

**TOWN OF OCEAN BREEZE  
REGULAR TOWN COUNCIL MEETING  
AGENDA**

December 12, 2022 10:30 am  
Ocean Breeze Resort Clubhouse Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

***PLEASE TURN OFF CELL PHONES –  
SPEAK DIRECTLY INTO MICROPHONE***

**1. Call to Order, President De Angeles**

- Pledge of Allegiance
- Roll Call

**2. Approval of Minutes –**

- Regular Meeting, Monday, November 14, 2022  
(Motion, second, all in favor)

**3. SECOND READING: ORDINANCE #330-2022 - AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA EXPRESSLY APPROVING THE APPLICATION AND ENFORCEMENT OF MARTIN COUNTY ORDINANCE NO. 1182 “RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS AND SEXUAL PREDATORS” WITHIN THE TOWN OF OCEAN BREEZE; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES.**

(Motion to approve on second reading, second, public comment, roll call)

**4. Discussion of Changing the Time for Town Council Meetings – Council Member, Kevin Docherty (item continued from November 14, 2022)**

**5. Request for a \$100.00 contribution from the History Museum of Jensen Beach – Ann Kagdis President of the History Museum of Jensen Beach**

**6. Request for a \$200.00 contribution from the Entrepreneurship Foundation – Ann Kagdis Board Member**

**7. Comments from the public on topics not on the Agenda**

**8. Comments from the Council on topics not on the Agenda**

**9. Comments from Town Management Consultant, Terry O’Neil**

**10. Comments from Mayor Ostrand – Update on Florida League of Cities legislative issues**

**11. Announcements – Regular Town Council Meeting – Monday, December 12, 2022 at 10:30 am to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze**

**12. Adjourn (Motion, second, all in favor)**

C. M. R. D.

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, November 14, 2022 10:30AM  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

- 1. Call to Order** – President De Angeles called the meeting to order at 10:30 a.m.
- Pledge of Allegiance – Mayor Ostrand led the Pledge of Allegiance
  - Roll Call – Present: Mayor Karen M. Ostrand, President Kenneth De Angeles, Vice-President Richard Gerold, Council Members, Kevin Docherty, Bill Arnold, Terry Locatis, and David Wagner
  - Staff Present – Town Management Consultant, Terry O’Neil; Town Attorney, Rick Crary; Pam Orr, Permit Processing Consultant standing in for Town Clerk; and Administrative Assistant, Shannon Roger; Absent: Town Clerk, Kim Stanton

- 2. Approval of Minutes** – Council Member Arnold, seconded by Vice President Gerold, made a motion to approve the Minutes of the regular meeting on October 10, 2022, the minutes from the Tentative Budget Meeting September 14, 2022 and the Final Budget Meeting September 21, 2022.

Council Member Wagner requested a minor correction to the October 10, 2022 minutes.

President De Angeles asked for public comments.

There were none.

All in Favor: Yes: De Angeles, Gerold, Docherty, Arnold, Wagner, Locatis; No: None; Motion Passed - 6 – 0

President De Angeles recognized the passing of Larry Massing, the Town Building Official, and asked Mr. O’Neil to comment. Mr. spoke briefly on Mr. Massing’s passing and mentioned that there was a condolence card on the table to sign.

- 3. Recognition of Outgoing Town Council Members** – President De Angeles recognized Vice President Gerold, Council Member Locatis, and Council Member Wagner for their service to the Town of Ocean Breeze. President De Angeles commented that the three outgoing members had contributed greatly to the community over the years, and their wisdom and ideas would be missed.

- 4. Announcement of Election Results** – Pam Orr, standing in for Town Clerk, read the Official Certificate of County Canvassing Board of Martin County election results into the record: Sandy Keblbeck 197 votes, Gina Kent 154 votes, Dustin Lerew 73 votes, Terry Locatis 135 votes, Elizabeth Reese 190 votes.

- 5. Oath of Office** – Attorney Crary administered the Oath of Office to Karen Ostrand as Mayor, and Sandy Kelley, Gina Kent, and Elizabeth Reese as Council Members

President De Angeles congratulated the new council members.

