



## TOWN OF LAKE HAMILTON

### TOWN COUNCIL SPECIAL MEETING AGENDA

May 28, 2019  
4:30 PM

**The Town Council of the Town of Lake Hamilton will hold a Special Council Meeting on Tuesday, May 23, 2019 at 4:30 PM at the Lake Hamilton Woman's Club, 85 N Omaha Street, Lake Hamilton, FL 33851.**

**I. Call to Order**

**II. Invocation**

**III. Pledge**

**IV. Roll Call**

**VI. SPECIAL MEETING NEW BUSINESS-**

- a. Review and consider approval of Interlocal Agreement with the Town of Dundee for Code Official services *pages 1-11*

**VII. Adjournment**

IF A PERSON DESIRES TO APPEAL ANY DECISION MADE BY THE TOWN COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, AFFECTED PERSONS MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE WHICH THE APPEALS IS TO BE BASED. (F.S. 286.26.105)

**INTERLOCAL AGREEMENT FOR CODE ENFORCEMENT CODE OFFICIAL SERVICES BETWEEN THE TOWN OF DUNDEE AND THE TOWN OF LAKE HAMILTON**

This **INTERLOCAL AGREEMENT FOR CODE ENFORCEMENT CODE OFFICIAL SERVICES** (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_, 2019 (hereafter the “Effective Date”), by and between the **TOWN OF DUNDEE**, a Florida municipal corporation (“Dundee”) and the **TOWN OF LAKE HAMILTON**, a Florida municipal corporation (“Lake Hamilton”).

**WITNESSETH:**

**WHEREAS**, pursuant to Chapter 162 of the Florida Statutes, local governments are authorized to enforce their local codes and appoint a Code Enforcement Special Magistrate; and

**WHEREAS**, pursuant to the Florida Attorney General, in Attorney General’s Opinion (“AGO”) 2000-34, public agencies of the State of Florida, which includes municipalities, are authorized to exercise jointly any power, privilege, or authority which such agencies share in common and which each might exercise separately and, in doing same, such a joint exercise of power must be undertaken by entering into and executing an interlocal agreement; and

**WHEREAS**, pursuant to AGO 2000-34, the execution and use of interlocal agreements as an alternative means of enforcing municipal codes has been approved; and

**WHEREAS**, Dundee and Lake Hamilton wish to enter into and execute an interlocal agreement in order to jointly use a Code Official to enforce, within the jurisdictions of the Town of Dundee and Town of Lake Hamilton, respectively, and as applicable, the applicable provisions of the *Florida Building Code(s)*, *Florida Statutes*, *Code of Ordinances of the Town of Dundee, Florida* (“Dundee Code”), and the *Code of Ordinances of the Town of Lake Hamilton, Florida* (“Lake Hamilton Code”), inclusive of all technical codes and land development

regulations incorporated into such codes by reference or adopted by the governing bodies of Dundee and Lake Hamilton; and

**WHEREAS**, Dundee and Lake Hamilton desire to enter into this Agreement concerning the provision of common code enforcement code official services to Dundee and Lake Hamilton; and

**WHEREAS**, public agencies are authorized by § 163.01(14), Florida Statutes (2018), to enter into contracts for the performance of service functions of public agencies but such Agreements shall not be deemed to authorize the delegation of the constitutional or statutory duties of county or city officers; and

**WHEREAS**, pursuant to § 768.28(18), Florida Statutes (2019), neither Dundee or Lake Hamilton waive any defense to sovereign immunity or agree in any way to increase the limits of municipal liability that are stated in § 768.28, Florida Statutes (2019) upon entering into this Agreement, regardless of whether any such obligations are based in tort, contract, statute, strict liability, negligence, product liability or otherwise.

**ACCORDINGLY**, in consideration of the mutual undertakings and agreements herein contained and assumed, and other good and valuable consideration the receipt and sufficiency of which are acknowledged by the parties, Dundee and Lake Hamilton hereby covenant and agree as follows:

**§ 1. Recitals.**

The above factual recitals are true and correct and form a material basis for the entry into this Agreement; and therefore, the above factual recitals are specifically incorporated into this Agreement.

**§ 2. Definitions.**

Words used in this Agreement and/or any and all attachment(s) and/or exhibit(s) incorporated herein and made a part hereof shall possess their everyday and ordinary meaning, provided however, that where one (1) of the following listed terms is used in this Agreement, such term(s) shall possess the corresponding meaning, as follows:

(a) “*Applicable Law*” means the Dundee Code and any other applicable law(s), rule(s), regulation(s), statute(s), ordinance(s) and any and all other authority, as more specifically set forth herein.

(b) “*Day(s)*” means calendar day unless specifically stated otherwise.

(c) “*Calendar Days*” means any and all days in a 365-day calendar year.

(d) “*Business Days*” means each calendar day which is not a Saturday, Sunday or holiday which is recognized by the Town.

(e) “*Term*” means the duration of this Agreement which shall commence on the Effective Date and shall expire and/or terminate in accordance with the provisions set forth in this Agreement.

