departments of their responsibilities under this Article.

**21.03.15 Annual Employee License Fee**

A. Levy

There is hereby levied the annual license fee for an employee of an adult entertainment establishment: Fifty dollars (\$50.00).

B. Fees Regulatory

The annual license fees collected under this Article are declared to be regulatory fees which are collected for the purpose of investigation of employees of adult entertainment establishments under this Article and the administration thereof. These regulatory fees are in addition to and not in lieu of the occupational license taxes imposed by other ordinances.

**21.03.16 Transfer of Employee License**

A. Requirements

An employee license for an adult entertainment establishment is not transferable.

B. Attempted Improper Transfer Void

Any attempted transfer of a license either directly or indirectly in violation of this section is hereby declared void.

**21.03.17 Suspension of Employee License**

A. Violation of building, fire, health, or zoning statute, article, code, ordinance, or regulation.

In the event a department learns or finds upon sufficient cause that an employee of an adult entertainment establishment is acting in violation of a building, fire, health, or zoning statute, article, code, ordinance or regulation, whether federal, state, or local, contrary to the respective general requirements of Section 21.05.00 et seq. (General Operating Rules) of this Article, the department shall promptly notify the licensee of the violation and shall allow the licensee a seven-day period in which to correct the violation. If the licensee fails to correct the violation before the expiration of the seven (7) day period the department shall notify the City Clerk, who shall forthwith suspend the license, and shall notify the licensee of the suspension. The suspension shall remain in effect until the department which reported the violation notifies the City Clerk in writing that the violation of the provision in question has been corrected. The department shall notify the City Clerk of any correction within seven (7) days from determining that the violation has been corrected.

B. Convictions for Violations of this Article

1. In the event the employee is convicted of two (2) or more violations of any specified criminal act within a two-year period, the City manager shall, upon receiving evidence of the third conviction, suspend the license, and notify the licensee of the suspension. The suspension shall remain in effect for a period of sixty (60) days.

2. In the event the employee is convicted of one (1) or more violations of any specified criminal act within a period of two (2) years from the date of the violations from which the conviction resulted for which the license was suspended for sixty (60) days under subsection B, 1, but not including any time during which the license was suspended for

sixty (60) days, the City Clerk shall, upon receiving evidence of the first violation, suspend the license again, and notify the licensee of the suspension. The suspension shall remain in effect for a period of one hundred eighty (180) days.

3. The renewal of a license pursuant to this Article shall not defeat the terms of subsections B, 1 and 2.
4. The fact that a conviction is appealed shall have no effect on the suspension of the license.

C. Effective Date of Suspension

1. All periods of suspension shall begin ten (10) days after the date the City Clerk mails the notice of suspension to the licensee or the date the licensee delivers his license to the City Clerk, whichever happens first.

**21.03.18 Revocation of Employee License**

A. False Information

In the event the City Clerk receives evidence that a license was granted based upon false information, misrepresentation of fact, or mistake of fact, the City Clerk shall forthwith revoke the license, and notify the licensee of the revocation.

B. Repeat Convictions

1. In the event the employee is convicted of one (1) or more violations of any specified criminal act who has had a license suspended for a period of one hundred eighty (180) days pursuant to Section 21.03.17 B, 2, and the violation occurs within a period of two (2) years from the date of the violation from which the conviction resulted for which the license was suspended for one hundred eighty (180) days, but not including any time during which the license was suspended for one hundred eighty (180) days, the City Clerk shall, upon receiving evidence of a conviction for the subsequent violation, forthwith revoke the license, and notify the licensee of the revocation.
2. The renewal of a license pursuant to this Article shall not defeat the terms of subsection B, 1.
3. The fact that a conviction is appealed shall have no effect on the suspension of the license.

C. Effect of Revocation

If a license is revoked, the licensee shall not be allowed to obtain another adult entertainment employee license for a period of two (2) years.

D. Effective Date of Revocation

The revocation shall take effect ten (10) days after the date the City Clerk mails the notice of revocation to the licensee or on the date the licensee delivers his license to the City Clerk, whichever happens first.

**21.04.00 DISTANCE RESTRICTIONS**

**21.04.01 Prohibited Locations**

- A. Notwithstanding any other provision of this Article, except Section 21.04.04 below, or any provision of the City planning, land development and zoning regulations, and pursuant to Article 2 (Land Use), 202.02 D. (Large Commercial) of the City of Lake Helen Land Development Regulations, no person shall propose, cause or permit the operation of, or enlargement of, an adult entertainment establishment which, while in operation or after enlargement, would or will be located within six hundred sixty (660) feet of a preexisting adult entertainment establishment, within six hundred sixty (660) feet of a preexisting religious institution, within six hundred sixty (660) feet of a preexisting educational institution, within six hundred sixty (660) feet of an area zoned within the county or a municipality for residential use, within six hundred sixty (660) feet of an area designated as residential on the future land use map of the City's comprehensive plan, within six hundred sixty feet (660) of the property line of a preexisting residence, within six hundred sixty (660) feet of a preexisting park, or within two hundred (200) feet of a preexisting commercial establishment that in any manner sells or dispenses alcohol. In this subsection the term "enlargement: includes, but is not limited to, increasing the floor size of the establishment by more than ten percent (10%)
- B. In addition to the distance requirements set forth in A., an adult entertainment establishment shall not be allowed to open anywhere except in the Large Commercial zoning district within the boundaries of Lake Helen.
- C. The distance requirements of subsection A are independent of and do not supersede the distance requirements for alcoholic beverage establishments which may be contained in other laws, rules, ordinances or regulations.

**21.04.02 Measurement of Distance**

The distance from a proposed or existing adult entertainment establishment to a preexisting adult entertainment establishment, a preexisting religious institution, a preexisting educational institution, an area zoned for residential use, an area designated on the future land use map of the comprehensive plan as residential, a preexisting residence, a preexisting park, or a preexisting commercial establishment that sells or dispenses alcohol shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the preexisting adult entertainment establishment, preexisting religious institution, preexisting educational institution, area designated on the future land use map of the comprehensive plan as residential, preexisting residence, preexisting park, or preexisting commercial establishment that sells or dispenses alcohol.

**21.04.03 Non-Conforming Uses**

- A. Any adult entertainment establishment which, on April 4, 1996, the date the ordinance is first published, was located on a site which is prohibited by Section 21.04.01 et seq. (Prohibited Locations) of this Article, shall cease operations by September 4, 1996.
- B. When a nonconforming use of an adult entertainment establishment has been

discontinued for ninety (90) consecutive days or more, the nonconforming use shall be deemed abandoned and the future use of the premises or site shall revert to only those uses permitted on the site on which the establishment is located.

**21.04.04 Variances**

The Personnel Review Board of the City is authorized to recommend a variance from the distance and zoning requirements of this Article, pursuant to the procedures and criteria set forth in Article ~~15~~ **13**, of the City of Lake Helen Land Development Regulations.

**21.05.00 GENERAL OPERATING RULES**

**21.05.01 General Requirements**

Each adult entertainment establishment is subject to all of the following general requirements and shall:

- A. Conform to all applicable building, fire, health, zoning, and land use statutes, articles, ordinances, and regulations, whether federal, state or local.
- B. On the first Monday of each month provide the Police Department with a report of all persons who are employees or who were employees at the establishment during the previous month, which report shall contain the name, date of birth, residential address, social security number, position, and stage name, if any, of such persons.
- C. Keep the adult entertainment license posted in a conspicuous place at the establishment available for inspection by the public at all times.
- D. Cover opaquely each window or other opening through which a person outside the establishment may otherwise see inside the establishment.
- E. Maintain all exterior walls and surfaces of the establishment, excluding signs, a single achromatic or light pastel color, and shall maintain all awnings, canopies, window shutters, window treatment, or other trim the same color or a single different shade of the same achromatic or light pastel color. Nothing in this subsection shall be construed to require the painting of an otherwise unpainted exterior portion of an establishment such as brick or stone.
- F. Install, construct, keep, maintain, or allow only those signs at the establishment which comply with Article 8 of the City of Lake Helen Land Development Regulations and the provisions of this subsection. No sign shall contain any flashing lights, photographs, silhouettes, drawings or pictorial representations or other words or material depicting or describing, specified anatomical areas or sexual activities.
- G. Have at least one licensed employee on duty and situated in each manager's station at all times that any patron is present inside the premises. In the case of an adult theater or adult booth, it is the duty of the owners and operator of the premises and the licensed employees who are present to ensure that no more than one person occupies a viewing room or booth at any time, and that all other entrances to booths or other viewing areas (and to the aisles, walkways and hallways leading to booths or other viewing areas) are

maintained free of any obstruction such as a door, curtain, panel, board, slat, ribbon, cord, rope, chain or other device.

- H. Configure the interior of the adult entertainment establishment in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purposes from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- I. Ensure that the line of sight and view area specified in subsection H. remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.
- J. Equip the premises with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot candle as measured at the floor level. It shall be the duty of the owners and operator and it shall also be the duty of all employees present on the premises to ensure that the illumination is maintained at all times that any patron is present in the premises.

#### **21.05.02 Adult Theaters**

In addition to the general requirements for an adult entertainment establishment contained in Section 21.05.01 et seq., an adult theater shall comply with the following special requirements:

- A. If an adult theater contains a hall or auditorium area, the area shall have:
  - 1. Individual separate seats, not couches, benches, or the like, to accommodate the number of person allowed occupying the area;
  - 2. A continuous main aisle alongside of the seating areas in order that each person seated in the areas shall be visible from the aisle at all times; and
  - 3. A sign posted in a conspicuous place at or near each entrance to the hall or auditorium area which lists the maximum number of persons who may occupy the hall or auditorium area, which number shall not exceed the number of seats within the hall or auditorium area;
  - 4. Sufficient illumination so that persons in all areas of the auditorium can be seen.
- B. If an adult theater contains adult booths, each adult booth shall have:
  - 1. A sign posted in a conspicuous place at or near the entrance which states the maximum number of persons allowed to occupy the booth, which number shall correlate with the number of seats in the booth;

2. A permanently open entrance not less than thirty-six (36) inches wide and not less than eighty (80) inches high, which entrance shall not have any curtain rods, hinges, rails, or the like which would allow the entrance to be closed or partially closed by any curtain, door, or other partition.
  3. Individual, separate seats, not couches, benches, or the like, which correlate with the maximum number of persons who may occupy the booth;
  4. A well-illuminated continuous main aisle alongside the booth shall be visible from the aisle at all times; and
  5. Except for the entrance, walls or partitions of solid construction without any holes or openings in such walls or partitions.
- C. If an adult theater is designed to permit outdoor viewing by persons seated in automobiles, it shall have the motion picture screen so situated, or the perimeter of the establishment so fenced, that the material to be seen by those persons may not be seen from any public right-of-way, property zoned for residential use, religious institution, educational institution, or park.

#### **21.05.03 Adult Performance Establishments**

In addition to the general requirements for an adult entertainment establishment contained in Section 21.05.01 et seq. (General Requirements), an adult performance establishment shall comply with the following special requirements:

- A. Have a stage provided for the display or exposure of any specified anatomical area by an employee or a person other than another employee consisting of a permanent platform (or other similar permanent structure) raised a minimum of eighteen (18) inches above the surrounding floor and encompassing an area of at least one hundred (100) square feet.
- B. Any area in which a private performance occurs shall:
  1. Have a permanently open entrance not less than thirty-six (36) inches wide and not less than eighty (80) inches high, which entrance shall not have curtain rods, hinges, rails, or the like which would allow the entrance to be closed or partially closed by any curtain, door, or other partition.
  2. Have a wall to wall, floor to ceiling partition of solid construction without any holes or openings, which partition may be completely or partially transparent, and which partition separates the employee from the person viewing the private performance.

#### **21.05.04 Adult Bookstores**

In addition to the general requirements for an adult entertainment establishment contained in Section 21.05.01 et seq., an adult bookstore shall not display merchandise or adult material in a manner that allows such merchandise or adult material to be visible from outside of the establishment.

#### **21.05.05 Employee Records**

- A. An adult entertainment establishment shall maintain a record of all



employees who are currently employed by the establishment, and of all former employees who were employed by the establishment during the preceding one (1) year period. The record shall contain the current or former employee's full legal name, including any aliases, date of birth, residential address, residential telephone number (if any), social security number, driver's license number or state or federally issued identification card number, employee license number as issued under this Article, and a recent photograph of the employee.

- B. The original records required by subsection A., or true and exact photocopies thereof, shall be kept at the establishment at all times.
- C. All operators of the establishment shall be responsible for knowing the location of the original records, or the true and exact photocopies thereof.
- D. An operator of the establishment shall, upon request by a law enforcement officer when the establishment is open for business, immediately make available for inspection the original records, or the true and exact photocopies thereof.

**21.06.00 PROHIBITIONS**

**21.06.01 Penalty**

- A. Whoever violates any provision of this Article shall be guilty of a misdemeanor and shall be punished as provided by law.
- B. Whoever violates any provision under this Article, or of the Lake Helen City Code of Ordinances as amended by this ordinance, is subject to a civil suit for injunction as well as prosecution for criminal violations and liability for licensing sanctions such as suspension or revocation

**21.06.02 Operation without Valid Adult Entertainment License.**

It shall be unlawful for any person to be an operator of an adult entertainment establishment when:

- A. The establishment does not have a valid adult entertainment license for each applicable classification;
- B. The license of the establishment is under suspension;
- C. The license of the establishment has been revoked or cancelled; or
- D. The establishment has a license which has expired.

**21.06.03 Working at Unlicensed Establishment**

It shall be unlawful for any person to act as an employee of an adult entertainment establishment that he knows or should know does not have a valid license under this Article, or which has a license which is under suspension, has been revoked or cancelled, or has expired, or which does not have each applicable adult entertainment license conspicuously displayed.

**21.06.04 Operation Contrary to Certain Provisions**

It shall be unlawful for any person to be an operator of an adult entertainment establishment:

- A. Which does not satisfy all of the general requirements of Section 21.05.01 C, D, E, or F;
- B. Which is an adult theater and does not satisfy all of the special requirements of Section 21.05.02 et seq.;
- C. Which is an adult performance establishment and does not satisfy all of the special requirements of Section 21.05.03;
- D. While the entrance or exit of the establishment is locked when a person other than an employee is inside the establishment.

**21.06.05 Prohibited Acts**

It shall be unlawful for an employee of an adult entertainment establishment to commit any of the following acts or for an operator of an adult entertainment establishment to knowingly or with reason to know, permit, suffer, or allow any employee or any other person to commit any of the following acts:

- A. Engage in a straddle dance with a person at the establishment;
- B. Offer, contract or otherwise agree to engage in a straddle dance with a person at the establishment;
- C. Engage in any specified sexual activity at the establishment;
- D. Engage in public nudity as defined in Section 21.01.00 (Definitions) of this Article;
- E. Display or expose at the establishment specified anatomical areas while such employee is not continuously positioned at least three feet away from all other persons or while such employee is not in an area as described in Section 21.05.03 A.;
- F. Display or expose specified anatomical areas at an establishment where alcoholic beverages are sold, offered for sale or consumed;
- G. Display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment;
- H. Engage in a private performance unless such employee is in an area which complies with the requirements of Section 21.05.03 B., 1 and 2.
- I. Intentionally touch any person at the adult entertainment establishment, while engaged in the display or exposure of any specified anatomical area; or
- J. Intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person.
- K. Notwithstanding any provision indicating to the contrary, it shall not be unlawful for any employee of an adult entertainment establishment to expose any specified anatomical area during the employee's bona fide use of a restroom, or bona fide use of a dressing room which is used and occupied only by other employees.

- L. To be employed at an adult entertainment establishment without first obtaining an adult entertainment employee license as provided in this Article.
- M. To employ any person at an adult entertainment establishment without the employee first having an adult entertainment employee license as provided in this Article.

**21.06.06 Touching Employees Prohibited**

- A. It shall be unlawful for any person in an adult entertainment establishment to intentionally touch an employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.
- B. It shall be unlawful for any person in an adult entertainment establishment to intentionally touch the clothed or unclothed breast of any employee, or to touch the clothed body of any employee at any point below the waist and above the knee of the employee.

**21.06.07 Advertising Prohibited Activities**

It shall be unlawful for an operator of an adult entertainment establishment to advertise, encourage or promote any activity prohibited by this Article.

**21.06.08 Minors Prohibited**

It shall be unlawful for an operator or employee of an adult entertainment establishment to knowingly, or with reason to know, permit, suffer, or allow a person under eighteen (18) years of age to:

- A. enter or remain in the establishment;
- B. purchase goods or services at the establishment; or
- C. work at the establishment as an employee.

**21.06.09 Failure to Maintain Employee Records**

It shall be unlawful to be an operator of an adult entertainment establishment at which all records for employees required by Section 21.05.05 have not been compiled, are not maintained, or are not made available for inspection by a law enforcement officer upon request when the establishment is open for business.

**21.06.10 Exceeding Occupancy Limit of Adult Booth**

It shall be unlawful for any person to occupy an adult booth in which booth there are more people than that specified on the posted sign required by Section 21.05.02.

**21.06.11 Hours of Operation**

It shall be unlawful between the hours of 2:00 a.m. and 9:00 a.m. of any day for:

- A. An operator of an adult entertainment establishment to allow such establishment to remain open for business, or to allow, suffer or permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service.
- B. An employee of an adult entertainment establishment to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service.

**21.06.12 Alteration of License**

It shall be unlawful for any person to alter or otherwise change the contents or appearance of an adult entertainment license without the written permission of the City Clerk.

**21.06.13 False Statement in Application for License**

It shall be unlawful for any person applying for an adult entertainment license pursuant to the provisions of this Article to make a false statement or provide false information which is intended to facilitate the issuance of a license on the application required by Section 21.03.02 et seq., to provide false information in the reports required by Section 21.05.01, or to falsify the records required by Section 21.05.05 et seq. or any provision of this Article.

**21.06.14 Solicitation of Personal Advertising**

It shall be unlawful for any employee of an adult entertainment establishment while situated outside any structure on the site of the adult entertainment establishment, or while the employee is situated at a place at the adult entertainment establishment where the employee is visible from any public right-of-way or sidewalk to display or expose specified anatomical areas or engage in personal advertising, pandering, or solicitation, whether passive or otherwise, on behalf of the employee, any other employee, or the adult entertainment establishment. Personal advertising includes, but is not limited to, sitting or standing outside any structure on the site of the adult entertainment establishment, gesturing, waving, repeatedly speaking in a raised tone of voice or otherwise encouraging or enticing potential customers beyond the adult entertainment establishment to enter the adult entertainment establishment.

**21.06.15 Strict Liability and Liability for the Conduct of Others**

- A. The offenses and violations described in this Article are strict liability offenses and violations which require no proof of culpable mental state.
- B. A licensee of an adult entertainment establishment is jointly and severally liable for violations of an offense under this Article by the employees of the adult entertainment establishment, and for all civil and criminal sanctions or remedies for such violations and offenses, including but not limited to license suspension or revocation, prescribed herein.