- 5. Selection of Council President and Vice President; and Review of Board and Agency Memberships**– President De Angeles asked for nominations for the office of President.

Council Member Arnold nominated Ken De Angeles for the office of President.

Council Member Kelley nominated Elizabeth Reese.

Council Member Reese declined the nomination.

Council Member Kelley withdrew the nomination.

Council Member Docherty seconded the nomination for Kenneth De Angeles for President.

President De Angeles asked for a motion to close the nominations.

Council Member Arnold seconded by Council Member Docherty made a motion to close the nominations.  
All in favor: Yes: De Angeles, Arnold, Docherty, Reese, Kent, Kelley; No: None; Motion Passed 6-0

Roll Call Vote: Yes: De Angeles, Arnold, Docherty Reese, Kent, Kelley; No: None; Motion Passed: 6-0

President De Angeles asked for nominations for office of the Vice President.

Council Member Docherty nominated Bill Arnold.

Council Member Reese nominated Sandy Kelley.

President De Angeles asked for a motion to close the nominations.

Council Member Docherty made a motion to close the nominations.  
All in favor: Yes: De Angeles, Kent, Arnold, Kelley, Reese, Docherty, No: None; Motion Passed 6-0

Pam Orr, standing in for Town Clerk, called roll for Bill Arnold for Office of Vice-President.  
Roll Call: Yes: De Angeles, Arnold, Docherty No: Kelley, Reese, Kent; Vote Tied

Pam Orr, standing in for Town Clerk, called roll for Sandy Kelley:  
Roll Call: Yes: Kent, Reese, Kelley No: Arnold, Docherty, De Angeles; Vote Tied

Town Attorney Rick Crary noted that the first vote for Bill Arnold ended in a tie and that the second vote for Sandy Kelley will also result in a tie. He reminded Council that there was a tie in the past, and recommended that Council Members discuss the re-organization to prevent a stalemate.

Council member Gina Kent asked if she could change her vote.

Attorney Crary confirmed that she could change her vote.

Council Member Kent changed her vote to Bill Arnold for Vice President.

Council Member Arnold asked if the Mayor had a vote.

Attorney Crary stated that the Mayor did not have a vote.

Attorney Crary suggested that the Council begin the vote again.

President De Angeles asked for nominations for office of the Vice President.

Council Member Docherty nominated Bill Arnold.

President De Angeles asked for a motion to close the nominations.

Council Member Docherty seconded by Council Member Kent made a motion to close the nominations.  
All in favor: Yes: De Angeles, Kent, Arnold, Kelley, Reese, Docherty, No: None; Motion Passed 6-0

Attorney Crary informed the new Council Members that the office of President of the Town Council was strictly ceremonial.

Roll Call: Yes: De Angeles, Arnold, Docherty, Kelley, Reese, Kent; No: None; Motion Passed 6-0

## **7. Budget to Actual – July 1, 2022 – September 30, 2022.**

President De Angeles asked for questions from the public. There were none

Vice President Arnold seconded by Council Member Docherty made a motion to accept the Budget to Actual report.

All in favor: Yes: De Angeles, Arnold, Docherty, Kelley, Reese, Kent; No: None; Motion Passed 6-0

Town Management Consultant, Terry O'Neil, addressed the new Council Members and reminded them that the Budget to Actual report is a quarterly report which reviews the Town Budget relative to revenues and spending. Mr. O'Neil stated that currently there were no issues and the Town was under the budget.

## **8. FIRST READING: ORDINANCE #330-2022 – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA EXPRESSLY APPROVING THE APPLICATION AND ENFORCEMENT OF MARTIN COUNTY ORDINANCE NO. 1182 “RESIDENTIAL RESTRICTIONS ON SEXUAL OFENDERS AND SEXUAL PREDATORS” WITHIN THE TOWN OF OCEAN BREEZE; PROVIDING FOR A CONFLICTS CAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES.**

Town Management Consultant, Terry O'Neil, noted that this was the first reading of the Ordinance and asked Pam Orr, standing in for Town Clerk to read the Ordinance into the record.