**§ 3. Term of Agreement.**

This Agreement shall be effective for a period of one (1) year from the Effective Date. Unless otherwise terminated by Dundee or Lake Hamilton pursuant to §6 of this Agreement, this Agreement shall automatically renew on the anniversary of the Effective Date each year, in accordance with terms and conditions set forth herein, for additional one (1) year term(s).

**§ 4. Code Enforcement Services.**

Dundee and Lake Hamilton agree to utilize the service of a common Code Enforcement Code Official who may exercise all powers and authority granted to the Code Enforcement Code

Official for the term of this Agreement and any renewals hereunder, as follows:

(a) Lake Hamilton shall provide and/or assign one (1) Code Enforcement Code Official to Dundee for each Monday and Wednesday, which are not recognized holidays, of each calendar week during the term of this Agreement; and

(b) Lake Hamilton shall provide and/or assign one (1) Code Enforcement Code Official to Dundee for the first (1<sup>st</sup>) and third (3<sup>rd</sup>) Friday, which are not recognized holidays, of each calendar month during the term of this Agreement; and

(c) Lake Hamilton shall, upon written request by Dundee, provide and/or assign one (1) Code Enforcement Code Official to Dundee for one (1) weekend, which is not a recognized holiday, of each calendar month during the term of this Agreement; and

(d) Any permanent modification of Subsections 4(a) through 4(c) of this Agreement shall require a written amendment; however, Lake Hamilton and Dundee agree that the days of service set forth in Subsections 4(a) through 4(c) of this Agreement may be temporarily modified by Lake Hamilton and Dundee by without requiring a written amendment to this Agreement; and

(e) The Code Enforcement Code Official shall be responsible for enforcing and investigating violations of applicable law and Dundee Code which include, but shall not be limited to, the *Property Maintenance Code of the Town of Dundee* (adopting the International Property Maintenance Code, 2009 Edition, with certain local amendments); and

(f) Dundee shall provide all administrative support to the Code Enforcement Code Official when performing Code Enforcement Code Official services for Dundee; and

(g) Dundee shall be responsible for mailing and/or delivering all notification(s) which are required for the enforcement of the Dundee Code and applicable law; and

(h) The Code Enforcement Code Official shall perform any and all further acts and/or

assurances in assisting Dundee's administration and/or staff in preparing notice(s), delivering notice(s), preparing necessary documentation, preparing for and attending Dundee Code Enforcement Special Magistrate hearings, and other duties or functions necessary for the investigation and enforcement of the Dundee Code and applicable law; and

(i) Lake Hamilton shall provide, at its cost and expense, the necessary motor vehicle for the Code Enforcement Code Official; and

(j) All services and work performed by the Code Enforcement Code Official for Dundee shall be done at a time when the Code Enforcement Code Official is not performing code official services for Hamilton; and

(k) Dundee shall provide the Code Enforcement Code Official with a copy of and access to Dundee's current ordinances and regulations; and

(l) Dundee shall make an office space available for the Code Enforcement Code Official when performing Code Enforcement Code Official services for Dundee; and

(m) Lake Hamilton agrees that, upon written request by Dundee, to provide Dundee with additional Code Enforcement Code Official services as Dundee may require.

**§ 5. Compensation.**

(a) Dundee agrees to pay to Lake Hamilton the sum of Two Thousand Two Hundred Dollars and zero cents (\$2,200.00) each month for the Code Enforcement Code Official services performed for Dundee, upon the terms and conditions set forth herein.

(b) Lake Hamilton shall invoice Dundee on the 1st Wednesday of each month for the Code Enforcement Code Official services performed the prior month.

(c) Upon receipt of Lake Hamilton's monthly invoice, the payment from Dundee shall be due thirty (30) days from the date on which the invoice is received by Dundee.

(d) For any month in which Code Enforcement Code Official services are not provided as set forth in §§ 4(a) and 4(b) of this Agreement, then the amount(s) due Lake Hamilton from Dundee shall be prorated (based on a daily rate of \$220.00 for a 20-hour work week schedule) for each week which the Code Enforcement Code Official services are actually provided.

(e) Lake Hamilton and Dundee agree that the rates may be changed and/or modified by Lake Hamilton and Dundee by entering into a written amendment to this Agreement; and, any such written amendment(s) shall be approved by the governing bodies of Dundee and Lake Hamilton.

**§ 6. Termination.**

(a) Unless one of the parties notifies the others by certified mail at least two (2) months prior to the expiration of this Agreement, or any subsequent renewals, of its intention not to renew and continue this Agreement, this Agreement shall automatically be extended for a further period of one (1) year. In such event, all the terms and provisions of the Agreement shall continue in full force and effect during the extension period unless the parties mutually agree to written modifications.

(b) Any party to this Agreement may terminate, with or without cause, its participation in same by sending written notice thereof to the non-terminating party, at least sixty (60) days prior to the party's proposed date of termination.