**ARTICLE 22: ALCOHOLIC BEVERAGES**

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**22.00.00 ALCOHOLIC BEVERAGES**

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**22.01.00 HOURS OF SALE**

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Alcoholic beverages may be sold, consumed, or served, or permitted to be served or consumed, in any place holding a license under the state beverage law only on the following days and the following hours:

- A. Monday: 8 a.m. to 12 Midnight
- B. Tuesday: 8 a.m. to 12 Midnight
- C. Wednesday: 8 a.m. to 12 Midnight
- D. Thursday: 8 a.m. to 12 Midnight

- E. Friday: 8 a.m. to 2 a.m. Saturday
- F. Saturday: 8 a.m. to 2 a.m. Sunday
- G. Sunday: 8 a.m. to 12 Midnight
- H. Notwithstanding the above provisions for the hours of sales for the above days and hours, in the event of a recognized national holiday, alcoholic beverages may be sold, consumed, served or permitted to be served or consumed from 8 a.m. of the day of the holiday until 2 a.m. of the following non-holiday morning.

(Ord. No. 97-2, § 2-20-97)

**State law reference** -- authority to regulate hours of sale, F.S. §§ 562.14(1), 562.45(2).

## **ARTICLE 23 - ALARM SYSTEMS**

### **23.00.00 GENERAL**

#### **23.01.00 DEFINITIONS**

For the purpose of this chapter, whenever any of the following words or terms are used herein, they shall have the meanings ascribed to them in this section:

*Alarm* shall mean any device which is used in a building or premises for the detection of unauthorized entry, burglary, fire, rescue or any other emergency activity, and which when activated emits a sound, signal or message to alert others, whether emitted on or off the premises or to the central office of an alarm business.

*Alarm business* shall mean any person engaged in the business of selling, leasing, monitoring, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm for any building, place or premises.

*Alarm user* shall mean any person using an alarm or occupying and controlling a premises or building, or a portion of a premises or building, served by an alarm,

*Class "A" alarms* shall mean all those alarms activated by entry in response to criminal activity, fire, rescue and alarms activated solely by an act of nature, act of God or act of a regulated utility company Completely out of the control of the alarm owner or user and not contributed to by faulty design, maintenance, installation or use.

*False alarms* shall mean all activated alarms, responded to by the police and/or fire department(s), which do not qualify as Class "A" alarms, including but not limited to alarms activated through inadvertence, neglect, accident, unannounced testing and faulty installation or maintenance.

*Persons shall* mean an individual partnership, association or corporation.

#### **23.02.00 ALARM PERMIT REQUIRED**

No person shall have an alarm installed to be operational, or use an existing alarm serving a premise or a building, or portion thereof, occupied or controlled by such person, unless an alarm permit in the form of a decal has been issued hereunder, and is in force, authorizing the use of such alarm. Said alarm permit shall constitute a regulatory license. For any alarm existing prior to the effective date of this Article, an alarm permit application shall be made within thirty (30) days of the effective date hereof.

#### **23.03.00 APPLICATION FOR ALARM PERMIT**

- A. Applications for alarm permits shall be made to City Hall on forms provided by the City. The application shall be signed by the alarm user and shall provide the following information:
  - 1. Name, address and telephone number of the alarm user.
  - 2. Address and telephone number of the alarm user's premises or building to be served by the alarm.
  - 3. The name, address and telephone number of the person or persons in charge of the premises or building served by the alarm.
  - 4. The name, address and telephone number of the person or entity installing such alarm.
  - 5. The name, address and telephone number of the person or entity monitoring such alarm.
  - 6. The name, address and telephone number of the person or entity providing maintenance and repair service to such alarm.
  - 7. An agreement by the alarm user, binding upon the alarm user's heirs and successors in interest, to promptly pay or lawfully contest any penalties assessed against the alarm user for an excessive number of false alarms as described in this chapter
- B. An amended application shall be filed within ten (10) days after any change in the information provided in such application.

**23.04.00 TERM OF PERMIT; NONTRANSFERABILITY, FEE**

- A. **Term.**

All alarm permits shall have a term of one (1) year from October 1 to September 30. Any permit issued after October 1 shall also expire on September 30, regardless of the date of issuance. No discount in fees shall be granted for any permit that is valid for less than one (1) year.
- B. **Nontransferability.**

No alarm permit shall be transferable or assignable or cover more than one (1) building or premises.
- C. **Permit fees.**

Fees as established by City Commission Resolution

**23.05.00 ISSUANCE AND DENIAL OF ALARM PERMITS**

- A. Permits to be picked up. All initial and renewal permits shall be picked up by the permittee, or the designee of the permittee, at Lake Helen City Hall.
- B. Denial of Permits. An alarm permit shall be denied if:
  - 1. The requested information is not supplied on the application.
  - 2. Material information on the application is incorrect.
  - 3. Any person or entity listed on the application pursuant to subsections A.2, A.3 or B. of section 23.03.00 does not possess the required occupational or regulatory license to conduct the activities on the premises in question.

**23.06.00 DECAL POSTING REQUIRED**

Each alarm permit holder shall be issued a numbered alarm decal and an expiration date sticker by the city which shall be displayed in a conspicuous place near the entrance to the premises and

visible from the outside of the premises covered by the permit. These decals shall have a serial number to identify the system and/or ownership, and the permittee shall also post with the decal the phone number of a person who may be contacted in the case of an emergency at the premises. It shall be unlawful for any person to display any decal or expiration date sticker that has expired. In the event that a replacement decal is needed, due to a broken window or door, one may be obtained for a fee as established in the fee Resolution.

**23.07.00 EXCESSIVE FALSE ALARMS DECLARED A PUBLIC NUISANCE**

The emission of more than three (3) false alarms within any three hundred sixty-five (365) day period of time is excessive and constitutes a serious public nuisance, and is hereby declared to be unlawful and a violation of this section. No person may allow, permit, cause or fail to prevent emission, by any alarm used by him, or any alarm serving a premise or a building occupied and controlled by such person, of more than three (3) false alarms within any three hundred sixty-five (365) day period of time.

**23.08.00 POLICE FALSE ALARM SERVICE CHARGE, COLLECTION**

- A. For response to excessive false alarms by the police department, the alarm user shall be charged a service fee s established in the fee Resolution for the first false alarm in excess of three (3) false alarms in any twelve-month period, and a fee as established in the fee Resolution for the second and each successive false alarm in excess of three (3) in any twelve month period.
- B. If any person shall fail to appear and reset any such alarm within one (1) hour after being notified by the police department to do so, then the owner or manager of the premises shall be charged a fee as established in the fee Resolution for the first such occurrence, and a fee as established in the fee Resolution for each succeeding occurrence within twelve months of the last failure to appear.

**23.09.00 CORRECTIVE ACTION REPORT**

For each response by the Lake Helen Police to an alarm the owner or manager of the premises shall within five (5) working days make a written report to the Chief of Police, on forms provided by the Department, setting forth the cause of the alarm, the corrective action taken, the name and address of the service company, if any, by whom the alarm system has been inspected or repaired, and such other information as the Department may reasonably require to determine the cause of the alarm and what corrective action has been taken or may be necessary. Within seven (7) working days after the receipt of the owner's report, the Chief of Police will make a determination as to the alarm being Class A or false and notify the owner accordingly in writing.

**23.10.00 GRACE PERIOD**

Owners or managers of premises will have a thirty-day grace period from the date the alarm system is installed or a substantial change in the system is made before the provisions of this Article take effect. Any response to a premise which has changed ownership shall be considered a first response.

**23.11.00 INTERFERENCE WITH POLICE DEPARTMENT LINES PROHIBITED; ALARM BUSINESS CENTRAL OFFICE REQUIRED; IDENTIFICATION REQUIRED**

- A. No person shall use or cause to be used any telephone or electronic device or attachment that automatically selects a public primary telephone trunk line of the Police or any other department or bureau of the City, and then reproduces any prerecorded message to report any burglary, unauthorized entry, fire, rescue or other emergency.

- B. No person shall provide a private alarm service system programmed to a central alarm reception office unless it shall have the central office staffed at all times, twenty-four (24) hours a day, including holidays.
- C. Any staff member of a private alarm service system reporting an alarm activation to which police response is requested shall identify himself and state the name and telephone number of the alarm business by which such response is requested.

#### **23.12.00 AUDIBLE ALARMS**

- A. All alarm sounders which may be heard in any public place shall be equipped and maintained to automatically cut off no longer than thirty (30) minutes except for fire alarms and any others required by a regulatory agency to sound longer.
- B. The Chief of Police may require the external sounders of an alarm system, found to be a nuisance, disconnected and the alarm permit revoked until the appropriate corrective action has been taken.

#### **23.13.00 EXEMPTIONS**

This article shall not apply to alarms attached to motor vehicles or to any alarm system located in premises occupied by an agency of the federal, state, county or city government.

### **ARTICLE 24: ANIMALS**

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#### **24.00.00 PURPOSE/APPLICABILITY/LEGISLATIVE FINDINGS**

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- A. This article establishes, under the City's police powers, enforcement standards in regard to controlling the animal population in the City of Lake Helen, for the health, safety and general welfare of its residents. This article also provides for the safe and humane treatment of animals. Every person who owns any animal or who owns, conducts, manages or operates any animal establishment for which a license is required by this article, shall comply with the provisions of this article.
- B. It is the intent of this article to reasonably control the ownership of animals in the City, of Lake Helen consistent with the rural ambience and "small town" nature of the City of Lake Helen and to provide reasonable opportunities for enjoyment of animals by the residents of the City.
- C. It is the intent of this article to supplement the provisions of Chapter 767 and Chapter 828, *Florida Statutes*, and to be more restrictive than the provisions set forth therein.
- D. The expression of legislative intent set forth in Section 767.10, *Florida Statutes*, is hereby adopted.
- E. It is not the intent of this article to regulate *bona fide* agricultural activities that are conducted in a manner that does not create a nuisance and which are conducted in accordance with sound and generally acceptable good husbandry practices.
- F. It is not the intent of this article to rezone any property or to change the list of permitted uses on property as permitted by the land use designation and zoning classification assigned to a parcel of property.
- G. It is not the intent of this article to prohibit the raising of *bona fide* show animals by students involved in organizations encouraging agricultural careers or activities.



- H. In the event that Volusia County implements a “universal registration” program for the vaccination, licensure or tagging of animals subject to the provisions of this article relating to such activities, it is the intent of the City Commission to participate in such County system. In the event such system is implemented, the City Council may suspend the provisions of this article relating to such activities, in whole or part, and participate in the County system by adopting a resolution so providing.

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#### **24.01.00 DEFINITIONS**

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The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them, and where the context requires, the singular shall include the plural and vice versa:

*Abandon* means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

*Adult animal* means any dog or cat over the age of six (6) months.

*Animal* means, unless otherwise clearly required by the context, any dog, cat, bird, snake and every other living, nonhuman creature.

*Animal at large* means any animal off its owner's property and not under restraint.

*Animal control officer* means any person appointed, designated, employed or contracted with the City for the purpose of enforcing this Ordinance and included any law enforcement officer of the City.

*Animal exposed to rabies* means an animal bitten by or associated with any animal determined by the Volusia County health officer or the animal control officer to be infected with rabies.

*Animal quarters* means the premises and all buildings, pens, yards and their appurtenances used for keeping of dogs, cats ostriches, emus, pigs, grazing animals and poultry; provided, however, that a *proper enclosure of a dangerous dog* shall mean an enclosure as described in Section 767.11 (4), *Florida Statutes*, or its successor provision(s).

*Animal under restraint* shall mean any animal secured by a leash, chain, rope, or lead or confined within a vehicle or confined within the property limits of any parcel of land with the animal owner's consent or confined within a crate or pen.

*At large* means any animal not under restraint (whether licensed or unlicensed) and off the premises of the owner.

*Attack dog* means a dog that has been trained to attack humans or other animals.

*Canine hobby breeder* means a person other than a pet dealer who breeds a single breed of dog to conform to an approved standard of competition. The owner of a hobby breeder facility must be in good standing and have registration privileges intact with the appropriate national animal registry.

*City* means the City of Lake Helen or the administration of the City of Lake Helen, Florida.

*Commands* means any effective verbal or nonverbal control by a competent person of an animal's behavior.

*Commercial Kennel* means any facility or business operation where one (1) or more dogs or cats are kept, maintained, cared for or boarded overnight for remuneration.

*Control* means the regulation or the possession, ownership, care and custody of animals.

*Cruelty* means any act of neglect, torture, or torment that causes unjustifiable pain or suffering of an animal.

*Dangerous dog* means any dog defined as dangerous in Section 767.11, *Florida Statutes*, or its successor provision(s), or which has been declared dangerous by the animal control officer or the animal control board pursuant to a temperament hearing.

*Domestic animal* means any equine or bovine animal, goat, sheep, swine, dog, cat, bird, poultry or other domestic animal or livestock.

*Exotic animal* means any species of animal not indigenous to the State of Florida.

*Fowl* shall mean all kinds of birds, whether wild or domesticated.

*Impounding or holding facility or animal shelter* means any one (1) or combination of a pet shop, kennel, cattery or humane society or any facility the City may so designate.

*Licensed veterinarians* means all veterinarians actively engaged in the practice of that profession in the State of Florida, who are duly registered and licensed as such by the State, and who are authorized to vaccinate dogs and cats against rabies and to execute certificates of vaccination.

*Livestock* means all animals of the equine, bovine or swine class including, but not limited to, goats, sheep, mules, horses, hogs, cattle and other grazing animals; provided, however, that domestic pot-belly pigs shall not be considered to be livestock if no more than one (1) said pig resides at a household or on parcel of land and the weight of said pig does not exceed one hundred (100) pounds; provided, further, however, that miniature horses shall not be considered to be livestock if no more than one (1) said horse resides at a household or on a parcel of land and the height of said horse does not exceed thirty-three (33) inches measured from the withers to the ground.

*Owner* means any person, firm, corporation or organization possessing, harboring, keeping or having control or custody of an animal or, if the animal is owned by a person under the age of eighteen (18), that person's parent or guardian.

*Pet groomer* means any facility, business or short operation where dogs and cats are bathed, clipped or groomed.

*Person* means any individual, firm, association, organization whether social or business, partnership, joint venture, trust company, corporation, receiver, syndicate, business trust or other group or combination acting as a unit, including any government.

*Pet shop* means any facility or business operating which sells animals, fish, reptiles or animal supplies.

*Poultry* means all domesticated food birds including, but not limited to, chickens, turkeys, ducks, guineas, geese and pigeons.

*Public nuisance animal* means any animal which meets anyone (1) or more of the following criteria:

1. An animal that is repeatedly found at large.
2. An animal that damages, harms or destroys the property of anyone other than their owner.
3. An animal that causes unsanitary conditions of enclosures or surroundings as determined by the animal control officer.
4. An animal that is a diseased animal and dangerous to human health.
5. An animal that repeatedly or excessively barks, cries, howls, screeches, squawks, screams, whines or makes other prolonged or disturbing noises interfering with the peace, comfort, repose or quietude of the neighboring properties, providing a complaining neighbor has filed a sworn statement with either the animal control

- officer or a City police officer describing the disturbance.
6. An animal that has been determined to be a stray.
  7. An animal that is a female animal that is not confined within a building, structure, cage or not under restraint during her estrous cycle (in heat).
  8. An animal that is a rabies-susceptible animal that has not been appropriately inoculated against rabies.
  9. An animal that causes offensive odors from or upon the premises on which the animal is maintained which odors disturb the comfort, peace or repose on any person residing within the vicinity of the animal consistent with the provisions of this article.

*Rabies-susceptible animals* means all warm-blooded animals which are capable of contracting rabies and which are domestic by nature or domesticated or tamed.

*Severe injury* as defined in Florida Statutes.

Special Magistrate as defined in Article 15 of the City's Land Development Code.

*Stray animal* means any unlicensed or unattended animal.

*Under restraint* means controlled by chain, tether or leash, controlled by command of a competent person and obedient to said person's commands, confined within a vehicle being driven or parked on the street, confined within the property limits of any parcel of land with the property owner's consent, confined within a crate or cage or fenced in accordance with sound animal husbandry practices. To be under restraint or command, the animal must be under the express effective command of a competent person at all times. An animal is not to be construed to be "under restraint" simply because it can be demonstrated that the animal is responsive to command if, in fact, the animal is not actually under restraint by command or otherwise. It shall be *prima facie* evidence that the animal was not under restraint by command if said animal bites a person or another animal or trespasses upon private property without the property owner's consent.

*Unprovoked* means that the victim who has been conducting himself peacefully and lawfully has been bitten, injured or chased in a menacing fashion or attacked.

*Wild animal* means any animal which is not accustomed to living in or about the habitation of humans and which is regulated under the provisions of Chapter 372, *Florida Statutes*, or its successor provision(s).

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#### **24.02.00 ANIMAL CONTROL OFFICER; POWERS AND DUTIES; UNLAWFUL INTERFERENCE**

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- A. The City Police Chief shall have supervision of the performance of duties of the City's animal control officers who shall have full and complete authority to pick up, catch or procure any animal at large, creating a nuisance, infected with rabies or believed to be infected with rabies or any animal that appears to be unlicensed when required to be licensed and cause such animal to be impounded.
- B. Each animal control officer is hereby granted the authority to issue citations in accordance with the provisions of this article.
- C. Each animal control officer shall have the right to enter upon any public property or may enter private property with the consent of owner or proper warrant or as otherwise provided by law, for the purposes of examining or capturing any animal. Each animal control officer shall have appropriate official identification with them which identifies them as agents of the City when they enter private property on official duty.
- D. It is unlawful for any person to interfere with any animal control officer in the legal performance of his or her duties, to take or attempt to take an animal from any animal

control officer or from any vehicle used by an animal control officer to transport any animal, or to take or to attempt to take any animal from the control of the City without proper authority.

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**24.03.00 PUBLIC NUISANCE; ANIMALS AT LARGE**

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- A. It is unlawful for any owner to allow any animal to be a public nuisance.
- B. It is unlawful for any animal owner to allow, either willfully or through failure to exercise due care and control, his or her animal(s) to run at large.
- C. When any domestic animal is found at large anywhere within the City, whether licensed or otherwise and whether owned or otherwise, said animal may be taken into custody by the animal control officer to be impounded at the animal shelter and disposed of as provided in this article.
- D. The City shall not be liable for any injury that may occur while any animal control officer is attempting to capture, transport, load or unload any animal found at-large in violation of this article. In the event an animal is injured, the animal control officer shall file a written report of the circumstances with the City Police Chief within one (1) working day of such incident.
- E. Every animal owner who intentionally, willfully, carelessly, or negligently suffers or permits such animal to run at large shall be liable in damages for all injury and property damage by any person or animal by reason thereof.