Pam Orr, standing in for Town Clerk, read Ordinance #330-20022 into the record.

Town Management Consultant, Terry O'Neil remarked that in June, Martin County adopted a County wide ordinance that set distance standards for sexual offenders. He went on to say that he had spoken with every municipality in Martin County and the ordinance was in effect. Mr. O'Neil went on to explain that Ocean Breeze differed due to an older ordinance that required an action from the Town Council to enact an ordinance from outside the Town's jurisdiction.

President De Angeles asked for a motion to approve Ordinance #330-2022 on first reading.

Vice President Arnold, seconded by Council member Docherty, made a motion to approve Ordinance #330-2022 on first reading.

President De Angeles asked the public for comments. There were none

Roll Call: Yes: De Angeles, Arnold, Docherty, Reese, Kent; Kelley; No: None; Motion Passed 6-0

**9. Confirmation of Contract for Building Official Services.** - Town Management Consultant, Terry O'Neil, explained that the Town's building program required the Town to have a licensed Building Official. Due to the circumstances, the Mayor had executed a contract with Mr. Nicolosi, which was

allowable under the Town Charter. He added that a roll call vote to ratify the contract with Mr. Nicolosi would be necessary.

President De Angeles asked for a motion to ratify the contract with Steve Nicolosi for the position of Town Building Official.

Council Member Docherty, seconded by Vice-President Arnold, made a motion to ratify the contract with Steve Nicolosi.

Roll Call: Yes: De Angeles, Arnold, Docherty, Reese; Kent, Kelley; No: None; Motion Passed 6-0

**10. Request for Town Contribution of \$180.00 toward the Annual Jensen Beach Chamber of Commerce Parade** – President De Angeles encouraged every Town resident with a golf cart to join the parade. He introduced Deputy Andy Adams with the Martin County Sheriff's Department and informed the audience that the Sheriff's Department would be handling security and leading the parade.

Discussion ensued about the Christmas Parade.

President De Angeles asked for a motion to approve the Town Contribution of \$180.00.

Vice President Arnold, seconded by Council member Reese made a motion to approve the Town contribution to the Jensen Beach Chamber of Commerce.

President De Angeles asked for comments from the public. There were none.

Roll Call: Yes: De Angeles, Arnold, Docherty, Kelley, Reese, Kent; No: None; Motion Passed 6-0

Town Management Consultant, Terry O'Neil, explained that there was a line item in the recent Town Budget for \$1,000.00 for community support events which required every expenditure be brought before the Town Council for approval.

**11. Discussion for Changing the time for Town Council Meetings** – Council Member Docherty explained that several years ago he conducted a survey regarding holding Town Council meetings in the evening. With the addition of Seawalk, he proposed that the new Council Members reach out to Seawalk residents and informally ask them about their preferences for meeting times.

Mayor Ostrand added that there were many new residents in Ocean Breeze Resort who preferred evening meetings.

Discussion ensued regarding evening meetings.

President De Angeles asked for comments from the Council

Council Member Reese said that she had spoken with several residents in Seawalk who preferred evening meetings.

Attorney Crary reminded Council Members that they were not allowed to discuss Town business with fellow Council Members outside of Town Council meetings, per the Sunshine Law.

Council Member Docherty asked if they could speak with the Mayor about Town Business.

Attorney Crary responded that it was acceptable to speak with the Mayor, but the Mayor could not impart any discussions she had with Council Members to another Council Member. He explained the Sunshine Law and transparency.

Council Member Kent asked if the Town Council agenda and discussions that occurred during the meeting could be shared with the Seawalk HOA.

Attorney Crary responded that that they could inform the HOA about the agenda and subsequent discussion, but could not speak with other Council Members about town business outside a Town Council meeting.

Discussion ensued regarding the Sunshine Law.

Discussion ensued regarding the procedure to change the time of Town Council Meetings.