**§ 7. Liability.**

The parties agree that by execution of this Agreement, neither Dundee or Lake Hamilton shall be deemed to have waived its sovereign immunity or its statutory defense of sovereign immunity, or deemed to have increased its limits of liability provided for in § 768.28, Florida

Statutes (2019), as the same may be amended from time to time by the Florida Legislature. Except as provided herein, nothing in this Agreement shall confer upon any person or entity any right to damages against any party to this Agreement. The Parties agree to hold the other harmless for any claims or actions arising out the acts, omissions, or conduct of its building official while serving within its respective jurisdiction.

**§ 8. Applicable Law and Venue.**

This Agreement shall be interpreted by Florida Law and venue of any litigation shall be exclusively in state court system in Polk County, Florida, consisting of the Circuit Court of the Tenth Judicial Circuit in and for Polk County, Florida and the County Court in and for Polk County, Florida.

**§ 9. Non-assignability.**

No party hereto shall assign any of the obligations or benefits imposed hereby or contained herein, unless it receives the written consent of the other parties, which consent must be evidenced by duly passed resolutions of the other parties' governing bodies.

**§ 10. Severability.**

Should any of the provisions of this Agreement be declared or be determined by any court to be illegal, void, invalid, or unenforceable by a court of competent jurisdiction, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. It is the intention of the parties that if any term or provision of this Agreement is capable of two constructions, one of which would render the term or provision void and the other of which would render the term or provision valid, then the term or provision shall have the meaning that renders it valid.

**§ 11. Third Parties.**

In no event shall any of the terms of this Agreement confer upon any third person, corporation, or entity other than the parties hereto any right or cause of action for damages claimed against any of the parties to this Agreement arising from the performance of the obligation and responsibilities of the parties herein or for any other reason.

**§ 12. Public Records.**

Except as otherwise provided by law, all of the records of the Code Enforcement Code Official shall be public records and available for public inspection or copying pursuant to Chapter 119, Florida Statutes (2019).

**§ 13. Notices.**

All notices under this Agreement shall be in writing and may be given by any of the following methods: (1) personal delivery, (2) certified mail, postage prepaid, or (3) overnight delivery service, prepaid, when sent to the following:

**DUNDEE:**

Deena Ware, Town Manager  
Town of Dundee  
Post Office Box 1000, Dundee, Florida 33838  
Physical Address: 202 East Main Street, Dundee, Florida 33838

**COPY TO:** (*which shall not constitute notice*)

Frederick J. Murphy, Jr., Town Attorney  
Boswell & Dunlap, LLP  
245 South Central Avenue, Post Office Drawer 30  
Bartow, Florida 33831

**LAKE HAMILTON:**

Sara Irvine, Town Administrator  
PO Box 126  
100 Smith Ave  
Lake Hamilton, FL 33851

For purposes of this Agreement, notice shall be deemed to have been received when either deposited in a United States Postal Service mailbox or personally delivered with signed proof of delivery, whichever is later in time.

**§ 14. Entire Agreement.**

The parties acknowledge, one to the other, that the terms hereof constitute the entire understanding and agreement of the parties with respect hereof. No modification hereof shall be effective unless in writing and executed with the same formalities as this Agreement is executed.

**§ 15. Authority.**

Both Lake Hamilton and Dundee represent to the one another that all the necessary actions to execute this Agreement have occurred and that both parties possess the legal authority to enter into this Agreement and undertake all the obligations imposed herein.

**§ 16. Duty to Cooperate and Act in Good Faith.**

Lake Hamilton and Dundee acknowledge and agree that it is in their best interests and the best interests of the public that this Agreement be performed in strict accordance with the terms, covenants and conditions contained herein; and both Lake Hamilton and Dundee shall, in all instances, cooperate and act in good faith in complying with all of the terms, covenants and conditions contained herein.

*[Rest of page intentionally left blank]*

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their duly authorized officers appearing below.

By the Town of Dundee, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2019:

**TOWN OF DUNDEE, FLORIDA**

\_\_\_\_\_  
Sam Pennant, Mayor

Attest:

\_\_\_\_\_  
Brian Leuth, Town Clerk

Approved as to form:

\_\_\_\_\_  
Frederick J. Murphy, Jr., Town Attorney

**STATE OF FLORIDA  
COUNTY OF POLK**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, and \_\_\_\_\_ on behalf of the Town of Dundee, a Florida municipal corporation. They are personally known to me or who have produced \_\_\_\_\_ as identification and who [ ] did [ ] did not take an oath.

My Commission Expires:

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Name Typed or Printed

By the Town of Lake Hamilton, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2019:

**TOWN OF LAKE HAMILTON, FLORIDA**

\_\_\_\_\_  
Michael Kehoe, Mayor

Attest:

\_\_\_\_\_  
Brittney Sandovalsoto, Town Clerk

Approved as to form:

\_\_\_\_\_  
Jeff Dawson, Town Attorney

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, and \_\_\_\_\_ on behalf of the Town of Lake Hamilton, a Florida municipal corporation. They are personally known to me or who have produced \_\_\_\_\_ as identification and who [ ] did [ ] did not take an oath.

My Commission Expires:

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Name Typed or Printed