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**24.04.00 DUTY OF ANIMAL OWNERS TO BE RESPONSIBLE OWNERS**

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- A. Each owner of any animal, or anyone having any animal in his or her possession or custody, shall have the duty to exercise reasonable care and to take all necessary steps and precautions to protect other people, property and animals from injuries or damage which might result from his or her animals' behavior, regardless of whether such behavior is motivated by mischievousness, playfulness or ferocity.
- B. In the event that the owner or keeper of any animal is a minor, the parent(s) or guardian(s) of the minor shall be responsible to ensure that all provisions of this article are complied with and said parent(s) or guardian(s) shall have the duties prescribed under the article.
- C. It is unlawful for any person having a duty prescribed by this article to fail to exercise said duty.
- D. Every owner of any animal, or anyone having any animal in his or her possession or custody shall have the duty to ensure that:
  - 1. The animal is kept under restraint.
  - 2. Reasonable care and precautions are taken to prevent the animal from leaving, while unattended, the real property limits of its owner, possessor or custodian.
  - 3. The animal is:
    - a. Securely and humanely confined within a house, building, fence, crate, pen or other enclosure; or
    - b. Humanely secured by chain, cable, and trolley, rope or tether of sufficient strength to prevent escape; or
    - c. Leashed or otherwise controlled by a responsible person or is obedient to the commands of a person present with the animal at any time it is not

secured. The voice command must be demonstrated as an effective restraint if requested.

- E. Each owner of any animal or anyone having an animal in his or her possession shall keep the animal under restraint and control at all times while the animal is off the real property limits of the owner, possessor or custodian unless the owner of the animal has the consent of the person on whose property the animal is at large. For the purpose of this section, an animal is deemed under control when it is:
1. Securely confined within a vehicle, parked or in motion; or
  2. Caged or short tethered in the open bed of a pickup truck; or
  3. Securely and humanely confined within a house, building, fence, crate, pen or other enclosure with the property owner's consent; or
  4. Humanely secured by a chain, cable and trolley, rope or tether of sufficient strength to prevent escape with the permission of the owner of the property where the restraint is being used; or
  5. Leashed or otherwise controlled by a responsible person or is obedient to the commands of a person present with the animal at any time it is not secured. The effectiveness of the voice command over the animal must be demonstrated as an effective restraint if requested by an animal control officer; or
  6. As a performing animal, engaged in a *bona fide* commercial performance or participating in a parade or similar event; provided, however, that the owner of the animal shall ensure that all reasonable and necessary steps and actions are taken to protect the general public.
- F. It is unlawful for any animal owner to permit, either willfully or through failure to exercise due care and control, any animal to soil, defile, urinate, defecate on any private or public property other than that of the owner without expressed or implied consent from the appropriate person.
- G. It is unlawful for any animal owner to permit, either willfully or through failure to exercise due care and control, any animal, in a continuing or repeating manner, to bark, cry, howl, screech, squawk, scream, whine or cause other objectionable noises which disturb the comfort, peace, quiet or repose of any person residing in the vicinity.
- H. It is unlawful for any animal owner to permit, either willfully or through failure to exercise due care and control, any animal to damage, harm or destroy the property or animal of another person including, without limitation and by way of example only, danger, harm or destruction arising out of a person's motor vehicle and related property hitting or being hit by an animal at large.
- I. It is unlawful for any animal owner, either willfully or through failure to exercise due care and control, to maintain his or her animal on the premises upon which said animal is maintained, in such a manner as to emit such offensive odors which disturb the comfort, peace or repose of any person residing in the vicinity. Proximate owners must execute a signed statement in order to exercise the provisions of this subsection.
- J. It is unlawful for the owner of any female dog or cat in heat to fail to confine said animal, either willfully or through failure to exercise due care and control, in such a manner so as to make said animal inaccessible to any male dog or cat except for intentional breeding purposes.

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**24.05.00 CRUELTY TO ANIMALS**

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- A. It is unlawful for any owner or other person to cruelly deprive any animal of food, water, shelter, and protection under his or her control and/or custody or to abandon, poison, cruelly beat, cruelly whip or kill any animal under his, her, another's or no one's control and/or custody or to mutilate, overdrive, overload, overwork, torment, torture or otherwise cruelly ill-use any animal. This Section shall not apply to wild animals killed in the hunt by customary and nonbrutal methods nor to wild rats, mice, insects, fish, arthropods or vermin; nor shall this Section apply to medical research organizations duly licensed and/or otherwise recognized or supported by State or Federal law, nor shall this Section apply to the implementation of control techniques pertaining to Muscovy clients as recognized by the Florida Fish and Wildlife Conservation Commission.
- B. This provision of this Section shall be construed as being supplemental to the provisions of Section 828.12, *Florida Statutes*, or its successor provision(s).

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**24.06.00 CONFINEMENT OF ANIMALS WITHOUT SUFFICIENT FOOD; ABANDONMENT OF ANIMALS**

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- A. It is unlawful for any person to impound or confine any animal in any place and fail to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water.
- B. It is unlawful for any person to keep any animals in any enclosure without the animal being provided wholesome exercise and change of air.
- C. It is unlawful for any person to abandon any animal and allow the animal to die as a result of that abandonment.
- D. It is unlawful for any person who is the owner or possessor of an animal or has charge or custody of an animal to abandon an animal.
- E. It is unlawful for any person to keep any animal in any enclosure at such time for such period of time that results in the animal being overheated.
- F. The provisions of this Section shall be construed as being supplemental to the provisions of Section 828.13, *Florida Statutes*, or its successor provision(s).

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**24.07.00 SELLING OR OBTAINING DOGS OR CATS FOR PURPOSE OF HUMAN OR ANIMAL CONSUMPTION**

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It is unlawful for any person to sell, obtain or purchase a live or dead dog or cat for the purpose of human or animal consumption.

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**24.08.00 INJURING, CATCHING OR DETAINING WATERFOWL PROHIBITED**

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It is unlawful for any person, unless authorized by the City, to catch, kill, maim, wound, detain, shoot at or molest any swans, ducks, geese, bract, coots, gallinules or any other kind of waterfowl within the City limits; provided, however, that this provision does not apply to Muscovy Ducks which may be controlled in accordance with control techniques recognized by the Florida Fish and Wildlife Conservation Commission.

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**24.09.00 GRAZING ANIMALS RUNNING AT LARGE; PROHIBITION**

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- A. It is the duty of each person owning or controlling a horse, mule, cow or other grazing animal(s) to keep such animal(s) in a substantial enclosure designed and constructed in such a manner as to prevent the animal(s) from running at large.
- B. It is unlawful for any person owning or controlling a horse(s), mule(s), cow(s) or other grazing

animals within the City to allow such animal(s) to run at large.

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**24.10.00 POULTRY; ENCLOSURE**

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- A. It is the duty of each person owning or controlling poultry to keep such poultry in a substantial enclosure designed and constructed in such a manner as to prevent the poultry from running at large.
- B. It is unlawful for any person to allow poultry to live on his, her or its land unless the poultry are raised in accordance with sound animal husbandry practices and the use does not violate any provision of this article relative to noise or odors; provided, however, that *bona fide* agricultural uses on lands appropriately zoned for agricultural uses may continue to operate as grandfathered uses.

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**24.11.00 CERTAIN ANIMALS PROHIBITED IN LAKE HELEN PUBLIC LAKES**

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Except for the recreational use of horses and the grazing of horses and cattle, it is unlawful for any person to allow his or her animals to enter any lake in the City limits if the lake is accessible by the general public.

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**24.12.00 REMOVAL OF ANIMAL WASTE; PROHIBITIONS**

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- A. It is unlawful for any owner of an animal to allow an animal to soil, defile, urinate, or defecate on any private or public property other than that of the owner without expressed or implied consent.
- B. It is the duty of any person owning or having control of the premises where animals are permitted to be kept to, collect and dispose of the manure and waste materials so as to prevent the breeding of flies and other bacteria-carrying insects, and the emission of deleterious and offensive odors therefrom.
- C. It is unlawful for any manure or waste materials accumulating from an animal or animals including, but not limited to, poultry or grazing animals to be left above ground upon any premises in the City for longer than four (4) days unless said accumulation of manure or waste material is part of a *bona fide* compost pile that is managed in accordance with sound management techniques which include the prevention of diseases being spread by any means and the prevention of odor as prohibited by this article.
- D. Subsections A., B. and C. of this Section shall not be applicable to premises or property containing two (2) acres or more exclusive of residences or other structures where the animals are kept or corralled, unless sanitary conditions become offensive to neighboring properties, are reasonably likely to present a health hazard, or otherwise violated the provisions of this article.
- E. It is the duty of an owner of an animal to remove and dispose of in an appropriate waste receptacle any excreta deposited by his or her animal(s) on public walks, recreation areas or private property other than his or her own.
- F. It is unlawful for an owner of an animal to fail to remove and dispose of in an appropriate waste receptacle any excreta deposited by his or her animal(s) on public walks, recreation areas or private property other than his or her own.

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**24.13.00 INVESTIGATION**

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- A. The animal control officer may request the owners of any animal to exhibit the animal and, if applicable, the license of such animal.
- B. It shall be the duty of the animal control officer to keep the following records:

1. Accurate and detailed records of the licensing, impoundment and disposition of all animals coming into the City's custody.
2. Accurate and detailed records of all reported bite cases and investigations for a period of three (3) years.

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**24.14.00 ANIMALS FOR SALE OR GIFT WITHIN THE CITY**

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- A. This Section applies to all animals transported into, or native to the City, for sale or gift.
- B. Each animal transported into the City for sale and each animal offered in the City for sale or gift shall be subject to the provisions of 828.29, *Florida Statutes*, or its successor provision(s), which are hereby adopted and incorporated herein by reference
- C. County operated or City operated animal control agencies and registered nonprofit humane organizations are exempt from the provisions of this Section.
- D. The sale, transfer or display of all live animals at flea markets or similar outdoor markets shall be subject to the following restrictions and/or limitations;
  1. All animals must be displayed in crates that meet current minimum United States Department of Agriculture requirements regarding crating of live animals. There shall be no more than two (2) animals per crate.
  2. Crates will allow for a free flow of air. The crates shall be displayed in such a manner that access to the animals is controlled by the vendor.
  3. A source of heat and mechanical ventilation shall be available at the site for use as necessary.
  4. All animals must be kept in a clean and sanitary environment.
  5. All animals must be located under a permanent roofed structure and be in a shaded area.
  6. All animals must be provided with adequate water and food available to them at all times.
  7. The owner or manager of a flea market or related outdoor market shall inspect the site of all animal vendors on a daily basis and shall report any violations that he or she is aware of to the appropriate agencies.
- E. Pet Shops or Other Non-Outdoor Markets.
  1. Crates/Cages: All animals must be displayed in animal crates that meet current minimum United States Department of Agriculture requirements regarding crating of live animals. Animals must be able to stand up and turn around. There shall be no more than two (2) adult animals per crate.
  2. Crates will allow for a free flow of air. Crates shall be displayed in such a manner that access to the animals is controlled by employees.
  3. All animals must be kept in a clean and sanitary environment.
  4. All animals must be provided with adequate water and food which must be available at all times.
  5. Cages must be cleaned and disinfected at least once per day with a disinfectant which is normally used in the kennel industry.



6. Animal control officer or an enforcement officer shall inspect the pet shop on a routine basis.
- F. It is unlawful for any person to fail to comply with the provisions of this Section.

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**24.15.00 PET GROOMERS**

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- A. All animals must be kept in animal crates that meet current minimum United States Department of Agriculture requirements regarding crating of live animals. Animals must be able to stand up and turn around.
- B. Crates will allow for a free flow of air.
- C. Animals must be provided with water.
- D. All animals must be kept in a clean, safe and sanitary environment. Cages shall be cleaned and disinfected with a disinfectant which is normally used in the kennel industry. Cages shall be disinfected between each animal.
- E. Animal control officer or an enforcement officer shall inspect the place of business on a routine basis.
- F. It is unlawful for a pet groomer to board or maintain an animal overnight unless all other permits relating to the boarding of animals have been obtained.

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**24.16.00 METHODS OF ENFORCEMENT; INVESTIGATIONS**

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- A. Procedures.
  1. An animal control officer who has probable cause to believe that a person has committed an act in violation of this article shall accomplish one (1) or more of the following:
    - a. Issue a notice of violation to the person who is in violation of this article. Such notice of violation shall state the date and time of the issuance of the notice, the name and address of the person in violation, the date of the offense, the offense committed, a description of the animal involved, and a demand that the offense be abated within twenty-four (24) hours after the issuance of the notice. If the person shall fail to abate the offense, then the animal control officer may issue a citation to the person; and/or
    - b. Impound the animal involved. Such animal may be redeemed as provided for in this article; and/or
    - c. Issue a citation to the person who is in violation of this article as outlined in Article 15 of the City of Lake Helen Land Development Code.
  2. Certain aggravated violations of this article which result in the unprovoked biting, attacking or wounding of a domestic animal; violations resulting in the destruction or loss of personal property; second or subsequent violations of local animal cruelty laws; or violations resulting in the issuance of a third or subsequent citation to a person will require a mandatory court appearance.
- B. Investigations. The animal control officer may request the owners of an animal to exhibit the animal, and, if applicable, the license of such animal.
- C. Records. It shall be the duty of the animal control officer to keep the following records:
  1. Accurate and detailed records of the licensing, impoundment and disposition of all

- animals coming into his custody;
- 2. Accurate and detailed records of all reported bite cases and investigations for a period of three (3) years;
- 3. Accurate and detailed records on all money collected and expended; and
- 4. Accurate records of all rabies certificates that have been provided for City review.

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**24.17.00 PERSONS AUTHORIZED TO ISSUE CITATIONS**

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An animal control officer or any law enforcement officer as defined in Section 943.10(1), *Florida Statutes*, or its successor provision(s), is hereby authorized to issue citations for the violation of this article, when, based upon personal investigation, the officer has reasonable and probable grounds to believe that a violation of this article has occurred; provided, however, nothing in this article shall be construed to prohibit an animal control officer, under appropriate circumstances, to issue a warning notice to the alleged violator.

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**24.18.00 CITATION FORM**

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- A. Seventh Judicial Circuit Form 798 is hereby adopted as the City's citation form.
- B. The animal control officer shall ensure that all information required by Section 828.27(1)(f), *Florida Statutes*, is included in each citation issued.

(Ord. No. 2002-05; § 1, 8-1-2005)

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**24.19.00 OPTIONS OF PERSONS CITED/CITATION PROCEDURES**

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- A. Any person cited for violation of this article shall be deemed to be charged with a noncriminal infraction and cited to appear in County Court; provided, however, charges of violations of provisions of the *Florida Statutes* may be filed in accordance with State law as appropriate under the facts of a case.
- B. Any person cited for an infraction under this article may:
  - 1. Post a bond in an amount equal to the applicable civil penalty hereinafter provided for; or
  - 2. Sign and accept a citation indicating a promise to appear.
- C. Any person who willfully refuses to post a bond or accept and sign the citation shall be in violation of this article and shall be punished in accordance with Chapter 166, *Florida Statutes*, and Section 775.083, *Florida Statutes* or their successor provision(s).
- D. Any person cited with a violation of this article may:
  - 1. Pay the civil penalty established herein within ten (10) days of the date of receiving the citation; or
  - 2. If he or she has posted bond, forfeit bond by not appearing at the designated time and location.
  - 3. If the person cited follows either of the above procedures, he or she shall be deemed to have admitted the infraction and to have waived his or her right to a hearing on the issue of commission of the infraction.
- E. Any person electing to appear or who is required to so appear shall be deemed to have waived his or her right to the civil penalty being assessed and shall be subject to the

penalties allowed by Chapter 166, *Florida Statutes*, and Section 775.083, *Florida Statutes*, or their successor provision(s).

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**24.20.00 DANGEROUS DOGS**

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The City shall comply with Florida Statutes regarding Dangerous Dogs.

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**24.21.00 REPORTING ANIMAL BITES**

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It shall be the duty of every attending practitioner licensed to practice medicine, osteopathic medicine, or veterinary medicine or any other person knowing of or in attendance on a case to promptly report to the Volusia County Health Department every instance in which a person is bitten by an animal.

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**24.22.00 CAPTURE, IMPOUNDMENT, ETC. OF ANIMALS WHICH BITE PEOPLE**

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- A. Any rabies susceptible animal which is reported to have bitten a person shall be captured alive, if possible, or taken into custody pursuant to this article. If the animal is subject to the jurisdiction of the State of Florida, it shall be placed under the surveillance of the Volusia County Health Department or their authorized representative and shall be handled pursuant to State law and State Rules and Regulations. If not subject to State jurisdiction, such animal shall be impounded and quarantined by the animal control officer while the applicable procedures are followed to determine whether the animal is a fierce or vicious animal or a dangerous animal.
- B. In the event the animal is killed, a report of the conditions and reasons for killing the same shall be filed by the animal control officer with the Volusia County Health Department within ten (10) days of such killing.
- C. If the animal is deemed unowned, it shall either be quarantined for a period of time necessary to determine if it has rabies, or be immediately destroyed in a humane fashion, and its head detached without mutilation. The head shall immediately be submitted to the nearest appropriate State Laboratory.
- D. If the animal is claimed by its owner, the animal shall not be released until it has been quarantined for a period of ten (10) days or such longer period as the animal control officer determines is necessary to determine the presence of rabies. In the event there is no licensed vaccine available for the species of animal being held and the necessary incubation period would, in the opinion of the animal control officer, unnecessarily jeopardize the health or life of the bite victim, then the animal shall be immediately destroyed and the head shall immediately be submitted to the nearest appropriate State Laboratory. If, at any time during the period the animal is impounded, it is determined by the animal control officer that the animal has rabies, the animal shall immediately be destroyed. The owner shall be notified of the provisions of this Section at the time the animal is claimed. Failure to provide this notice shall not impose any civil or criminal liability upon the City, its agents or employees.

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**24.23.00 DISPOSITION OF DEAD ANIMALS; REQUIRED PROCEDURE**

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- A. When any animal dies on public or private property, it shall be the responsibility of the owner of said animal or the owner of said private property to remove and dispose of said animal immediately. Should the owner not be aware of said animal's presence, the following procedures shall be followed:
  - 1. When any dead animal is found upon public property, the owner of the said animal

shall remove and dispose of said animal, upon notification by the animal control officer or any law enforcement officer, so as not to constitute a nuisance. If the owner of said animal should fail to do so within a reasonable time, the City shall remove and dispose of said animal and charge the cost of said removal and disposal and of all fines resulting from any violation of the article to the owner of said animal if known.

2. When any dead animal is found upon private property, the owner of said animal or the owner of said property shall remove and dispose of said animal, upon notification by the animal control officer or any law enforcement officer, so as not to constitute a nuisance. If the owner of said animal or the owner of said property shall fail to do so within a reasonable time, the City shall remove and dispose of said animal and charge the cost of said removal and disposal to the owner of said animal if known, and if not known, then to the owner of said property. The owner shall bear all costs of removing and disposing of the animal and shall pay all fines associated with any violation of this article.
3. Any person who knows that he or she has struck an animal with a vehicle shall immediately notify either the owner of the animal, City Police or the Animal Control Officer.