David Wagner, 124 NE Bay Drive, commented that noise from Clubhouse activities may disrupt an evening meeting.

Mayor Ostrand commented that the Clubhouse restaurant was closed on Mondays, therefore any noise or disruption would be minimal.

Mr. Wagner responded that the pool would remain open and any noise from the pool would disrupt the meeting.

President De Angles asked Council Member Docherty if he would like to make a motion to change the time of the meetings.

Council member Docherty said he would wait until the next meeting as he wanted to give residents time to consider the change.

Council Member Docherty, seconded by Vice President Arnold, made a motion to continue the discussion of meeting time changes.

Roll Call: Yes: Arnold, Kelley, Reese, Kent, Docherty; No: De Angeles; Motion Passed: 5-1

## **12. Comments from the public on topics not on the agenda.**

David Wagner, 124 NE Bay Drive, asked if a member of the Town Council could also serve on an HOA.

Attorney Crary answered that as an HOA is not a government entity and it did not conflict with serving on the Town Council. He added that due to the potential of discussing Town business at an HOA meeting, that matters could potentially become, or are currently, Town business. Mr. Crary cautioned against serving on both the Town Council and an HOA board as it could place the individual in direct violation of the Sunshine Law. Mr. Crary continued to discuss the Sunshine Law.

Council Member Kent asked if the HOA was considered the general public.

Attorney Crary said that because the HOA could potentially be discussing matters that could be brought to the Town in which the HOA resides, it could lead to a potential conflict and violation of the Sunshine Law. He added that two members of the Council attending an HOA meeting and discussing issues that would come before the Town in an official capacity, would be a violation of the Sunshine Law.

Council Member Kent asked for clarification on being an HOA board member and a Town Council Member versus attending a HOA meeting and being a Town Council member.

Attorney Crary said that there is no legal prohibition against either serving on a HOA board or attending a HOA meeting, however the potential for direct conflict in governmental decision making was very high.

Town Management Consultant, Terry O'Neil, added that having two Town Council Members serving on the same HOA Board would prove to be very difficult, if not impossible, to avoid conflict because actions taken by the HOA Board were often Town related.

Council Member Keblbeck-Kelley said that there is only one member of the Town Council that is on the HOA Board.

Town Manager Terry O'Neil said that was fine.

Council Member Keblbeck-Kelley asked if what was discussed at Town Council meetings could be posted on the Seawalk Community Facebook Page.

Attorney Crary stated that Town Council members could not discuss Town issues with one another on Facebook.

Discussion ensued regarding the Sunshine Law.

Tom Campenni of Martin County Friends and Neighbors addressed the Council members and informed them of a class for newly elected Council Members through the Treasure Coast Regional League of Cities December 7, 2022, and encouraged all Town Council Members to attend.

President De Angeles asked if there would be a conflict of interest if all Council Members attended.

Mr. Campenni said there would be no conflict of interest as discussions would not focus on an attendee's municipality and all questions would be written down and screened for conflict of interest. He also advised Council Members to not discuss Town matters with one another.

Discussion ensued regarding the Treasure Coast Regional League of Cities class on December 7, 2022.

Anne Kagdis welcomed the newly elected Council Members. She requested that the Town Council donate \$100.00 to The History Museum of Jensen Beach. She informed the Council that in April, The Entrepreneurship Foundation which supported both Jensen Beach Elementary and Jensen Beach High School Art & Music programs would be holding an auction and asked for a \$100.00 donation. She thanked Council Member Docherty and Vice President Arnold for supporting The History Museum of Jensen Beach Bowling Bash. She also thanked the Council for their contributions over the past year.

President De Angeles asked the Mayor to add the request for charitable contributions to her comments and a vote from Town Council would follow.

Town Management Consultant, Terry O'Neil, advised President De Angeles to add the requests to the December meeting agenda.

**13. Comments from the Council on topics not on the agenda** – Council Member Docherty requested that the Town contact FPL for an update on the replacement of the light poles on Indian River Drive.

