

LAKE WALES

OFFICIAL CODE OF ORDINANCES

CHAPTER 1. GENERAL PROVISIONS

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Table of Contents

Article I. In General

- § 1-1. How Code designated and cited.
- § 1-2. Definitions and rules of construction.
- § 1-3. Catchlines of sections.
- § 1-4. History notes.
- § 1-5. References to chapters or sections.
- § 1-6. References and editor's notes.
- § 1-7. Effect of repeal of ordinances.
- § 1-8. Certain ordinances not affected by Code.
- § 1-9. Code does not affect prior offenses, rights, etc.
- § 1-10. Additions and amendments deemed incorporated in Code.
- § 1-11. Amendments to Code; effect of new ordinances; amendatory language.
- § 1-12. Supplementation of Code.
- § 1-13. Severability of parts of Code.
- § 1-14. Altering Code.
- § 1-15. General penalty; continuing violations.
- § 1-16. Assessment of additional court costs; use for law enforcement education.
- § 1-17. Prohibition of contracts providing indemnification.

Article II. Conflict Of Interest And Code Of Ethics

- § 1-21. Applicability.
 - § 1-22. Definitions.
 - § 1-23. Prohibitions.
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LAKE WALES

CHAPTER 1. GENERAL PROVISIONS

Article I. In General

§ 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances of the City of Lake Wales, Florida," and may be so cited.

(Code 1962, § 1-1)

§ 1-2. Definitions and rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless the context clearly indicates otherwise:

Charter. The word "Charter" shall mean the Charter of the City of Lake Wales as printed in Part I of this volume.

City. The word "city" shall be construed as if the words "of Lake Wales" followed it.

City commission. Whenever the words "commission" or "city commission" are used, they shall be construed to mean the City Commission of the City of Lake Wales.

Code. The word "Code" shall mean the Code of Ordinances of the City of Lake Wales, Florida, as designated in section 1-1.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the next day which is not a Saturday, Sunday or legal holiday.

County. The word "county" shall mean the County of Polk.

F.S. The abbreviation "F.S." shall mean the latest edition or supplement of the Florida Statutes.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(Code 1962, § 1-2)

STATE LAW REFERENCE

Similar provisions, F.S. § 1.01(2).

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provisions imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to the majority of such persons or officers.

Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

Officers, departments, boards, commissions, etc. Whenever the title of an officer, department, board, commission or other agency is given, it shall be construed as though the words "of the City of Lake Wales, Florida," were added.

Or, and. "Or" may be read "and," and "and" may be read "or" if the sense requires it.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Similar provisions, F.S. § 1.01(5).

owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. The words "personal property" include every species of property except real property as herein defined.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Public place. The term "public place" shall mean any park, cemetery, school yard or open space adjacent thereto, all beaches, canals or other waterways and any city-owned property.

Real property shall include lands, tenements and hereditaments.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curblin and the adjacent property line intended for the use of pedestrians, excluding parkways.

Signature or subscription includes a mark when the person cannot write.

State. The word "state" shall be construed to mean the State of Florida.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city.

Tenant. The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of, or who occupies, the whole or a part of such buildings or land, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Week. The word "week" shall be construed to mean seven (7) days.

Written or in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

State law definitions, F.S. § 1.01.

§ 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor unless expressly so provided, shall they be deemed as part of a section when any of such section, including the catchline, is amended or reenacted.

(Code 1962, § 1-3)

§ 1-4. History notes.

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the section.

§ 1-5. References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

§ 1-6. References and editor's notes.

The references and editor's notes appearing throughout the Code are not intended to have any legal effect but are merely intended to assist the user of the Code.

§ 1-7. Effect of repeal of ordinances.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

(Code 1962, § 1-4)

§ 1-8. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;
- (2) Any ordinance promising or guaranteeing the payment of money by the city, or authorizing the issuance of any bonds of the city, or any evidence of the city's indebtedness, or any contract, agreement, lease, deed or other instrument or obligation assumed by the city or creating interest and sinking funds;
- (3) Any franchise, permit or other right granted by any ordinance;
- (4) Any ordinance establishing salaries of city officers and employees;
- (5) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, or vacating any street, alley or other public way in the city;
- (6) Any appropriation ordinance or any ordinance levying or imposing taxes;
- (7) Any ordinance providing for local improvements and assessing taxes therefor;
- (8) Any ordinance of the city granting a railroad company the right to construct spur railroad tracks in the city;
- (9) Any ordinance authorizing any encroachment on any city or public property;
- (10) Any ordinance or code or parts thereof adopted by reference by any section of such code and not included herein;
- (11) Any ordinance dedicating or accepting any plat or subdivision in the city;
- (12) Any ordinance or resolution establishing or amending personnel rules or regulations;
- (13) Any ordinance establishing street grades;
- (14) Any ordinance prescribing subdivision regulations;
- (15) Any ordinance or resolution prescribing taxicab passenger rates;
- (16) Ordinances prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no parking areas, truck routes, stop intersections, intersections where traffic is to be controlled by signals, etc.;
- (17) Any ordinance establishing or amending zoning or land use regulations or the zoning map or the official plat of the city or rezoning property;
- (18) Any ordinance calling municipal elections or prescribing the manner of conducting the election in accordance with state law;
- (19) Any ordinance prescribing any fee or payment of money to the city;
- (20) Any ordinance prescribing the number, classification, benefits or compensation of any city officers or employees, not inconsistent herewith;
- (21) Any ordinance which is temporary although general in effect;
- (22) Any ordinance which is special although permanent in effect;