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#### **24.24.00 IMPOUNDING, DISPOSING OF AND REDEEMING ANIMALS**

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- A. When any rabies-susceptible animal is found without a current tag, or when any animal is found in violation of any provision of this article, said animal may be taken into custody by the animal control officer impounded and disposed of as follows:
  1. Where such animal bears no indicia of ownership, said animal shall be confined by the animal control officer at an impounding or holding facility or animal shelter for three (3) days from the date said animal is taken into custody. At the expiration of said three (3) days, if no owner has appeared to claim said animal, said animal shall be deemed unowned and destroyed in a humane fashion or otherwise disposed of alive.
  2. Where such animal bears an indicia of ownership, the animal control officer shall make a good faith effort to notify the owner by means of telephonic communication and notify the owner of said animal by certified mail, return receipt requested, of the animal's impoundment. Said animal shall be confined by the animal control officer for three (3) days from the date said certified mail return is received. At the expiration of said three (3) days, if no owner has appeared to claim said animal, said animal shall be deemed unowned and destroyed in a humane fashion or otherwise disposed of alive.
- B. Live animals may not be disposed of to any medical school, college, university, person, firm, association or corporation, for experimentation or vivisection purposes, or to any person provided, selling or supplying dogs and cats and other animals to any medical school, college, university person, firm, association or corporation for experimentation or vivisection purposes.
  1. Live animals that are found by the animal control officer, or a licensed veterinarian to be ill or injured so seriously that medical treatment would needlessly prolong the animal's life, may be put to death, provided that the animal bears no indicia of ownership.

- C. Animals shall be released to owners only upon presentation of proof of ownership and after proper inoculation, licensing, and payment of all impounding fees, fines for any violation of this article, "in-heat" fees and such other fees as the City Commission shall establish from time to time by resolution.
- D. At the discretion of the animal control officer, animals may be disposed of by adoption, under conditions specified by the animal control officer. Those animals may be adopted by agreement in writing to the conditions of adoption and payment of such fees as may be established by resolution of the City Commission.

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**24.25.00 ANIMALS EXEMPT FROM ARTICLE**

- A. The licensing provision of this article shall not apply to greyhounds kept, maintained or brought into City for the purpose of racing at licensed greyhound tracks; animals used as part of entertainment acts when properly controlled, nor shall said provisions apply to animals remaining in the City for a period of less than thirty (30) days; or to livestock, or to purebreds kept, maintained or brought into the City for the purpose of training; provided, however, that nothing in this Section shall prohibit the demand for proof of vaccination done in another state, and failure to provide said proof upon demand shall require said animal to be vaccinated under the provisions of this article upon order of the animal control officer.
- B. During legally declared hunting seasons, as the same shall be designated from year to year by the appropriate State agency or the Legislature, hunting dogs shall not be deemed to be at large when engaged in a hunt or at-large as a result of a hunt.

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**24.26.00 LICENSE TAG REQUIRED/OTHER PETS**

- A. Every person owning, keeping, harboring or controlling any rabies-susceptible animal within the City, or bringing any rabies-susceptible animal, except livestock, into the City, shall within thirty (30) days of bringing such animal into the City, register said rabies-susceptible animal, except livestock, with the City and obtain a license tag number.
- B. The required license tag shall be worn by the rabies-susceptible animal at all times unless a licensed veterinarian or the animal control officer shall certify that the wearing of said tag is impossible, impractical or dangerous to the particular type of animal involved.
- C. The City Commission may assess fees for the purpose of administering the provisions of this article by adopting a resolution establishing said fees.

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**24.27.00 IMPOUNDMENT, QUARANTINE, ETC. WHEN SUSPECTED OF HAVING RABIES**

- A. Any rabies-susceptible animal suspected of having rabies shall be impounded at the owner's expense at a place designated by the animal control officer.
- B. Any rabies-susceptible animal bitten by a known rabid animal shall be placed under the surveillance of the Volusia County Health Department, or their authorized representative, and shall be handled pursuant to State Law and State Rules and Regulations.
- C. It is unlawful for any person who shall fail to surrender any animal that is unvaccinated for rabies for quarantine as required herein, when demand is made therefore by the Volusia County Health Department or animal control officer.

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**24.28.00 COMMERCIAL LICENSE REQUIRED**

- A. It is unlawful for any person owning or operating a commercial kennel within the City to fail to register said kennel with the animal control officer and obtain a license.
- B. Licenses for commercial kennels shall be issued after payment of such license fee as shall

be established by duly adopted resolution of the City Commission. If the license is not secured within sixty (60) days after the kennel becomes subject to these licensing provisions, or within sixty (60) days after the expiration date of the prior licensing period, such penalty fee as shall be established by duly adopted resolution of the City Commission shall be added to the cost of the license.

- C. The fee for any license issued to a kennel first becoming subject to the licensing provisions after March thirty-first of any calendar year shall be one-half (1/2) the full fee for that year.
- D. If a license is lost or damaged, the kennel may secure a duplicate by making payment of such fee as shall be established by duly adopted resolution of the City Commission.
- E. A license for commercial kennels shall be issued for each fiscal year beginning October first and ending September thirtieth upon a payment of the proper fee.
- F. All licenses for commercial kennels shall have a number and show their expiration date.
- G. The license required by this article shall be prominently displayed in the kennel's premises and be readily available for public inspection.

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#### **24.29.00 CARE OF ANIMALS IN LICENSED KENNEL**

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- A. Every person owning and operating a commercial kennel within the City shall properly feed and care for all animals in their custody. The premises of said kennel shall be periodically inspected during reasonable business hours by the animal control officer who shall issue a notice of violation if any kennel is found in violation of any requirement of this article. Said premises shall be reinspected within three (3) days after issuance of said notice of violation.
- B. The failure to correct said violation after notice shall be unlawful and the animal control officer may choose to close the kennel and revoke its license and/or file a complaint with the State Attorney's Office. No new license shall be issued to the owners of the kennel for a period of three (3) years, unless found not guilty on all charges filed by the State Attorney or said restriction is waived by the animal control officer upon a showing of rehabilitation by the applicant. The animal control officer can place such conditions on the issuance of such a license as he deems necessary to protect the public interest.

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#### **24.30.00 NONCOMMERCIAL KENNELS EXEMPT**

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Noncommercial kennel shall be exempt from the licensing requirements of this article; provided, it is unlawful for the owner or operator of any noncommercial kennel to allow said kennel to become a nuisance or to emit such offensive odors or noises as shall disrupt the comfort, peace, quiet or repose of any person residing in the vicinity of said kennel. A canine hobby breeder shall be deemed a noncommercial kennel for the purposes of this article.

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#### **24.31.00 HOUSING**

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- A. Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain, and to restrict the entrance of other animals.
- B. Any bedding utilized shall be clean and dry. All animal rooms, cages, kennels, shipping containers, and runs shall be of sufficient size to provide adequate and proper accommodations and protection from the weather for the animals kept within.
- C. Cages. All cages are to be constructed of a non-absorbent porous material. All cages, except bird cages, shall have floors of either solid construction or woven or wire mesh

construction or any combination thereof. Cages having woven or wire mesh floors may be used to confine animals provided that the spaces between the wire mesh or weave are smaller than the pads of the feet of the animals confined therein. Cages having wire construction shall be constructed of wire which is of sufficient thickness so as to preclude injury to the animals confined therein. Cages shall be of sufficient height to permit every animal confined therein to stand, turn and to lie down flat. No cages shall be enclosed entirely by solid walls. Stacked cages shall have solid floors.

- D. Separation of animals by Species. Animals, except fish, of different species may not be confined or displayed in the same cage. All animals which are natural enemies, temperamentally unsuited, or otherwise incompatible shall not be quartered together or so near each other as to cause injury, fear or torment. If two (2) or more animals are so trained or inclined by nature that they can be placed together and do not attack each other or perform or attempt any hostile act to the others, such animals shall be deemed not to be natural enemies and shall not be required to be kept in separate runs or accommodations or otherwise segregated.
- E. Ventilation and Lighting. All areas in which animals are confined shall be connected to an outside ventilating system or some other appropriate means of ventilation and air filtration shall be provided. The area shall be illuminated during the daylight hours but not directly into cages.
- F. Whenever an animal is left unattended at a commercial animal facility, the name and telephone number of the responsible person shall be posed in a conspicuous place at the front of the property, visible from outside the facility.

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**24.32.00 STANDARDS FOR CARE**

- A. Every licensed facility shall keep a permanent record of the deaths of any warm-blooded animals, excluding rodents, under its control. Such record shall state species of the deceased animal and the date and the cause of death, if known. These records shall be open to inspection by the animal control officer.
- B. Disease or illness. Any animal which exhibits symptoms of disease or illness shall be separated to the greatest extent possible from other healthy animals. No animal which is known to have, or may reasonably be suspected of having, a disease contagious or communicable to humans, may be exposed to or offered for sale to the public.
- C. Drinking Water. Fresh water shall be continuously available to all animals and replaced whenever necessary during each day, including Sundays and Holidays.
- D. Feeding. All animals requiring the daily intake of food shall be fed at least once every twenty-four-hour period, including Sundays and holidays. The type of food provided shall be appropriate for each particular species and shall be of sufficient nutritive content for the health and well-being of the species.
- E. Sanitation. All areas of confinement, display and sales and storage areas shall be maintained in a healthful and sanitary condition. These areas shall be cleaned and disinfected regularly as conditions warrant. Feed and water dishes shall be emptied and cleaned at least one daily, including Sundays and holidays.
- F. Treatment. All animals exhibiting symptoms of illness or disease shall be treated by a licensed veterinarian. If required, diseased animals shall be humanely destroyed under the supervision of a licensed veterinarian or animal control officer.

- G. No animal shall be transported by private or public means in an open vehicle, unless short tethered in the open bed of a pickup truck or housed in a container designed for that purpose including provisions for adequate ventilation and food and water. If a container is used, the container shall have an open grill at one end, have a solid top and bottom and a minimum of fifteen percent (15%) of the total accumulated side and end area shall incorporate an open grill for air circulation.
- H. Every licensed facility shall keep on record a medical statement from or notation of consultation with a licensed veterinarian, if for any reason an animal in its care would need to be exempted from any requirement of this Section.
- I. Dogs which have been weaned shall be taken from cages and allowed to exercise at least three (3) times per day, including Sunday and holidays.
- J. Dogs and cats under six (6) months of age shall be fed at least twice each twenty-four (24) hours, including Sundays and holidays.
- K. Cats, if crated, shall have a minimum area of floor space 576 square inches, and a height of twenty-four inches (24") and the crate shall contain a litter pan. Replacement crates and new crates shall have six hundred seventy two square inches (672") of floor area.
- L. All cages in which simians are confined shall be at least twice the height of the tallest simian confined therein.
- M. Each bird cage shall contain at least two (2) horizontal perches and provide sufficient perch space for every bird confined therein. Perches shall not be aligned vertically.
- N. In addition to birdseed and water, each bird cage shall contain an amount of fresh gravel needed for digestion sufficient for the number of birds confined therein.
- O. Parrots and other large birds shall not be confined in a cage with smaller birds, or in a cage smaller than their wing span.

## ARTICLE 25: GAMING DEVICES

### 25.01.00 PROHIBITION OF SIMULATED GAMING DEVICE.

It is unlawful for any person to possess, use, play, or operate a simulated gaming device within the municipal boundaries of the City, provided, however, that the use of a personal computer device at the home of such person, or when in the control of the owner for a lawful activity, shall not constitute a violation of this Article. Each individual use, play, operation or possession of a simulated gaming device shall be a separate violation of this section. A violation of this article shall constitute a public nuisance.

### 25.02.00 DEFINITIONS

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

*Commercial establishment* means any establishment, whether operated for profit or not, that exchanges goods, product, services, or property of any kind for compensation or donation, or facilitates the exchange of goods, services, or property of any kind for compensation or donation in the ordinary course of trade, business, or fundraising, regardless of the land use designation assigned to the location of the commercial establishment.

*Simulated gaming device* means any electronic, mechanical or electromechanical device that, by the



use or insertion of coin, bill, token, slug, form of payment, pass code, electronic or magnetic card in conjunction with the device or other reader or system connected or networked to the device or with the aid of some physical act by the user or commercial establishment representative, the device will allow an operator to use, play or operate the device such that the device displays simulated or actual games of chance, slot machine games, spinning wheels, line ups or arrangements of objects, symbols, colors, fruit, numbers or letters, or any game known as or similar to keno, roulette, faro, game at cards, poker, blackjack, "Fruit Bonus," "Triple Jack," "Mystery J&B," "Fruit Paradise," "Klondike," "Magical Odds," or "Reel of Fortune" in such a way as to display, disclose or reveal whether the user is to receive or become entitled to receive a payout, jackpot, or prize, which may include money, credits, tokens, or anything of value, or anything that may be exchanged for money, credits, tokens or anything of value, regardless of whether such payout, jackpot, or prize is made automatically from the device or other reader or system connected or networked to the device, or manually, and such device is located and used, played or operated in or at a commercial establishment in connection with the promotion, sale or purchase of good(s), product(s) or service(s). The term simulated gaming device further includes, without limitation, a "slot machine" as defined by Section 849.16, Florida Statutes. "Simulated gaming device" shall not be construed so as to preclude the lawful use or possession of: (i) reverse vending machines authorized pursuant to Section 849.16(2), *Florida Statutes*, (ii) amusement games or machines authorized pursuant to Section 849.161, *Florida Statutes*, (iii) bingo, instant bingo or pull tab machines or dispensers operated in accordance with Section 849.0931, *Florida Statutes*, (iv) a State of Florida lottery device authorized by controlling Florida law, or (v) any other device expressly authorized by and complying with the requirements of controlling Florida law including, but not limited to, statutory law and the provisions of the *Florida Administrative Code*. Simulated gaming device shall not be construed to include devices not otherwise prohibited by general law that are not located in or at a commercial establishment and are used, played or operated for non-commercial purposes (i.e., not in connection with the promotion, sale or purchase of goods, products or services).

*Person* means an individual, association, partnership, limited liability company, joint venture, not for profit corporation, corporation, or a director, executive, manager or officer of an association, partnership, limited liability company, joint venture, not for Profit Corporation, or corporation.

#### **25.03.00 REMEDIES AND PENALTIES**

In the event that a violation of this Ordinance occurs, the City shall have the right to one or more of the following remedies or actions:

- A. Pursuant to Article 15 of the City Land Development Code, Institute code enforcement proceedings and prosecute code violations against the violator and the property owner of the real property where the violation occurs;
- B. Prosecute the violator for a criminal misdemeanor punishable by a fine not exceeding \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment in the discretion of the court;
- C. Institute any appropriate action to bring about compliance or remedy, including but not limited to, instituting an action in court to enjoin violating actions, in which case the violating person shall be liable to the City for reimbursement of the City's attorneys' fees and costs concerning such action; and
- D. Take any other action or remedy authorized by law or in equity, in which case the violating person shall be liable to the City for reimbursement of the City's attorneys' fees and costs concerning such action.

(Ord. No. 2011-04; § 2, 5-12-2011)

**25.04.00 CONFLICT WITH STATE LAW.**

Nothing in this article is intended to conflict with the provisions of the state Constitution or F.S. ch. 849 concerning gambling. In the event of a direct and express conflict between this article and either the state Constitution or F.S. ch. 849, then the provisions of the state Constitution or F.S. ch. 849, as applicable, shall control.

**ARTICLE 26: HEALTH AND SANITATION**

**26.00.01**

The City Commission determined that Article 26 should: reflect currency and consistency with present day solid waste management and recycling practices and definitions, eliminate conflicts and redundancies between Article and the City's solid waste and recycling franchise agreement, allow for greater flexibility in the provision of different levels of solid waste and recycling services, and improve city aesthetics through the establishment of enhanced controls for the placement of solid waste for collection purposes.

(Ord. No. 2010-01; §1, 5-10-2010)

**26.00.02**

It shall be unlawful for any person to commit, create, keep, maintain, or permit to be kept or maintained, any sanitary nuisance or any nuisance injurious to health within the limits of the city.

**26.00.03**

A sanitary nuisance is the commission of any act by a person, or the keeping, maintaining, propagation, existence or commission of anything by a person, by which the health or life of any person, or the health or lives of any person may be threatened or impaired, or by which or through which, directly or indirectly, disease may be caused.

**26.00.04 Sanitary nuisances generally injurious to health**

The following conditions existing, permitted, kept, maintained or caused by any person shall constitute prima facie evidence of maintaining a nuisance injurious to health:

- A. Untreated or improperly treated human waste, garbage, offal, dead animals, or dangerous waste materials from manufacturing processes harmful to human or animal life, and air pollutants, gases and noisome odors, which are harmful to human or animal life;
- B. Improperly built or maintained septic tanks, water closets or privies;
- C. The keeping of diseased animals dangerous to human health;
- D. Unclean or filthy places where animals are slaughtered or maintained;
- E. The creation, maintenance or causing of any condition capable of breeding or harboring flies, , mosquitoes, or other arthropods or rodents capable of transmitting diseases directly to humans.
- F. Any other condition determined to be a sanitary nuisance as defined in Section 386.01, Florida Statutes.

**26.01.00 MANDATORY SOLID WASTE COLLECTION**

**26.01.01 Creation**

Under authority of Chapter 166 of the Florida Statutes there is hereby enacted the City of Lake Helen Mandatory Solid Waste and Recyclables Collection and Disposal Ordinance.

**26.01.02 Purpose**

The purpose of this article is to assure that all solid waste generated and accumulated within the City shall be collected, removed and disposed of by an authorized Collector, except as otherwise provided herein, in a proper, sanitary, and efficient manner, to eliminate illegal dumping within the City and promote the general health, safety and welfare of the citizens of the City of Lake Helen, Florida, together with the goals and objectives of the State of Florida Solid Waste Management Act of 1988, and subsequent amendments thereto.

**26.01.03 Prima facie evidence of the accumulation of solid waste.**

The fact that any real property is improved, occupied and located within the incorporated area of the City shall prima facie evidence that solid waste is being generated or accumulated upon such property and, thus, is subject to the provisions of this article.

**26.01.04 Definitions**

For the purpose of this article, the following definitions shall apply except as otherwise agreed in the franchise agreement.

*Bulk trash* shall mean matter or debris resulting from tree removal, land clearing, land development, building demolition or home improvement. Such waste may include, but not necessarily be limited to, vegetative matter, carpeting, cabinets, dry wall, lumber, paneling and other such construction materials and debris. Bulk trash does not include automobiles and automotive components, boats, vehicle engines and similar materials

*Business* shall mean and include all retail, professional services, personal services, wholesale, institutional, agricultural and industrial enterprises, and other similar enterprises offering goods or services to the public or other business enterprises.

*City* shall mean the City of Lake Helen, Florida.

*City Commission* shall mean the City Commission of the City of Lake Helen, Florida.

*Collection point* shall mean the specific place at which solid waste and recyclables are to be placed for collection.

*Collector* shall mean any person or entity that is franchised to engage in collection or transportation of solid waste and or recyclables in the City of Lake Helen, Florida.

*Commercial container* shall mean and include any metal container designed or intended to be mechanically dumped into a waste collection vehicle used by the Collector and varying in size from two (2) to eight (8) cubic yards.

*Commercial improved property* shall consist of, but not be limited to, improved real property utilized for wholesale and retail sales, professional and personal services, motels, hotels, mobile home or recreational vehicle parks, churches, recreation and entertainment businesses, stores, offices, apartment and condominium properties (not meeting the definition of multifamily dwelling unit), restaurants, service stations and garages, laundries and other cleaning establishments, manufacturing, industrial, agricultural and institutional businesses and uses, and any property where construction or demolition is proceeding, other than routine residential maintenance. For purposes of this article, the zoning of the property, whether the activity is for profit or not, shall not affect its designation as commercial. The franchise agreement between the City and the collector may establish subcategories of commercial properties, based upon bona fide land use distinctions, which

categories may provide for surcharged rates and franchise fees.

*Commercial refuse bin* shall mean a large container (made of nonabsorbent material, typically metal, for commercial solid waste or recyclable material, usually of the two (2) cubic yard to eight (8) cubic yard size, and roll-off containers of large capacities, which are emptied into collection vehicles by mechanical means.

*Construction and demolition debris* shall mean materials generally considered not to be water soluble and nonhazardous in nature, including, but not limited to steel, glass, brick, concrete, or asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of construction or demolition project, and including rocks, soils, tree remains, trees, and other vegetative matter which normally result from land clearing or land development operations for a construction project.

*Customer* shall mean any person owning or occupying improved real property within the city, and to whom solid waste collection and disposal service is provided.

*Franchise* shall mean a right to perform solid waste/recyclables collection and disposal services granted, by the City Commission of the City of Lake Helen, to a Collector.

*Garbage* shall mean all putrescible animal and vegetative waste resulting from growing, processing, marketing and preparation of food items, including containers in which packaged.

*Garbage receptacle* shall mean a container used for storage containment of solid waste. The container shall be of not greater than thirty-five (35) gallon capacity, or less than ten (10) gallon capacity, shall be free of jagged or sharp edges, shall be watertight and of impervious material, shall be provided with tight-fitting cover suitable to protect the contents from flies, insects, rats and other animals, shall be fitted with two (2) handles by which it may be lifted, and shall not have any inside structure that would prevent the free discharge of contents. Such receptacle may also be a waterproof bag liner, which can be safely and securely closed, and which is a type approved by the Collector and the City.

*Hazardous waste* shall mean waste which is defined, characterized or designated as hazardous by the United States Environmental Agency, or Florida Department of Environmental Protection, by or pursuant to Federal or State law.

*Improved property* shall mean all residential and commercial improved real property, as herein defined that generates, or is capable of generating, solid waste.

*Industrial waste* shall mean any solid waste accumulations of metal, metal products, minerals, chemicals, rock, cement, asphalt, tar, oil, grease, glass, crockery, rubber, tires, bottles, cans, lumber, sawdust, waste from animal packing or slaughterhouses, or other materials usually created by an industrial enterprise.

*Infectious waste* shall mean those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms, included are wastes resulting from the operation of medical clinics, hospitals and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves.

*Junk* shall mean any tangible items such as furniture, appliances, bicycles, (excluding motor vehicles) or similar property not having a useful purpose to the owner or abandoned by the owner and not included within the definitions of garbage, garden trash, or rubbish.

*Multifamily dwelling unit* shall mean any building or structure containing six (6) or more dwelling units.

*Occupational waste* shall mean solid waste generated on-the-job by non-stationary businesses (e.g., lawn, landscaping and tree services, contractors, roofers, etc.)

*Recyclable materials* shall mean all newspapers, glass and bottles, metal cans (aluminum and delabeled tin), plastic and such other recyclable materials as the parties may agree in writing.

*Recyclable container* shall mean a container, used for the storage collection of recyclable materials.

*Refuse* shall mean a combination of, or mixture of, garbage, trash, rubbish or any other solid waste materials.

*Residential improved real property* shall mean a single-family residence or a multifamily residential building comprised of less than six (6) dwelling units.

*Roll-off container* shall mean a container (open top or enclosed for compaction) used for the collection and storage of construction and demolition debris, solid waste and/or rubbish that can be picked up and transported on a specially equipped truck to the disposal site.

*Rubbish* shall mean refuse and non-recyclable solid waste accumulations of any nature other than garbage, which are usual to housekeeping and to the operation of stores, offices and other business places.

*Single-family residence* shall mean any building or structure designed or constructed for, and capable of, use as a residence for one (1) family, regardless of the type of structure. Such term includes a mobile home or trailer that is erected on a separate parcel of property and not located within a commercial rental park.

*Solid waste* shall mean a general term that includes the specific terms “garbage”, “garden trash”, “junk”, “rubbish”, and “bulk trash”.

*Special waste* shall mean materials, or other waste, that is not stored in standard storage containers and cannot be picked up by normally used collection vehicles, and shall include, but is not necessarily limited to, such materials as major appliances, furniture, building materials, large tree limbs, non-containerized trash piles and any unusually large amount of refuse not suitable for containerization.

*Street* shall mean an open public or private right-of-way or dedicated right-of-way with passable access.

*Yard trash* shall mean an accumulation of lawn, grass, or shrubbery cuttings, or clippings and/or leaf rakings, palm fronds, small tree branches, bushes or shrubs, green leaf cuttings, coconuts, fruits or other matter usually created as refuse in the care of lawns, gardens and yards.

## **26.02.00 PROHIBITED ACTS**

It shall be unlawful and an offense against the City of Lake Helen for any unauthorized person to do any of the following:

- A. To place, or cause to be placed, any solid waste upon the property of another.
- B. To place, or cause to be placed, any occupational waste for collection, unless the non-stationary business that generated the waste has entered into a commercial contract with the Collector for the collection of said waste.
- C. To deposit or dispose of any solid waste in or upon any public or private street, sidewalk, right-of-way, or alley, or any stream, ditch, river, pond, creek, park or public place in the city, except in authorized containers.
- D. To burn any solid waste generated or brought within the city unless all applicable permits

have been obtained.

- E. To place solid waste out for collection in any location not serviced by the collector.
- F. To remove solid waste from any refuse bin or container, or from a collection location or from curbside.
- G. To accumulate or cause to be accumulated any solid waste in or upon any premises or lot owned by him or in his control for an unreasonable period of time without providing for legal disposal.
- H. To place out for collection, unless specifically authorized by the City Commission, any hazardous or infectious waste as defined herein. Said waste shall be disposed of according to applicable law.
- I. To collect, pick up, cause to be picked up, steal or remove, unless authorized by the City, any recyclable material placed for collection.
- J. To steal, remove, destroy, alter, misuse or damage any recycling container.
- K. To violate any provision of Section 403.413, Florida Statutes, entitled the "Florida Litter Law", and any subsequent amendment to the provisions of said law.

#### **26.03.00 MANDATORY SERVICE**

The resident or occupant of each residential and commercial improved property shall be required to have solid waste and recyclables collection. Should the City Commission grant a franchise for the collection of solid waste and/or recyclables, collection service shall be provided by the franchisee.

#### **26.04.00 SOLID WASTE COLLECTION CONTRACTS**

The City Commission may, at its discretion, enter into a solid waste and recyclables collection contract, in the form of an exclusive or non-exclusive franchise, with a Collector for the purpose of collection of solid waste and recyclable materials in the City.

#### **26.05.00 PLACEMENT AND COLLECTION OF SOLID WASTE AND RECYCLABLES**

##### **26.05.01 Points of Collection**

- A. Residential customers.

Residential customers shall place garbage receptacles, bulk trash, yard trash, special waste and recycling containers for collection at a point, unless otherwise approved or designated by the City Commission, that is immediately adjacent to and perpendicular to the customer's principal driveway entrance and immediately adjacent to and parallel with the street or other right-of-way surface that provides access to the customer's property. Said point of collection shall be located on the side of the road, easement or right-of-way nearest the customer's residence and shall be located no further than ten (10) feet from the customer's principal driveway entrance, nor closer than five (5) feet to the road, easement or right-of-way surface that provides access to the customer's property.

- B. Commercial customers.

Commercial customer shall place all solid waste and recyclables at a point designated by the City, or in the absence of a point designated by the city, at a point designated by the Collector, in consultation with the customer, which will maximize economy in the collection of solid waste while considering the public health and the convenience to the customer.

##### **26.05.02 Procedures for Storage, Placement and Collection**

- A. All non-recyclable solid waste generated by commercial customers shall be placed by the customer in a commercial container, unless otherwise approved for placement in a garbage receptacle by the City and the collector.
- B. All solid waste, other than waste placed in garbage receptacles, recycling containers, commercial containers or roll-off containers, and special wastes must be boxed, bagged or bundled. Waste placed in garbage receptacles, recycling containers, boxes, bags and bundles shall not exceed sixty (60) pounds in weight. Waste placed in bundles shall not exceed sixty (60) pounds in weight, nor exceed six (6) feet in length.
- C. Plastic bags used as receptacles for solid waste containment purposes shall be of sufficient strength to hold the contents, so as not to tear when being placed in the collection vehicle.
- D. Residential customers shall place garbage receptacles, recycling containers, bulk trash, yard trash and special wastes for collection no earlier than 8:00 a.m. on the day before a designated collection day. Garbage receptacles and recycling containers shall be removed from the collection point by 8:00 a.m. the morning following the designated collection day.
- E. When not placed for collection, garbage receptacles and recycling containers shall be maintained at a location on the customer's property that is neither forward of the front of the building of the customer's place of business or place of residence, nor is closer than ten (10) feet from an adjacent business or a residential property line.
- F. Each customer shall be provided one (1) plastic container used for the storage collection of recyclable materials. In the event the recycling container is lost, stolen, damaged or otherwise not available or usable, the customer shall be responsible for the cost of replacing the container. Recyclables shall be placed in recycling containers and said containers shall be placed separate and apart from any other waste collection containers at the collection point. The recycling containers remain the property of the city. Replacement of recycling containers shall be for a fee as determined by the City Commission.
- G. Hazardous infectious waste shall not, unless specifically authorized by the City Commission, be placed for collection. Should the collector believe that such placement has occurred, the collector shall refuse to collect said waste.

**26.06.00 FREQUENCY OF COLLECTION**

The frequency of solid waste and recyclables collection shall be as determined by the City Commission.

**26.07.00 HOURS OF OPERATION FOR COLLECTION**

Hours of operation shall be as determined by the City Commission.

**26.08.00 COLLECTION RATES AND BILLING PROCEDURES**

The collection rates and billing procedures shall be as follows:

- A. Collection rates shall be as determined by the City Commission.
- B. The owner of each improved residential property shall be responsible for the payment for solid waste and recyclables collection service. Such payment shall be made by way of a non-ad valorem assessment on the property owner's tax bill.
- C. The owner or occupant of each commercial improved property shall be responsible for the payment for solid waste and recyclables collection service. Such payment shall be made directly to the City's collection franchisee.

## **26.09.00 VIOLATIONS AND ENFORCEMENT**

Failure to comply with the requirements of this Article shall constitute a violation of the Article. Violations of this Article shall be subject to enforcement action and punishment in accordance with the enforcement provisions described in the *Code of Ordinances of the City of Lake Helen*, as well as subject to enforcement action and punishment provided for in any application State and Federal law.

## **ARTICLE 27 - INVESTMENT POLICY<sup>1</sup>**

### **27.00.00 GENERAL**

#### **27.00.01 Purpose**

Establish and articulate the full and exclusive authority over the management of the City's financial affairs by developing internal controls or following alternative guidelines as prescribed by state statute.

#### **27.00.02 Intent**

To comply with Florida Statute 218.415 by adopting an investment ordinance with the objectives of preserving capital, maintaining credit quality and liquidity, and maximizing rate of return on surplus City funds.

#### **27.00.03 Applicability**

This ordinance applies to all transactions involving all financial assets and related activity of the City of Lake Helen other than pension fund assets when held by a third-party custodian and/or money manager.

#### **27.00.04 Policy**

It is the policy of the City of Lake Helen, to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the entity and conforming to all state and local statutes, the Lake Helen Charter and bond resolutions governing the investment of public funds under the control of the City of Lake Helen.

### **27.01.00 SCOPE**

This investment ordinance applies to all funds held by the City of Lake Helen, other than pension fund assets, that are held by a third-party custodian or money manager. These funds are accounted for in the City's annual Financial Report and include, but are not limited to:

- A. General Fund
- B. Enterprise Funds
- C. General Trust Funds
- D. General Fixed Assets
- E. Any new fund created by the local governmental unit, unless specifically exempted by the legislative body.

This investment ordinance applies to all transactions involving the financial assets and related activity of all of the foregoing funds.

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<sup>1</sup>Ordinance adopted March 6, 1997



### **27.02.00 INVESTMENT OBJECTIVES**

The following investment objectives will be applied in the management of the funds of the City of Lake Helen:

- A. The primary objective of the City investment activities is the preservation of capital and the protection of investment principal.
- B. In investing public funds, the City will strive to maximize the return on the portfolio and to preserve the purchasing power, but will avoid assuming unreasonable investment risk
- C. The City's investment portfolio will remain sufficiently liquid to enable the City to meet operating requirements which might be reasonably anticipated.
- D. To control risks regarding specific security types or individual financial institutions, the City will employ mechanisms to diversify its investments.

Permitted investment of bond proceeds are usually set forth in the bond documents. Investment strategies or vehicles commonly utilized for the investment of bond proceeds may differ from those of other City funds. In order to coordinate the investment and arbitrage compliance processes, bond proceeds may be invested in ways that differ from overall investment policies, especially as to diversification and collateralization procedures.

### **27.03.00 PRUDENCE AND ETHICAL STANDARDS**

Investments shall be made with judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

Persons performing the investment function, acting as a "prudent person" in accordance with these written policies and authorized by law, shall be relieved of personal responsibility for an individual security's credit risk or market price changes provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.

### **27.04.00 INVESTMENT PERFORMANCE AND REPORTING**

Performance of the portfolio shall be reported periodically and submitted to the City Commission for review. Reports shall be submitted quarterly and include details and characteristics of the portfolio as well as its performance and the current market pricing for the period.

The City Administrator shall be notified immediately upon deviations from currently approved investment policies.

### **27.05.00 INVESTMENT MATURITY, LIQUIDITY, DIVERSIFICATION, RISK AND PORTFOLIO COMPOSITION**

To the extent possible, the City will attempt to match its investments with anticipated cash-flow requirements. Investments of current operating funds shall have maturities of no longer than one (1) year. Investments of bond reserves, construction funds, and other non-operating funds shall have a term appropriate to the need for funds, and in accordance with debt covenants, but shall not exceed five (5) years, unless specifically required by the terms of the bond.

Assets held shall be diversified to control the risk of loss resulting from the over concentration of assets in a specific maturity, issuer, instrument, dealer, or bank through which these instruments are

bought or sold. Diversification strategies with the established guidelines shall be reviewed and revised periodically as necessary by the appropriate management staff.

A.	Repurchase Agreements or Overnights	100%
B.	Non-negotiable Certificates of Deposits	75%
C.	United States Treasury Bills/Notes/Bonds	75%
D.	Other United States Government Agencies	25%
E.	Local Government Surplus Funds Trust Funds	75%
F.	Commercial Paper	25%
G.	Mutual and Money Market Funds	25%
H.	Obligations Guaranteed by the full faith and Credit of the United States Government	50%

It is the policy of the City of Lake Helen to diversify its investment portfolio. Assets held shall be diversified to control the risk of loss resulting from over-concentration of assets in a specific maturity, a specific issuer or a specific instrument and/or class of instruments, banks and dealers through whom these instruments are bought or sold. Diversification strategies within the established guidelines shall be reviewed and revised periodically as necessary by the appropriate management staff.

#### **27.06.00 INVESTMENT AUTHORITY**

The City Administrator, with the approval of the City Commission, is designated by the City Commission to have the authority to initiate all investment activities. The City Administrator will formulate alternative investment strategies and short-range directions within the guidelines herein set forth and monitors for monitoring the performance and structure of the City's portfolio.

The City Administrator will provide the City Commission as needed with current market information, an updated portfolio listing and analysis, and various pertinent financial data.

#### **27.07.00 CRITERIA FOR SELECTION OF FINANCIAL INTERMEDIARIES AND ISSUERS**

Certificates of deposit shall be purchased only from financial institutions which are located within the state of Florida, and qualify as a "Qualified Public Depository" (QPD) under Chapter 280.02 of the Florida Statutes. Other securities shall be purchased only through financial institutions which provide the service of a securities dealer, or through the "primary government securities dealer" as designated by the Federal Reserve Bank of New York. The City Administrator will keep a source list of authorized institutions, dealers, and issuers of the various security types.

These institutions, dealers and issuers must meet capital adequacy guidelines as determined by their respective regulatory agencies, and certify that no material adverse events have occurred since the issuance of their most recent financial statements. They must also agree to notify the City in the event of material adverse events affecting their capital adequacy. All securities purchased shall be only those securities from authorized issuers of the various security types. A list of these authorized institutions, dealers and issuers of the various security types will be maintained by the City Administrator or his designee.

Criteria for addition to or deletion from the list will be based on the following:

- A. state law;
- B. the City's investment policy requirements where applicable;

- C. Perceived financial difficulties;
- D. Consistent lack of competitiveness;
- E. Lack of experience or familiarity of the account representative in providing service to institutional accounts;
- F. Request of the institution or dealer; or
- G. When deemed by the City Commission to be in the best interest of the City.

If at any time the City Administrator is appropriately notified of any threat to the integrity of the investment portfolio, proper security measures may be suggested and implemented, and the City Administrator shall have the option to further restrict investment in selected instruments, to conform to the then-present market conditions.

Repurchase Agreements will be conducted through, and negotiated only with primary securities brokers dealers, or Qualified Public Depository financial institutions. A written Master Repurchase Agreement will be negotiated with any institution with which the City enters into a specific repurchase agreement.

Bond funds subject to an arbitrage rebate shall be invested in accordance with specific bond covenants. The objective of these investments is to obtain yields near or equal to the bond interest rate.

#### **27.08.00 THIRD-PARTY CUSTODIAL AGREEMENTS**

All securities purchased or collateral obtained by the City under this section shall be properly designated as an asset of the City of Lake Helen and held in safekeeping by a third-party custodial United States Government or the State of Florida, and no withdrawal of such securities, in whole or in part, shall be made from safekeeping, except by the City staff authorized in the resolution. The strongest assurance and control that the securities have been properly segregated on behalf of the local jurisdiction are provided by an independent third-party custodian.

The City shall execute third-party custodial agreement(s) with its bank(s) and depository institution(s). Such agreements will include letters of authority from the City, details as to responsibilities of each party, notification of security purchases, sales, delivery, repurchase agreements, wire transfers, safekeeping, transaction costs, and procedures in case of wire failure or other unforeseen mishaps, including liability of each party.

#### **27.09.00 MASTER REPURCHASE AGREEMENT**

The City Administrator will require all approved institutions and dealers transacting repurchase agreements to execute and perform as stated in the Master Repurchase Agreement which is attached hereto as Exhibit A and incorporated herein by this reference. All repurchase agreement transactions will adhere to the substantive requirements of the Master Repurchase Agreement. (Master Repurchase Agreement on file in the City Clerk's office)

#### **27.10.00 BID REQUIREMENT**

Although in some situations the competitive bid process shall be utilized, there is no obligation to secure bids from all financial institutions and dealer brokers on the approved list. Rather, a decision will be made by the City Administrator, subject to City Commission approval as to the institutions that have been the most competitive over the preceding weeks and these will be contacted for a bid.