(23) Any ordinance containing any administrative provisions;

(24) The special act converted to an ordinance by the Charter § 9.02 which was adopted by reference by Ordinance Number 57-13, enacted January 21, 1958, regarding the library, Laws of Fla. Ch. 57-1488;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

(Ord. No. 62-1, § 3, 2-20-62)

§ 1-9. Code does not affect prior offenses, rights, etc.

(a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

(b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

§ 1-10. Additions and amendments deemed incorporated in Code.

Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city to make the same a part hereof, shall be deemed to be incorporated herein, so that reference to the Code shall be understood and intended to include such additions and amendments.

§ 1-11. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code of Ordinances which amend, repeal or in any way affect this Code of Ordinances may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, section or subsection or any portion thereof, such repealed portions may be excluded from said Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code of Ordinances and subsequent ordinances numbered or omitted are re-adopted as a new Code of Ordinances by the city commission.

(b) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances of the City of Lake Wales, Florida, is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.

(c) In the event a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances of the City of Lake Wales, Florida, is hereby amended by adding a section to be numbered _____, which said section reads as follows:...." The new section shall then be set out in full as desired.

(d) All sections, articles, chapters or provisions desired to be repealed must be specifically repealed by section, article or chapter number, as the case may be.

(Code 1962, § 1-6)

§ 1-12. Supplementation of Code.

(a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city commission. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

§ 1-13. Severability of parts of Code.

It is hereby declared to be the intention of the city commission that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

(Code 1962, § 1-5)

§ 1-14. Altering Code.

It shall be unlawful for any person, firm or corporation in the city to change or amend by additions or deletions any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Lake Wales to be misrepresented thereby.

(Code 1962, § 1-7)

§ 1-15. General penalty; continuing violations.

Whenever in this Code or in any ordinance of the city any act is prohibited, made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, or where the doing or not doing of any act is defined as a misdemeanor, where no specific penalty is provided therefor, the violation of any such provision of the Code or any ordinance shall be punished by a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term not exceeding sixty (60) days or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any ordinance shall continue shall constitute a separate offense.

(Code 1962, § 1-8)

CROSS REFERENCE

Parking fines for violation of handicapped parking regulations, § 20-4; parking fines for violation of certain parking regulations, § 20-5; parking fines for violation of parkway parking prohibitions, § 20-7.

§ 1-16. Assessment of additional court costs; use for law enforcement education.

(a) The provisions of this section shall apply to all violations of state law, county ordinance, and municipal ordinance occurring within the city limits, except parking violations.

(b) In addition to any fine or other penalty, there shall be assessed two dollars (\$2.00) in court costs against every person convicted of a violation of state law, county ordinance or municipal ordinance as provided in paragraph (a) above. Any person whose adjudication of guilt is withheld pursuant to the provisions of F.S. § 318.14(9) or § 318.14(10) shall also be assessed such costs. In addition, two dollars (\$2.00) of every bond estreature or forfeited bail bond shall be assessed as court costs.

(c) Pursuant to F.S. § 938.15, the court costs imposed hereby shall be utilized solely for police education and training.

(Ord. No. 98-08, § 1, 5-5-98)

§ 1-17. Prohibition of contracts providing indemnification.

(a) No contract entered into by or on behalf of the city shall contain any provision by which the city agrees to indemnify, any other party to the contract.

(b) In the event that the city is unable to negotiate the removal of an indemnification provision from a proposed contract and the city finds it must or may only receive the product or service contracted for from the vendor which refuses or is otherwise unable to remove the proposed indemnification provision, the city commission may make a finding that this prohibition may be waived if it is deemed to be in the best interest of the public to acquire the product or service from the vendor from which the product or service is required.

(Ord. No. 2008-12, 7-1-08)

Article II. Conflict Of Interest And Code Of Ethics

§ 1-21. Applicability.

This article shall be applicable to the elected officials of the city and shall constitute a minimum standard of ethical conduct and behavior. This article shall apply to appointed municipal officials and officers of the city, as well as to employees of the city, as indicated by the text.

(Ord. No. 2011-06, § 1, 3-15-11)

§ 1-22. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) The term "city commissioner" shall refer to the mayor and the members of the city commission as duly constituted from time to time.