After the City Administrator has determined the approximate maturity date based on the cash flow needs and market conditions and has analyzed and selected one or more types of investments, a minimum of three (3) qualified banks or dealers will be contacted and asked to provide bids on the securities in question.

- A. Bids will be held in confidence until the highest bid is determined and awarded.
- B. Documentation will be retained for all bids, with the winning bid clearly identified.
- C. If for any reason the highest interest rate bid was not selected, the reasons leading to that decision will be clearly indicated on the bid forms.
- D. If the maturing investment is a certificate of deposit, the present holder of the funds will be one of the contacts made subject to the portfolio diversification requirements in this policy.
- E. In certain circumstances where a dealer or bank informs the City of a potential purchase or sale that must be completed within minutes of notification, the competitive bidding policy will be waived, where in the best interest of the City. The City Clerk/Treasurer will have final approval on these particular transactions before they have been completed.
- F. Competitive Bids are not applicable for the placement of funds with the SBA.

**27.11.00 INSTRUMENT SELECTION**

The City follows §166.261, Florida Statutes (1993) governing municipal investments. The following is a list of authorized securities for investment by the City:

- A. Local Government Surplus Funds Trust Fund (SBA: State Board of Administration)
- B. U.S. Government Securities
- C. Federal Instrumentalities
- D. Federal Agencies
- E. Non-negotiable Certificates of Deposit
- F. Repurchase Agreements and Reverse Repurchase Agreements
- G. Corporate Bonds
- H. Banker's Acceptance
- I. Prime Commercial Paper
- J. Fixed-Income Mutual Funds

Investment in the above instruments will be based on the guidelines established in the City's Investment Policy.

**27.12.00 DEFINITION OF AUTHORIZED SECURITIES**

- A. *State Board of Administration (SBA)*. Investment in the SBA will usually be the result of surplus funds in the City's depository bank account, maturities of securities or other sources of surplus funds.

- B. *U.S. Government Securities.* In order to diversify the City's portfolio and maximize earnings from market changes, the City will invest in government securities, including, but not limited to, the following:
- Direct Obligations
1. Cash Management Bills
  2. Treasury Bills
  3. Treasury Notes
  4. Treasury Bonds
  5. Treasury Strips
  6. State and Local Government Securities (SLGS)
  7. Treasury-Related Zero Coupon Products
- C. *Federal Instrumentalities.* Securities are issued by government agencies, and are non-full-faith and credit instruments of the United States government. This includes all instruments issued by the following various agencies:
1. Federal National Mortgage Association (FNMA)
  2. Federal Farm Credit Banks (FFCB)
  3. Federal Home Loan Bank (FHLB)
  4. Federal Home Loan Mortgage Corp. (Freddie-Macs)
  5. Federal Home Mortgage Corp. (Participation Certificates)
- D. *Federal Agencies.* Securities which are unconditionally guaranteed by the United States government and issued through federal agencies. Such securities will include but not be limited to:
1. Government National Mortgage Association (GNMA)
  2. Small Business Administration (SBA)
  3. Federal Housing Administration (FHA)
  4. Farmers Home Administration (FMHA)
  5. General Service Administration (GSA)
  6. Government Agency-Related Zero Coupon Products
- E. *Non-Negotiable Certificates of Deposit.* Occasionally the City will utilize certificates of deposit which allow the City to lock into a fixed interest rate for a stated period of time.
- F. *Repurchase Agreements and Reverse Repurchase Agreements.* A repurchase agreement (REPO) consists of the bank or broker using City funds for a specified period of time and purchasing collateral in which to back them. A reverserepurchase agreement (REPO) consists of two simultaneous transactions. One is the purchase of securities (collateral) by an investor from a bank or broker. The other is the commitment by the bank or broker to repurchase the securities at the same price for a mutually agreed-upon time.

A standard "PSA" repurchase agreement will be signed with the financial institution, which also defines collateral and maturities of the collateral.

- G. *Corporate Bonds.* Corporate bonds are issued by corporations that are raising funds for specific purposes (i.e. capital projects). The City is limited to investing in corporate bonds that are AAA rated by Standard and Poor's and Moody's. The City position is also limited to less than five percent (5%) of the entire portfolio.
- H. *Banker's Acceptance.* A banker's acceptance is a draft or bill of exchange. The City is limited to the fifty largest domestic banks, which must be "A" rated by Standard and Poor's or Moody's. This investment position is also limited to five percent (5%) of the entire portfolio.
- I. *Prime Commercial Paper.* Commercial paper is short-term unsecured promissory notes issued by various economic entities to finance short-term needs. The City is limited to ninety-day promissory notes that are A-1 rated by Standard and Poor's and P-1 rated by Moody's. This investment is limited to five percent (5%) of the entire portfolio.
- J. *Fixed-Income Mutual Funds.* The City is allowed to invest in fixed-income mutual funds that are comprised of investments in U.S. government securities and instrumentalities. These funds are to be rated AAA by Standard and Poor's and Moody's and have no sales or redemption charges. These funds include, but are not limited to, money market mutual funds, adjustable-rate U.S. security funds, and short-term U.S. security funds.

### **27.13.00 DELIVERY VS. PAYMENT METHOD**

Regardless of the size or sophistication of the jurisdiction, all responsible officials must install some kind of mechanism to ensure that all of the City's investment or liquidation transactions are performed on a "delivery vs. Payment" basis, whereby delivery of and payments for the security are simultaneous. In general, this approach will accomplish several things:

- A. Since the jurisdiction will not release funds from its bank account until it has physical possession of the interest-earning asset (investment), it will minimize any risk of losing a day's (or a weekend's) interest due to failure on the part of the seller of the investment security.
- B. A "delivery vs. payment" approach will ensure that jurisdictional funds are not released in the absence of receiving perfected investment securities in proper dollar denominations.
- C. The accountability and verifiability of the transaction will be enhanced; written third-party documentation is a natural byproduct of the "delivery vs. payment" or "payment vs. delivery" approach.

### **27.14.00 POLICY REVIEW AND AMENDMENTS**

The City's Investment Ordinance will be reviewed yearly by the City Administrator. If investment conditions dictate a change prior to this yearly review, then City Administrator may submit these changes to the City Commission.

### **27.15.00 INTERNAL CONTROLS**

The City Administrator shall exercise and monitor a set of internal controls, designed to protect the

City's funds and ensure proper accounting and reporting of the securities transactions. Such internal controls shall consist of the following:

- A. All securities purchased or sold will be transferred only under the "delivery versus payment" (D.V.P.) method to ensure that funds or securities are not released until all criteria relating to the specific transaction are met.
- B. The City Administrator is authorized to accept on behalf of and in the name of the City, bank trust receipts or confirmations as evidence of actual delivery of the obligation or securities in return for investment of funds.
- C. Trust receipts or confirmations shall fully describe the various obligations or securities held. The receipt or confirmation shall state that the investment is held in the name of the City.
- D. Written documentation or confirmation of telephone transactions and wire transfers will be maintained.
- E. There will be adequate separation of duties with clear delegation of authority among investment personnel.
- F. Custodial safekeeping shall be properly utilized.
- G. Operation review and performance evaluations and reporting, interim and annual shall be done by the City Administrator.
- H. There will be an avoidance of bearer-form securities.
- I. There will be no physical delivery of securities.
- J. There will be specific limitations regarding securities losses and remedial action shall be taken as soon as possible.
- K. A development of a wire transfer agreement with the custodial bank outlining the various controls and security provisions for making and receiving wire transfers shall be made.
- L. Prohibition of collusion.
- M. Written dealer confirmation and monthly or quarterly custodial account statements shall be maintained.
- N. All daily investment activity will be coordinated and reviewed by the City Administrator. Investments are under the direct control of the City Administrator. If the City Administrator is not available, investment activity must be approved by the Mayor or Vice Mayor.
- O. Periodic training and educational opportunities will be provided concerning investments and related subjects for appropriate investment personnel.
- P. Such additional internal controls as are established by the City Administrator.

## **ARTICLE 28. LOCAL BUSINESS TAX RECEIPTS**

### **28.00.00 Purpose of Article**

The purposes of this article shall be to provide a method of regulating businesses within the City, to provide the means for issuing local business tax receipts these businesses, and to provide additional revenue for all municipal services.

#### 28.01.00 Local Business Tax Receipt Intent

The purposes of this article shall be to provide a method for issuing local business tax receipts for businesses within the city limits, and to provide additional revenue for all municipal services.

#### 28.01.01 Definitions

Definitions shall follow Florida Statue 205.022.

#### 28.01.02 Enforcement of article; authority to prescribe additional regulations

It shall be the duty of the City Administrator or his/her designee to enforce each and every provision of this article. The City Clerk is authorized to prescribe reasonable rules and regulations and make interpretive rulings as necessary to effectuate the provisions of this article.

#### 28.01.03 Responsibility of review of licenses

The City Clerk shall issue local business tax receipts.

#### 28.01.04 Right of entry

Representatives of the City authorized by the City Clerk shall have the power and authority to enter, free of charge, during business hours, any place of business for inspection in connection with a business tax receipt required by this article and demand exhibition of the required license certificate. It shall be unlawful for any person having a business tax receipt in their possession or under their control to fail or refuse to exhibit the business tax receipt on demand as required by this Article.

#### 28.01.05 Determination of classification of business

If an applicant for a local business tax receipt under this article disputes the classification assigned to their business, the City Clerk shall decide the proper classification, reserving to the applicant the right to appeal the decision of the City Clerk to the City Commission (as outline in Article 15 of the Land Development Code). The decision of the City Commission as to proper classification shall be final.

#### 28.01.06 Local Business Tax Receipt levied; applicability of tax

1. There is levied a local business tax receipt in the amounts set forth in the schedule of fees as adopted by Resolution set by the City Commission for the privilege of engaging in or managing any business, profession or occupation within the City limits on the following persons:
  - b. Any person who maintains a permanent business location or branch office within the City, for the privilege of engaging in or managing any business within its jurisdiction.
  - c. Any person who maintains a permanent business location or branch office within the City, for the privilege of engaging in or managing any profession or occupation within its jurisdiction, and any insurance company writing any class of insurance upon any person or property residing or located within the City.
  - d. Any person who does not qualify under the provisions of subsection (1)(a) or (b) of this section and who transacts any business or engages in any occupation or profession in interstate commerce, where such a license tax is not prohibited by Article 1, Section 8, of the United States Constitution.



2. Local business tax receipts required by this article shall not be construed to exempt from other forms of taxation the property used in the licensed business.

#### 28.01.07 Local Business Tax Receipt Required

No person shall engage in or manage any business, occupation or profession for which there is a local business tax receipt required by this article or any other ordinance of the City, unless that person procures a business tax receipt from the City to conduct the business. This includes every business operation advertised at an address within the City by sign, newspaper or otherwise, and any sign, newspaper, magazine or other advertisement shall be considered evidence of conducting the business advertised and be sufficient for prosecution in accordance with the terms of this article. Regulatory licenses shall issue even in those cases where fees are not required by the City. It shall be unnecessary for the City to send out notices to persons engaged in business in the City with respect to obtaining, renewing or transferring business tax receipts.

#### 28.01.08 Registration Required

- i. Persons or businesses not located within the City limits, unless exempted by provisions of F.S. § 205.065, whether or not possessing a local business tax receipt from another City or County shall not provide products or services within the City without first having registered with the City.
- ii. There shall be a fee set forth in the schedule of fees as adopted by Resolution of the City Commission paid at time of registration, and annually thereafter on or before October 1.

#### 28.01.09 Application for a local business tax receipt

1. Before engaging in or operating a business in the City, every person shall file an application, on the prescribed form, with the City, signed by an officer, partner or owner of the business, giving the real name of the applicant. In cases where the applicant has qualified under the laws of the state for the use of a fictitious name, the business tax receipt, if issued, shall show the real name as well as the fictitious name of the applicant. In the application, the applicant shall set forth:
  - a. The name of the owner, and, if a firm, the name of principal members of the firm, and, if a corporation, the name of its local manager and address of the main corporate office;
  - b. The location of the business and the nature of the business;
  - c. The classification which the business tax receipt fee is based upon; and
  - d. Other pertinent information that may be prescribed by the City.
2. No business tax receipt shall be issued except upon certification of the applicant providing information required by the City. The application and affidavit required by this section shall be retained as a part of the records of the City.

#### 28.01.10 Misrepresentation of facts in obtaining a business tax receipt

Any business tax receipt obtained under the provisions of the article upon the misrepresentation of a material fact shall be deemed null and void. Any business tax receipt recipient who has thereafter engaged in any business under such a business tax receipt shall be subject to prosecution for doing business without a business tax receipt, to the same extent and degree as though no business tax receipt had been issued.

#### 28.01.11 Prerequisites for issuance of local business tax receipt

1. *Generally.* No local business tax receipt shall be issued to any person otherwise required by this Article or other ordinances of the City or laws of the state to have a certificate of competency, to have a permit, to have passed an examination before engaging in a business, or to have deposited a bond in the City, until the person has exhibited to the City proof of having the certificate or permit, having passed the examination or having filed the required bond.
2. *Certificate of occupancy.* No business tax receipt shall be issued for any business until the location thereof has been approved by the City Administrator or his/her designee of the City and a certificate of occupancy issued. There are no exemptions from the required certificate of occupancy for new business tax receipts or new business locations.
3. No local business tax receipt shall be issued to any applicant giving an address that does not comply with the City of Lake Helen Land Development Code.

#### 28.01.12 Separate business tax receipts required for each location and business

Each business tax receipt issued under this article shall be issued for and apply to only one place of business within the City. If a person operates a business at more than one location, a separate license shall be required for each business location. Any person operating two or more unrelated businesses at a single location shall be required to have a separate business tax receipt for each individual business.

#### 28.01.13 Display of business tax; identification stickers

1. Every person engaged in a business which is conducted from a fixed place shall keep the business tax receipt issued under this article therefore posted in a conspicuous place upon the premises.
2. Every person engaged in a business but not operating from a fixed place of business shall keep the business tax receipt issued therefor upon their person at all times while engaging in the business for which it is issued, and shall display it on demand.
3. Where identifying stickers or symbols have been issued for each vehicle, device, machine or other piece of equipment included in this article, the sticker or symbol shall be firmly affixed to each vehicle, device, machine or piece of equipment and shall not be removed during the period for which it has been issued, nor shall it be given away, sold or transferred to another person, nor shall its use be permitted by another person.

#### 28.01.14 Transfer

All business tax receipts, except for those in the "Amusements—Transient" and "Seasonal—Special events" categories of business, issued under this article may be transferred to a new owner, when there is a bona fide sale of the business, upon payment of a transfer fee as set forth in the schedule of fees as adopted by Resolution of the City Commission

#### 28.01.15 Replacement of business tax receipt

For the purpose of replacing any mutilated, destroyed or lost business tax receipt granted by the City under this article, an appropriate duplicate business tax receipt shall be issued upon submission of satisfactory evidence that the original business tax receipt was mutilated, destroyed or lost, upon the holder of the business tax receipt furnishing indemnity satisfactory to the City and upon payment

of the fee as set forth in the schedule of fees as adopted by Resolution of the City Commission by the holder for each duplicate business tax receipt executed and delivered.

#### 28.01.16 Term of business tax receipt

1. No business tax receipt issued under this article shall be issued for longer than one year. All business tax receipts shall expire on September 30, and business tax receipt fees shall be payable on or before October 1, unless otherwise specifically provided by this article; provided, however, that business tax receipts for the categories "Amusements—Transient" and "Seasonal—Special events" shall be valid for a maximum time period of ten successive days which must commence within seven days from the date of the issuance of the business tax receipt.
2. Half-year business tax receipts may be issued by the City under the provisions of this article for the period from April 1 to September 30, upon payment of one-half of the tax fixed as the amount of that license fee for one year. No quarter-year business tax receipts shall be issued.

#### 28.01.17 Illegal businesses

No business tax receipt issued under the provisions of this article and no payment of any business tax receipt fee required, imposed or levied under this article shall be construed as authorizing the conduct or continuance of any illegal business or any business that may now or hereafter be prohibited by this Code, other ordinances of the City, or state law, or the operation of a legal business in any illegal manner.

#### 28.01.18 Exemptions

Exemptions shall follow Florida Statutes Chapter 205.

#### 28.01.19 Delinquency; penalty for failure to obtain local business tax receipt

Business tax receipts dates due and delinquent penalties shall follow Florida Statutes Chapter 205.053.

1. Those local business tax receipts required by this article not renewed by October 1 of each year shall be considered delinquent and subject to a delinquency penalty as defined in this section.
2. Any person engaging in or managing any business, occupation or profession without first obtaining a local business tax receipt, if required, shall be subject to a penalty of twenty-five percent (25%) of the business tax receipt determined to be due, in addition to any other penalty provided by this article, other ordinance or state law. It shall be no defense of nonpayment of any business tax receipt required by this article that the licensee did not receive any bill or notice that the tax was due from the City.
3. Any local business tax receipt not received when due and payable shall be considered delinquent and subject to a delinquency penalty of ten percent of the amount due for the month of October, plus an additional penalty of five percent of the amount due for each month of delinquency thereafter until paid. However, the total delinquency penalty shall not exceed twenty-five percent (25%) of the full local business tax receipt fee.

28.01.20 Fee schedule

Fees are set forth in the schedule of fees as adopted by Resolution of the City Commission. No action shall be taken on an application until all applicable fees are paid.

28.01.21 Penalties

A violation of this Code shall follow Florida Statutes Chapter 205.053.

28.02.00 Home solicitation sales permit

Prior to engaging in any home solicitation or sales activity, as that term is defined under state law without reference to the minimum dollar amount limitation, a local business tax receipt must be obtained from the city. Prior to the issuance of a local business tax receipt, the applicant must submit a home solicitation or sales permit issued by the clerk of the court pursuant to F.S. §§ 501.021-501.055, as amended.

28.02.01 Registration when home solicitation permit not required

In the event a home solicitation or sales permit is not required under state law due to the minimum dollar amount requirement under the definition of home solicitation or sales, the statutory exemptions from the permit requirements, or any other reason, a local business tax receipt must still be issued by the city prior to engaging in any home solicitation or sales. As a condition of issuance of a local business tax receipt when there is no home solicitation or sales permit from the clerk of court, the applicant must provide a list of each person engaging in the home solicitation activity, including the name, address and phone number of each person, and the name, address, phone number of the organization conducting or sponsoring the sales activity. In the event the home solicitation sales are conducted by minors, an adult must be supervising the solicitation activity and assume responsibility for the sales activity.

28.02.02 Hours; Sunday operations

Hours for peddling and soliciting within the city shall be between the hours of 10:00 a.m. to 7:00 p.m. daily, except no solicitation shall be allowed on Sunday. Violations of these hours of solicitation may be grounds for the city clerk to suspend any permit granted hereunder.

**ARTICLE 29: Reserved**

**ARTICLE 30: PARKS AND RECREATION**

**30.01.00 Park Defined**

As used in this Article, the term "City Park" means land owned, maintained by the City of Lake Helen and designated as a "City Park" by a resolution or any land which has been dedicated for use as a City Park which has been accepted by the City Commission. Included in the definition of the term "City Park" are all natural resources, wildlife, facilities, improvements, waters and materials in, on or under the lands so designated. Properties in any system of trails owned by the City are intended to be designated as a City Park.

(Ord. No. 2004-09, §1; 8-4-2004)

**30.02.00 Hours of Operation and General Use**

A. All City Parks shall be open during such hours as are set forth by the City Commission.

(Ord. No. 2004-09, §2; 8-4-2004)

B. The City Commission may delegate, by adoption of a resolution, the power to establish hours of operations at the City Parks or a particular park or particular parks to such City employees as the City Commission deems appropriate.

(Ord. No. 2004-09, §2; 8-4-2004)

C. The Mayor, City Administrator or Chief of Police may close any City Park or Parks as he or she deems appropriate in the event of an emergency or an eminent threat to the public health, safety or welfare. The power herein granted may be delegated to subordinates of the above-referenced persons if deemed necessary to protect the public health, safety or welfare.

(Ord. No. 2004-09, §2; 8-4-2004)

D. Persons using the City Park(s) do so at their own risk.

(Ord. No. 2004-09, §2; 8-4-2004)

E. Adults are responsible for children that they bring to the City Park(s) or who are otherwise under their care, custody or control.

(Ord. No. 2004-09, §2; 8-4-2004)

### **30.03.00 Traffic**

A. The State Uniform Traffic Control Laws, Chapter 316, *Florida Statutes*, are incorporated by reference and made part of this Article and shall apply to the operation of all motor vehicles, as defined in Chapter 316, on streets and roads in all City Park(s), unless modified herein. Law enforcement officers and City employees are hereby authorized to direct traffic whenever necessary within the City Park(s).

(Ord. No. 2004-09, §3; 8-4-2004)

B. It is unlawful to operate, drive or park any motor vehicle or other vehicle upon any road, driveway, path, trail, parking area or other area unless it has been designated for such use by the City.

(Ord. No. 2004-09, §3; 8-4-2004)

C. It is unlawful to cause any vehicle for hire to stand upon any part of a City Park for the purpose of soliciting passengers.

(Ord. No. 2004-09, §3; 8-4-2004)

D. It is unlawful to drive a vehicle at a rate of speed exceeding ten (10) miles per hour in any City Park unless the City has posted a greater speed limit.

(Ord. No. 2004-09, §3; 8-4-2004)

E. It is unlawful to park any vehicle in or on an area within a City Park which has not been designated for parking.

(Ord. No. 2004-09, §3; 8-4-2004)

F. It is unlawful to enter or exit from any City Park in any vehicle except at entrances and exits designated for such purpose by the City.

(Ord. No. 2004-09, §3; 8-4-2004)

**30.04.00 Pollution and Litter**

- A. It is unlawful to throw or place or cause to be thrown or placed, any litter, dirt, filth, or foreign matter into the waters of any lake, pond, pool, river, inlet, tank or reservoir in any City Park or on the grounds of any City Park.

(Ord. No. 2004-09, §4; 8-4-2004)

- B. It is unlawful to cause any pollutant, as defined in Sections 206.9925, 376.031, *Florida Statutes*, to be placed in or to otherwise pollute the lands or waters of a City Park.

(Ord. No. 2004-09, §4; 8-4-2004)

**30.05.00 Removal of Natural Resources**

- A. It is unlawful to remove any beach sand, whether submerged or not, any soil, rock, stones, plants, wood, flora, fauna or their materials from the City Park unless issued a general or specific permit to do so by the City for the purposes of educational activities or good husbandry.

(Ord. No. 2004-09, §5; 8-4-2004)

- B. It is unlawful to cause or make any excavation by tools, equipment, blasting or other means or agency at a City Park unless issued a general or specific permit to do so by the City for the purposes of educational activities or good husbandry.

(Ord. No. 2004-09, §5; 8-4-2004)

**30.06.00 Firearms/Fireworks/Destructive Devices/Weapons**

- A. It is unlawful to carry, fire or discharge any destructive device, explosive, weapon, or firearm, as those terms are defined in Sections 258.156 and 790.001 (including, however, in this prohibition, the items excepted as destructive devices and antique firearms), *Florida Statutes*, or any fireworks, as defined in Section 791.01, *Florida Statutes*, of any description in a City Park. This provision shall not make it unlawful for a person to carry a concealed weapon or firearm when in possession of a license to do so in accordance with Section 790.06, *Florida Statutes*, and in a manner authorized by law; or to possess a firearm, weapon, ammunition and supplies for lawful purposes when a person is traveling by private conveyance and has securely encased the firearm, weapon, ammunition and supplies or is traveling in a public conveyance when the firearm, weapon, ammunition and supplies are securely encased and not in the person's manual possession.

(Ord. No. 2004-09, §6; 8-4-2004)

- B. The City may issue permits to carry firearms for events such as the reenactment of battles and military salutes if conditions are placed on such events such as, by way of example, the use of blanks. Law enforcement officers are hereby provided a general permit to carry issued firearms when in the course and performance of their lawful duties.

(Ord. No. 2004-09, §6; 8-4-2004)

- C. The City may issue permits to discharge fireworks for special events such as July 4th and other City sponsored celebrations.

(Ord. No. 2004-09, §6; 8-4-2004)

**30.07.00 Hunting/Wildlife Preservation and Conservation.**

- A. It is unlawful to harass, hunt, catch, harm, kill, trap, shoot, shine lights at or throw missiles at any animal, reptile or bird in any City Park.

(Ord. No. 2004-09, §7; 8-4-2004)

- B. It is unlawful to use nets to catch fish in any publicly owned body of water within the City or within any City Park.

(Ord. No. 2004-09, §7; 8-4-2004)

- C. It is unlawful to use trot lines to catch fish in any publicly owned body of water within the City or within any City Park.

(Ord. No. 2004-09, §7; 8-4-2004)

- D. It is unlawful for a person to remove or have in his or her possession any wild reptile, bird or animal or the eggs or nest of young reptile or bird which is or was located in a City Park.

(Ord. No. 2004-09, §7; 8-4-2004)

- E. It is unlawful to introduce into or leave any wild animal into or at a City Park.

(Ord. No. 2004-09, §7; 8-4-2004)

- F. The City may issue permits to allow activities and actions that are otherwise contrary to the provisions of this Section if the City determines that the activities and actions will be accomplished for management, scientific or husbandry purposes and are consistent with the public interest.

(Ord. No. 2004-09, §7; 8-4-2004)

### **30.08.00 Domestic Animals**

- A. It is unlawful to allow any pet or domestic animal, as defined in Sections 585.01 and 823.041, *Florida Statutes*, under a person's care, custody or control into any City Park, except as provided for by Article 18 (Animal Control), or as provided for by rules promulgated by the City with regard to particular City Parks that specifically authorize such animals to be present and, in the event of such rules being promulgated, a person may act in accordance with such rules.

(Ord. No. 2004-09, §8; 8-4-2004)

- B. It is unlawful to abandon any domestic animal, as defined in Sections 585.01 and 823.041, *Florida Statutes*, into or at a City Park.

(Ord. No. 2004-09, §8; 8-4-2004)

- C. The rights of persons to use dog guides, service dogs or nonhuman primates of the genus *Cebus*, in accordance with the provisions of Section 413.08, *Florida Statutes*, shall not be violated or abridged by application of the provisions of this Section.

(Ord. No. 2004-09, §8; 8-4-2004)

### **30.09.00 Alcoholic Beverages**

- A. It unlawful for a person to possess or consume any alcoholic beverage or beverages, as defined in Sections 856.015 and 561.01, *Florida Statutes*, in any City Park unless a permit is issued by the City for a particular event occurring in a City Park.

(Ord. No. 2004-09, §9; 8-4-2004)

**30.05.10 Trespass**

It is unlawful for a person to enter or remain in a City Park without a permit when a City Park is closed.

(Ord. No. 2004-09, §10; 8-4-2004)

**30.05.11 Fires**

It is unlawful to ignite, set or maintain any fire in a City Park, except in the use of cooking equipment, such as outdoor grilles, provided by the City for public use within the Park, or as specifically permitted by the City in association with special events and celebrations such as July 4th, Founders Day and Market in the Park.

(Ord. No. 2004-09, §11; 8-4-2004)

**30.05.12 Camping and Sleeping**

It is unlawful to sleep, camp, lodge or park a vehicle overnight in a City Park without a permit or, upon obtaining a permit, to sleep, camp, lodge or park a vehicle overnight in an areas not designated for such purposes in signage and postings displayed at the City Park.

(Ord. No. 2004-09, §12; 8-4-2004)

**30.05.13 Signs/Defacement of Trees**

A. It is unlawful, except as permitted by the City, to post or affix to any tree, shrub, plant, fence, building, structure, monument, wall, table, apparatus, bridge, post, bench, gate or any other physical object located in a City Park any sign, poster or printed matter.

(Ord. No. 2004-09, §13; 8-4-2004)

B. It is unlawful to mark, deface, disfigure or injure any tree, building, equipment, property or facility located on a City Park.

(Ord. No. 2004-09, §13; 8-4-2004)

**30.05.14 Noise and Related Conduct**

A. It is unlawful to play any musical instrument or audio amplification system or engage in any activity in such a manner as creates a nuisance or disturbance in a City Park.

(Ord. No. 2004-09, §14; 8-4-2004)

**Cross references**—Operational/Performance Standards (Noise), Article 9; Offenses, Article 26.

B. It is unlawful to use offensive, profane, obscene or foul language at a City Park.

(Ord. No. 2004-09, §14; 8-4-2004)

**30.05.15 Peddling/Distribution of Materials**

It is unlawful to engage in any commercial activity or sell or offer for sale any tangible or intangible stock, object, merchandise or thing, or solicit for any trade, occupation, business or profession for any consideration within a City Park without a permit issued by the City.

(Ord. No. 2004-09, §15; 8-4-2004)

**30.05.16 Injuring, Interfering with, etc., Buildings and other Property**

It is unlawful to mark, deface, disfigure, injure, tamper with, displace or remove any building, bridge, table, bench, fireplace, railing, paving or paving material, waterline or other public utility



or part or appurtenance thereof, sign, notice, or placard whether temporary or permanent, monument, stake, post, or other structure, equipment or any facilities, property or appurtenances whatsoever, located at a City Park.

(Ord. No. 2004-09, §16; 8-4-2004)

### **30.05.17 Interference with Personnel**

It is unlawful to interfere with, hinder, or oppose any law enforcement officer or City employee in the discharge of his or her duties or with the enforcement of this Article.

(Ord. No. 2004-09, §17; 8-4-2004)

### **30.05.18 Promulgation of Rules**

A. The City may promulgate rules supplemental to the provisions of this Article relative to the use of City Parks and the violation of such rules shall constitute a violation of this Article.

(Ord. No. 2004-09, §18; 8-4-2004)

B. In addition to matters otherwise provided for in this Article, the rules of the City may pertain to the appropriate and harmonious use of trails consistent with the multiple uses that will be authorized on the trails, the location of particular recreational activities and other activities at City Parks, whether parks are to be used for active or passive recreational activities, access management with regard to traffic control and management within City Parks, the operation of motor vehicles and other forms of transportation within City Parks, pollution and litter within City Parks, the harming or removal of animals or natural resources within or from City Parks, the use of dangerous instrumentalities within City Parks, the use of alcoholic beverages within City Parks, hunting and fishing within City Parks, domestic animals within City Parks, use of City Park property and the conditions relating thereto, trespass upon and disturbance within City Parks, disorderly conduct and loitering within City Parks, fires and illumination within City Parks, and such other related matters which address the protection of public property located in and good order in City Parks.

(Ord. No. 2004-09, §18; 8-4-2004)

**Cross references**—Alcoholic beverages, Article 17; Traffic and motor vehicles, Article 29.

C. The provisions of this Article and the rules adopted by the City, or a sign or notice providing for the location of such documents, shall be posted at a conspicuous place in each City Park.

(Ord. No. 2004-09, §18; 8-4-2004)

D. A general condition of each permit to use a City Park is that the permittee shall abide by and adhere to the provisions of this Article and the rules promulgated by the City.

(Ord. No. 2004-09, §18; 8-4-2004)

### **30.05.19 Penalties/Other Remedies<sup>2</sup>**

A. Violation of the provisions of this Article or the rules promulgated by the City under the provisions of this Article shall follow Article 15 of the Land Development Code

(Ord. No. 2004-09, §19; 8-4-2004)

B. The City may seek additional remedies for violations of the provisions of this Article and the

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<sup>2</sup> **Cross-reference** – Article 1 General Provisions, Section 1.11.02

rules promulgated by the City to include any and all remedies authorized by State law such as, by way of example only, injunctive relief or debarment from the use of City Parks.

(Ord. No. 2004-09, §19; 8-4-2004)

### **30.06.00 BOATING ACTIVITIES RESTRICTED IN LAKE HELEN PUBLIC LAKES**

The city hereby establishes an "Idle Speed--No Wake" zone in all public Lake Helen lakes, and further restricts the size and power of outboard motors on such lakes to ten (10) horsepower. The ten horsepower restriction may be waived for authorized lake maintenance.

## **ARTICLE 31: POLICE**

### **31.00.00 GENERAL**

#### **31.01.00 COURT COSTS FOR POLICE TRAINING--ASSESSMENT**

- A. There is hereby assessed by the city in compliance with F.S. § 943.25(8) an additional two dollars (\$2.00) court costs against every person convicted for violation of a state penal or criminal statute or convicted for violation of a state penal or criminal statute or convicted of a municipal ordinance, where the offense occurred within the city limits.
- B. In addition, two dollars (\$2.00) shall be deducted from every bond estreature or forfeited bail bond related to such penal estreature or forfeited bail bond related to such penal statutes or ordinances.
- C. However, no such assessment shall be made against any person convicted for violation of any state statute or municipal ordinance relating to the parking of vehicles.

(Ord. No. 81-12, § I, 12-3-81)

#### **31.02.00 COURT COSTS FOR POLICE TRAINING—USE**

All assessments under 31.01.00 shall be collected by the appropriate court and shall be remitted to the city and earmarked for law enforcement education and training for members of the police department. The use and expenditure of such funds shall be in accordance with education and training programs for law enforcement personnel as determined by the Chief of Police and in accordance with F.S. § 943.14(4).

(Ord. No. 81-12, § II, 12-3-81)

#### **31.03.00 RESERVE POLICE**

- A. Establishment
  1. There is hereby established in and for the city a reserve police force to be known as the "Lake Helen Reserve Police."
  2. The purpose of the police reserves shall be to augment the regular police forces of the city in times of natural or man-made disasters, civil conflicts, and other emergencies, and to serve when additional police personnel are needed during periods of excessive traffic and during special events requiring attendance of additional police personnel. A Reserve Police Office is not a city employee (for Charter purposes)
  3. The reserve unit shall be limited to an overall complement of fifty (50) persons.

(Ord. No. 79-3, § I, 11-18-79)

B. Appointments

Members of the police reserves shall be appointed by the City Administrator upon recommendation of the Chief of Police after all requirements prescribed by the laws of the state and the Chief of Police have been met. When so qualified, a person shall then be sworn in by the Chief of Police as a member of the reserve police.

(Ord. No. 79-3, § II, 11-18-79)

**State law reference**--Law enforcement officers and correctional officer's qualifications for employment, F.S. § 943.13.

C Compensation

Each of the reserve police shall serve without pay or compensation, unless compensation shall be provided by ordinance duly enacted by the City Commission.

D Assignment of Duties

The Chief of Police shall have authority to assign the reserve police to such locales and to such duties as may be required in the public interest.

(Ord. No. 79-3, § VII, 11-18-79)

E Supervision by Chief of Police

The Chief of Police shall be the commanding officer of the reserve police and shall have control of the assignments, training, stationing and direction in work of the members thereof.

(Ord. No. 79-3, § VIII, 11-18-79)

F Compliance with Regulations

The reserve police shall adhere to and be governed by all rules and regulations for the guidance of the Chief of Police's office members. This also shall comply with all other applicable ordinances, rules, and regulations adopted by the Mayor and City Commission.

(Ord. No. 79-3, § IX, 11-18-79)

G Authority of Officers

A member of the police reserves, when on duty as assigned by the Chief of Police or his delegate, shall have the same authority and powers granted a regular member of the police department, subject to any limitations which the Chief of Police or his delegate may impose.

(Ord. No. 79-3, § X, 11-18-79)

**State law reference**--Law enforcement qualifications, training and certification, F.S. §§ 943.12, 943.13, 943.14 and 943.145.

H Dismissal

The Chief of Police shall have the authority to summarily dismiss any of the reserve police for any reason it shall deem sufficient or when found to be in the best interest of the city. Reserve Police are not employees covered by the City Charter. Vacancies shall be filled in the manner of the original appointments.

(Ord. No. 79-3, § XII, 11-18-79)

I Liability

The city shall be liable for any injuries occurring to members of the reserve police where the injuries occurred while the members are acting as reserve police on duty.

(Ord. No. 79-3, § XIII, 11-18-79)

## **ARTICLE 32: PURCHASING**

### **32.00.00 Scope of Article.**

All purchases of supplies, equipment and contractual services and sales of personal property made by the city shall be by written contract or purchase order governed by the provisions of this article.

### **32.01.00 City Administrator's purchasing authority and sales in excess of \$3,000.00.**

All supplies, equipment and contractual services, except as otherwise provided herein, when the estimated costs thereof exceed the purchasing authority of the City Administrator that is up to \$10,000.00, shall be purchased from the lowest and best responsible bidder after due notice inviting bids. In addition, the City Administrator is authorized to execute all contracts and agreements necessary for purchases under his purchasing authority. All sales of personal property (except trade-in personal property) which has become obsolete and unusable, or the sale of which is otherwise determined to be in the best interest of the city when the estimated value shall exceed three thousand dollars (\$3,000.00), shall be made to the highest responsible bidder after due notice inviting bids has been given as required by this article, unless the City Commission determines that donating the property to other governmental or charitable organizations serves a public purpose. Professional services shall be procured in compliance with applicable state laws. All purchases and sales in excess of the above dollar limits must be approved by the City Commission.

### **32.02.00 Bidding procedure**

For all purchases and sales requiring invitation for bids, the following procedure shall be followed:

1. Notice inviting bids.

a. Manner of giving.

Notice inviting bids shall be published once in at least one newspaper published in Volusia County and having general distribution in the city at least five (5) working days preceding the last day set for the receipt of bids.

b. Scope.

The newspaper notice required herein shall include a general description of the articles to be purchased or sold or the contractual services desired, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

c. Private solicitation of bids.

The department head soliciting bids shall also solicit sealed bids from all responsible prospective suppliers who are known to such department head or are determined by reasonable inquiry to customarily deal in the articles to be purchased or sold, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale.