(b) The term "appointed officials and officers" shall include the city manager, city attorney, city clerk, and all other members of boards, commissions, or other advisory bodies appointed by the city commission from time to time.

(c) The term "employees" shall refer to all personnel employed by the city, other than those set forth in the preceding subparagraph.

(d) The term "compensation" shall refer to any money, gift, favor, thing of value or financial benefit conferred in return for services rendered or to be rendered.

(e) The term "controlling financial interest" shall refer to ownership, directly or indirectly of ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest in ten (10) percent or more of a firm, partnership, or other business entity.

(f) The term "gift" shall refer to the transfer of anything of economic value whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise or in any other form, without adequate and lawful consideration.

(g) The term "immediate family" shall refer to the spouse, parents, stepparents, children, and stepchildren of the person involved.

(Ord. No. 2011-06, § 1, 3-15-11)

§ 1-23. Prohibitions.

(a) *Voting conflicts.* No elected official shall vote or participate in any way in a transaction or matter presented to the city commission which would or might directly benefit the entity seeking assistance, financial or otherwise, from the city, if said elected official will have any decision making authority or participate in the decision making process as to how such benefit will or may be utilized by the entity which may request any such benefit from the city.

Any elected official to which the foregoing prohibition applies or may apply shall absent himself or herself from the commission meeting during the discussion of the subject item and shall not vote on or participate in any way concerning said matter.

(b) *Gifts.* No city commissioner, appointed official or officer, or employee shall either solicit or demand any gift. It is also unlawful for any person or entity to offer, give or agree to give a city commissioner, appointed official or officer, or employee any gift for or because of:

- (1) An official public action taken or to be taken, or which could be taken;
- (2) A legal duty performed or to be performed, or which could be performed; or
- (3) A legal duty violated or to be violated or which could be violated.

A city commissioner, appointed official or officer, or employee shall be allowed to accept a gift of a value not exceeding fifty dollars (\$50.00) from a person or entity transacting business with the city.

In the event a gift exceeds a value of fifty dollars (\$50.00), the recipient shall, within thirty (30) days of receipt of such gift, report the gift to the city clerk who shall be responsible for maintaining a record of such gift(s) received by a city commissioner, appointed official or officer, or employee.

Exceptions to the above rule include: political contributions specifically authorized by state law; gifts from relatives or members of one's household; awards for professional or civic achievement; materials such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature; gifts solicited by a city commissioner, appointed official or officer, or employee on behalf of the city in performance of his or her official duties for use solely by the city in conducting its official business; gifts solicited by a city commissioner on behalf of any nonprofit organization where neither the commissioner nor the commissioner's immediate family receives any compensation as a result of the solicitation.

(c) *Misuse of position.* No city commissioner, appointed official or officer, or employee shall use or attempt to use his or her official position to secure privileges, exemptions, or other benefits for himself, herself or others except as may be specifically permitted by other ordinances and resolutions previously adopted or to hereafter be adopted by the city commission.

(d) *Disclosure of information.* No city commissioner, appointed official or officer, or employee shall accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the city, nor shall he or she use such information, directly or indirectly, for his or her personal gain.

(e) *Doing business with one's agency.* No city commissioner shall enter into any contract or transact any business in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with the city and any such contract, agreement or business engagement entered into in violation of this section shall render the transaction voidable.

No city commissioner shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or she or any member of his or her immediate family has a controlling financial interest, direct or indirect, with the city and any such contract, agreement or business engagement entered into in violation of this section shall render the transaction voidable.

The requirement of this section may be waived for a particular transaction only by an affirmative vote of a super majority of the entire city commission, after public hearing. Such waiver may be effected only after findings by a super majority of the entire city commission that:

- (1) An open-to-all sealed competitive bid has been submitted; or
- (2) The bid has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying pursuant to the Consultants' Competitive Negotiation Act; or
- (3) The property or services to be involved in the proposed transaction are unique and the city cannot avail itself of such property or services without entering a transaction which would violate this section but for waiver of these requirements; or
- (4) The property or services to be involved in the proposed transaction are being offered to the city at a cost of no more than eighty (80) percent of the fair market value based on a certified appraisal paid for by the provider; and
- (5) The proposed transaction will be in the best interest of the city.

The requirements of this section shall continue to apply to a person who has served as a city commissioner for a period of eighteen (18) months following the date on which service as a city commissioner ceases.

(f) *Conflicting employment.* No city commissioner shall accept employment which would impair his or her independence of judgment in the performance of his or her public duties.

(g) *Acceptance of travel expenses.* No city commissioner shall accept, directly or indirectly, any travel expenses from any city contractor, vendor, service provider, bidder or proposer. The city commission may waive the requirements of this section by a super majority vote.

(Ord. No. 2011-06, § 1, 3-15-11; Ord. No. 2014-02, § 1, 3-4-14)