2. Bid deposits.

When deemed necessary by the department head or the city commission, bid deposits shall be prescribed in the notices inviting bids. Unsuccessful bidders shall be entitled to the return of their deposit where such has been required. A successful bidder shall forfeit any deposit made upon his failure to enter into a contract or purchase order agreement within ten (10) days after the award.

3. Sealed bids.

Bids shall be required to be submitted to the City Clerk in a sealed envelope, the outside of which shall be clearly labeled to show that it contains a bid.

4. Opening.

Bids shall be opened in public at the time and place stated in the notices.

5. Tabulation.

A tabulation of all bids received shall be made and shall be available for public inspection.

**32.03.00 Rejecting of bids and rebidding.**

The City Commission shall have the authority to reject any and all bids. If the lowest and best bid exceeds the budgeted amount and the City Commission does not make additional funds available, the department head shall have authority to re-advertise the article or articles for bidding after making sufficient changes in the plans or specifications to bring the cost within the limit of the money available.

**32.04.00 Waiver of irregularities.**

The City Commission shall have the authority to waive any and all irregularities in any and all formal bids.

**32.05.00 Determination of lowest and best bidder.**

1. The City Administrator shall have the authority to award a contract to the lowest bidder for the purchase of equipment, materials and supplies as long as the purchase was previously approved by the City Commission and the purchase price is within the amount budgeted. Only the City Commission shall have the authority to waive any irregularities in a bid or to reject any bid. All other purchases which exceed the City Administrator's purchasing authority shall be approved by the City Commission.
2. In the event the City Administrator determines that it is not in the city's best interest to award the contract to the lowest bidder, the City Commission shall determine who is the lowest and best responsible bidder. In determining the lowest and best responsible bidder, in addition to price, there will be considered the following:
  - a. The ability, capacity and skill of the bidder to perform the contract.
  - b. Whether the bidder can perform the contract within the time specified, without delay or interference.
  - c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
  - d. The quality of performance of previous contract.

- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract.
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- g. The quality, availability and adaptability of the supplies, or contractual services to the particular use required.
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
- i. The number and scope of conditions attached to the bid.
- j. Such other factors as appear to the City Commission to be pertinent to the bid or the contract under all of the circumstances involved.

**32.06.00 Award to other than low bidder; tie bids.**

When the award is not given to the lowest bidder, a statement of the reasons for placing the order elsewhere shall be prepared by the department head and signed and filed with the other papers relating to the transaction. Award of all tie bids shall be made upon the consideration of the factors set forth in 32.05 above.

**32.07.00 Purchases by negotiation where bidding not appropriate.**

Where there is a sole source, where standardization is determined to be in the best interests of the city, or where solicitation of bids is otherwise deemed to be inappropriate, the purchase of materials, supplies and equipment and contractual services may be made by negotiation without regard to the estimated cost, but any contract with a cost in excess of \$10,000.00 must be approved by the City Commission prior to execution by the City.

Goods and services may be procured without competitive selection pursuant to a piggyback contract subject to the following conditions:

1. Where the contract being piggybacked is another local government entity's contract, the contract being piggybacked must have been the result of a competitive solicitation.
2. All terms and conditions of the city's contract, including unit prices and rates, must be equal to or better than the terms and conditions of the contract being piggybacked.
3. City direct purchase of materials for use in a contracted public works project. Procurement of supplies or materials may be made without competitive selection where the supplies or materials are procured by the city as an owner direct purchase for incorporation into a public work as defined by applicable state law, and the contract for the project was previously awarded by the city and included the cost of the supplies or materials. In such event, the city will procure the supplies or materials in accordance with Florida Statutes and regulations related to owner direct purchases by governmental entities.

**32.08.00 Cooperative purchasing.**

The City Commission may elect to join with other governmental units in cooperative purchasing ventures when the best interests of the city would be served thereby, provided the same is in accordance with all applicable laws.

**32.09.00 Performance and payment bonds.**

A contractor or vendor shall provide a corporate surety bond from a surety company authorized to do business in Florida to guarantee the full and faithful performance of his contract obligations and the payment of labor and material expended pursuant to the contract whenever and in such amounts as are deemed necessary by the department head or the City Commission. All such bonds shall be approved as to form by the City Attorney.

**32.10.00 Open market procedures.**

1. All purchasing of supplies and contractual services of a total cost up to \$25,000.00, may be made in the open market without newspaper advertisement and without observing the procedure prescribed by this article for formal purchasing or sales procedures.
2. All open market purchases or sales shall, whenever possible, comply with the following requirements:
  - a. Up to \$500.00 can be purchased on a blanket order or field purchase order.
  - b. From \$501.00 up to \$1,500.00 shall obtain one verbal quote.
  - c. From \$1,501.00 up to \$5,000.00 shall obtain three verbal quotes.
  - d. From \$5,001.00 up to \$25,000.00 shall obtain three written quotes.

**32.11.00 Splitting of purchases and sales.**

In no event shall purchases and sales which would normally be made in one (1) group or unit be split into separate purchases or sales for the purpose of reducing the total estimated value of individual purchases and sales and avoiding any of the requirements of this article.

**32.12.00 Emergency purchases.**

In case of an apparent emergency which requires immediate purchase of supplies, equipment or contractual services, the City Administrator or designee(s) is authorized to secure by open market procedure as herein set forth, at the lowest obtainable price, any such supplies, equipment or contractual services. The City Administrator or designee(s) is hereby given the authority to act in the case of any emergency that might affect the public health, safety and welfare. If emergency expenditure deviated from the rules established herein, exceeded the budgeted amount or was not budgeted, such action shall be reported in writing to the City Commission within twenty-four (24) hours and such report shall be presented to the City Commission at its next regular meeting for appropriate action.

**32.13.00 Alterations or modifications of contracts.**

The City Administrator shall have the authority to approve contract modifications, change orders, and contract price adjustments that do not individually or cumulatively exceed ten thousand dollars

(\$10,000), unless the revised contract amount exceeds the City Administrator's purchasing authority if the City Commission has not previously approved the contract. All other modifications, change orders or price adjustments to a contract shall require City Commission approval.

**32.14.00 Additional regulations and procedures.**

The City Administrator is hereby authorized to prepare any written regulations and procedures not inconsistent with the provisions of this article which he may deem to be necessary for the implementation of this article. Such regulations and procedures shall become effective if and when approved by the City Commission.

**ARTICLE 33: TRAFFIC AND MOTOR VEHICLES**

**33.01.00 GENERAL**

**33.01.01 Traffic Control Devices**

- A. The city may place and maintain such traffic control devices, including stop signs, upon all city streets within the corporate limits of the city as shall be deemed necessary to regulate, warn, or guide traffic.
- B. The driver of a vehicle shall stop as required by any traffic control device, including a stop sign, at any place within the city wherein a traffic control device has been placed under and by virtue of the authority of the city.

(Ord. No. 103. § 1, 2, 2-16-54)

**State law references**--Obedience to and required traffic control devices, F.S. 316.074; uniform signals and devices, F.S. § 316.0745 et seq.

**33.01.02 When Permits Required for Parades, Processions and Sound Trucks**

- A. No procession, or parade, excepting the forces of the United States armed services, the military forces of this state and the forces of the police and fire departments, shall occupy, march or proceed along any street or roadway except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth herein which may apply.
- B. No sound truck or other vehicle equipped with amplifier or loudspeaker shall be driven upon any street for the purpose of selling, offering for sale, or advertising in any fashion except in accordance with a permit issued by the Chief of Police.
- C. No oversized or overweight vehicle or equipment may be driven, occupy or proceed upon any street or roadway, except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth herein which may apply.

(Ord. No. 65-2, § 72. 3-18-65)

**33.01.03 Open Container of Alcoholic Beverage and/or Alcohol Consumption Prohibited in or on Motor Vehicle**

- A. *Policy and intent.* The City of Lake Helen, Florida, finds that the consumption of alcoholic beverages, while driving or riding in or on a motor vehicle poses an imminent hazard to the health, safety and welfare of its citizens. Therefore, it is declared that the consumption of alcoholic beverages and/or the possession of any open container of alcoholic beverages while driving or riding in a motor vehicle is prohibited when in the City of Lake Helen,



Florida.

- B. *Jurisdiction.* This section shall be applicable in the incorporated areas of the City of Lake Helen, Florida.
- C. *Definitions.* The following words and phrases, when used in this section, shall have the following meanings:
  - 1. *Motor vehicle:* Any vehicle propelled by other than muscular power.
  - 2. *Alcoholic beverage:* Any beverage which contains more than one (1) percent of alcohol by weight.
  - 3. *Highway:* Any public street, avenue, boulevard, roadway, alley, sidewalk and other right-of-way located within the incorporated areas of Lake Helen, Florida.
  - 4. *Open container:* Any bottle, can or other receptacle containing any alcoholic beverage, which has been opened or a seal broken or the contents of which have been partially removed.
- D. *Inapplicability.* This section shall not apply to:
  - 1. Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign.
  - 2. The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages, provided that such alcoholic beverage is being transported solely for commercial purposes.
  - 3. The transportation of any open container of alcoholic beverage in or on any motor vehicle: provided that such container is in a compartment of the vehicle, but not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk or other non-passenger- or nondriver-area of the motor vehicle.
  - 4. The transportation of any open container or consumption of alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly schedule buses, taxi cabs and the separate passenger compartments of limousines; provided the operator thereof is not in immediate possession of or engaged in the consumption of any alcoholic beverage or open container of an alcoholic beverage.
  - 5. The operation for a consideration of any motor vehicle by an individual duly licensed and supplied by a chauffeur service, limousine service, taxicab company or bus company; provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of an alcoholic beverage and is operating the vehicle while under, and in the scope of, the employment of a chauffeur service, limousine service, taxicab company or bus company. The operator must have in his possession evidence of employment by a bona fide chauffeur service, limousine service, taxicab company or bus company.
- E. *Penalty.* Any person found guilty of violating the provisions of this section shall be punished in accordance with Section 125.69, Florida Statutes, with a fine not to exceed five hundred

dollars (\$500.00), or as Section 125.69 may be amended.<sup>3</sup>

(Ord. No. 87-2, §§ I--V, 2-19-87; Ord. No. 2004-12; § 2, 8-4-2004)

**33.02.00 STOPPING, STANDING AND PARKING<sup>4</sup>**

**33.02.01 Unlawful parking**

It is unlawful to park any vehicle on any street of the city with its left side to the curb.

(Ord. No. 81-6, § II(I), 9-3-81)

**33.02.02 Authority to Prohibit Parking Adjacent to Schools**

The Chief of Police is hereby authorized to prohibit parking upon either or both sides of any street adjacent to any school property, and to erect signs giving notice thereof, when such parking, in his opinion would interfere with traffic or create a hazardous situation.

(Ord. No. 65-2, § 10, 3-18-65)

**33.02.03 Parking Adjacent to Schools**

When signs are erected giving notice thereof, no person shall park upon either or both sides of any street adjacent to any school.

(Ord. No. 65-2, § 58, 3-18-65)

**33.02.04 Authority to Restrict Stopping, Standing, or Parking near Hazardous or Congested Places**

The Chief of Police is hereby authorized to designate by proper signs, places not exceeding one hundred (100) feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(Ord. No. 65-2, § 11, 3-18-65)

**33.02.05 Obedience to Angle-Parking Signs or Markings**

Upon those streets which have been signed or marked by the Chief of Police for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Ord. No. 65-2, § 51, 3-18-65)

**33.02.06 Parking for Certain Purposes Prohibited**

- A. No person shall park a vehicle upon any street for the principal purpose of:
1. Displaying such vehicle for sale;
  2. Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;
  3. Displaying advertising;
  4. Selling merchandise from such vehicle except in a duly established market places, or when so authorized or licensed under this Code:

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<sup>3</sup> **Cross-reference** – Article 1 General Provisions, Section 1.11.02 General Penalty

<sup>4</sup> **State law references**-Stopping, standing, or parking prohibited in specified places. F.S. § 316.1945; additional parking regulations, F.S. § 316.195; parking, F.S. §§ 316.1955--316.1967.

5. Storage, or as junkage or dead storage for more than twenty-four (24) hours.  
(Ord. No. 65-2, § 57, 3-18-65)

**33.02.07 Stopping, Standing, or Parking near Hazardous or Congested Places**

When official signs are erected at hazardous or congested places, no person shall stop, stand or park a vehicle in any such designated place.

(Ord. No. 65-2, § 16, 3-18-65)

**33.02.08 Authority to Prohibit or Restrict Stopping, Standing or Parking of Vehicle**

The Chief of Police is hereby authorized to prohibit or restrict the stopping, standing or parking of vehicles on any street of this municipality, and to erect signs giving notice thereof, in his opinion, such stopping, standing or parking of vehicles interferes with the movement of traffic thereon. The signs shall be official signs, and no person shall stop, stand or park any vehicle in violation of the signs.

(Ord. No. 65-2, § 9, 3-18-65)

**33.02.09 Emergency regulation**

The Chief of Police shall have authority to regulate the parking of vehicles as circumstances and emergencies require, including the authority to reduce the parking time in restricted areas.

(Ord. No. 81-6, § III, 9-3-81)

**33.02.10 Citations**

- A. A law enforcement officer for the city who discovers a vehicle parked in violation of this article may:
  1. Issue a ticket on the form used by the city to the driver: or<sup>5</sup>
  2. If the vehicle is unattended, attach such ticket to the vehicle in a conspicuous place.

(Ord. No. 81-6, § IV, 9-3-81)

**33.02.11 Presumption**

In any proceedings for violations of this article the license plate displaced on the vehicle shall raise a presumption that the registered owner of the vehicle was the person who parked the vehicle at the point where the violation occurred. Such presumption may be rebutted by competent evidence.

(Ord. No. 81-6, § V, 9-3-81)

**33.02.12 Noncriminal Violation**

Any person issued a municipal parking ticket shall be deemed to be charged with a noncriminal violation and shall comply with the directions on the ticket. If payment is not received, or a response not made within the specified time period, the violation may be referred to the traffic violations bureau of the county court for prosecution.

(Ord. No. 81-6, § V, 9-3-81)

**33.02.13 Penalty**

Any person who violates the provisions of this article shall be fined the sum of two dollars (\$2.00)

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<sup>5</sup> **Cross-reference** - Article 1 General Provisions, Section 1.11.02 General Penalty

and if the fine is not paid within seventy-two (72) hours of issuance, the fine shall increase to five dollars (\$5.00). If not paid within ten (10) days the violation shall be referred to county court for prosecution. Payment shall be made to the city at City Hall, Lake Helen, Florida.

(Ord. No. 81-6, § V, 9-3-81)

### **33.03.00 IMPOUNDING OF VEHICLES<sup>6</sup>**

#### **33.03.01 Authority to Impound Vehicles**

The Chief of Police or police officer is hereby authorized to remove a vehicle from a street to the nearest garage or other place of safety, or to a garage designated by the police department, or by this city, under the circumstances hereinafter enumerated:

- A. When any vehicle is left unattended upon any bridge, causeway, or viaduct, where such vehicle constitutes an obstruction to traffic;
- B. When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody and removal;
- C. When a vehicle is found being operated upon the streets and is not in proper condition;
- D. When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic;
- E. When any vehicle is left unattended upon a street continuously for more than twenty-four (24) hours and may be presumed to be abandoned;
- F. When the driver of such vehicle is taken into custody by the police department and such vehicle would thereby be left unattended upon a street;
- G. When removal is necessary in the interest of public safety because of fire, flood, storm or other emergency reason.

(Ord. No. 65-2, § 22, 3-18-65)

**Cross reference**-dunked, abandoned property prohibited on property within the city, § 23.01.00, 23.02.00.

#### **33.03.02 Fees**

No vehicle impounded in an authorized garage as herein provided shall be released therefrom until the charges for towing such vehicle into the garage, and storage charges have been paid. The charge for towing or removal of any such vehicle and storage charges shall be fixed by the Chief of Police, such charges to be based upon a computation of all actual expenses entering into the current cost of such services. Such charge or charges shall be posted for public inspection in the office of the clerk, and in any authorized garage.

(Ord. No. 65-2, § 22(9), 3-18-65)

#### **33.03.03 Notice of Impounding**

- A. Whenever an officer removes a vehicle from a street as authorized in this article, and the

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<sup>6</sup> State law references - Reporting of unclaimed motor vehicle, F.S. § 715.05; abandoned property supplemental procedure for removal and destruction, F.S. § 705.16 et. seq.

officer knows or is able to ascertain the name and address of the owner thereof, the officer shall immediately give or cause to be given notice in writing to the owner of the fact of such removal, and the reasons therefore, and of the place to which the vehicle has been removed. If any vehicle is stored in an authorized garage, a copy of the notice shall be given to the proprietor of the garage.

- B. Whenever an officer removes a vehicle from a street under this article, and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, then the officer shall within twenty-four (24) hours send or cause to be sent a report of the removal by electronic communication giving a full description of the vehicle to the Department of Highway Safety and Motor Vehicles, and shall file notice with the proprietor of any authorized garage in which the vehicle may be stored. The notice shall include a complete description of the vehicle, the date, time, and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

(Ord. No. 65-2, § 23, 3-18-65)

**State law reference**--Reporting of unclaimed motor vehicle, F.S. § 715.05.

### **33.04.00 BICYCLES<sup>7</sup>**

#### **33.04.01 Speed**

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Ord. No. 65-2, § 86.3-18-65)

#### **33.04.02 Parking**

No person shall stand or park a bicycle upon a street other than upon the roadway against the curb, or upon the sidewalk, in a rack to support the bicycle, or against a building, or at the curb, in such a manner as to, afford the least obstruction to pedestrian traffic.

(Ord. No. 65-2, § 87, 3-18-65)

#### **33.04.03 Riding on Sidewalks**

- A. No person shall ride a bicycle upon a sidewalk within a business district.
- B. When signs are erected on any sidewalk or street which prohibit the riding of bicycles thereon by any person, no person shall disobey such signs.
- C. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(Ord. No. 65-2, § 88, 3-18-65)

#### **33.04.04 Audible Signal Device and Brakes**

- A. No person shall operate a bicycle unless it is equipped with a bell or device capable of giving signal audible for a distance of at least one hundred (100) feet, but no bicycle shall be equipped with, nor shall any person use upon a bicycle, any siren or whistle.
- B. Every bicycle shall be equipped with a brake which will enable the operator to make a

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<sup>7</sup> **State law reference**-Bicycle regulations, F.S. §§ 316.2065, 316.207 and 316.2075.

braked wheel skid on dry, level, clean pavement.

(Ord. No. 65-2, § 89(2), (3), 3-18-65)

**33.04.05 Penalties**

- A. Every person not a juvenile, as defined by the laws of this state, found guilty of a violation of any provisions found in section 33.04.04 shall be punished by a fine of not more than twenty-five dollars (\$25.00) or by impounding of such person's bicycle for a period not to exceed ninety (90) days.
- B. Upon the recommendation of a judge or a juvenile court or a competent court having jurisdiction over the person of a minor, the Chief of Police may impound such minor's bicycle for such period as the court may determine.

(Ord. No. 65-2, § 90, 3-18-65)