**14. Comments from Town Management Consultant Terry O'Neil** – There were none.

**15. Comments from Town Attorney Rick Crary** – Attorney Crary discussed the Sunshine Law. He discussed the proposed Resolution waiving permit fees in the event of a hurricane or natural disaster. He remarked that according to the Florida Statutes, permit fees may be waived in the event of a hurricane or other natural disaster, if the residence is not located in a flood zone. He then recommended that the new Town Building Official be consulted for confirmation. Mr. Crary recommended speaking with the Town's Financial Advisor regarding waiving permit fees, and the effects that it could have on the Town financially.

President De Angeles asked what the Town's current position is on waiving permit fees in the event of a hurricane and or natural disaster.

Town Management Consultant, Terry O'Neil, stated that there is no policy in place to waive permit fees.

Town Attorney Crary added that before any other action was taken, he would recommend speaking to the Town Building Official and Financial Consultant. He added that the municipalities in Florida who were currently waiving permit fees due to Hurricane Ian, were doing so on a very limited basis.

David Wagner, 124 NE Bay Drive, asked about the tolling extension from Sun Communities.

Town Management Consultant, Terry O'Neil, stated that in the State of Florida in the event of an Emergency, the Governor can issue an edict that freezes the timeframe of a development agreement and extend the timeframe within the agreement. In the case of The Ocean Breeze Resort, the developer had routinely claimed these extensions.

Attorney Crary referred back to the subject of waiving permit fees. He added that the statute he previously mentioned did not clarify whether or not the homes in Ocean Breeze Resort would be included, as the statute is limited to single family homes. Mr. Crary suggested that this be brought up with the Town Building Official.

**16. Comments from Mayor Ostrand** – Mayor Ostrand requested a donation in the amount of \$250.00 be made to the United Way for Hurricane Ian relief in Lee County.

President De Angeles asked for a motion to approve the \$250.00 donation.

Vice President Arnold seconded by Council member Kent made a motion to approve the donation. President De Angeles asked the public for comments. There were none

Council Member Docherty asked if all the money would be going to Lee County.

Mayor Ostrand confirmed that the entire amount would be going to Lee County.  
(Roll Call: Yes: De Angeles, Arnold, Reese, Docherty, Kent, Kelley; No: None; Passed 6-0)

Mayor Ostrand requested a donation to the Environmental Studies Center in the amount of \$275.00.

President De Angeles asked for a motion to approve the \$275.00 donation.

Vice President Arnold, seconded by Council Member Reese, made a motion to approve the donation.



Vice President Arnold asked if all the donations were being taken from the \$1,000.00 line item in the budget.

Town Management Consultant, Terry O'Neil, confirmed that the donations were coming from the \$1,000.00 line item in the budget and that the Town had spent a little over half.

Council Member Docherty asked if the donation to the Environmental Studies center had increased from last year.

Mayor Ostrand confirmed that the amount had increased \$25.00 due to the increase in the number of students.

President De Angeles asked for public comments. There were none

Roll Call: Yes: De Angeles, Arnold, Kent, Docherty, Reese, Kelley; No: None; Motion Passed 6-0

Mayor Ostrand welcomed the newly elected Council Members and encouraged them to attend the Orientation for Newly Elected Officials class on December 7<sup>th</sup>. She went on to ask for an alternate for the Treasure Coast League of Cities Advocacy Team.

Attorney Crary explained preemption and local laws.

Tom Campenni from Friends and Neighbors of Martin County, suggested that the Council postpone the Advocacy appointments until after the newly elected Council Members have attended the Treasure Coast Regional League of Cities orientation on December 7<sup>th</sup>.

17. Announcements – Regular Town Council Meeting – Monday, December 12, 2022 at 10:30AM to be held at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Way, Ocean Breeze.

18. Adjourn - Vice President Arnold, seconded by Council Member Kent, made a motion to adjourn the meeting at 11:58 am.

Respectfully Submitted,

*Kim Stanton*

Town Clerk

Minutes approved: \_\_\_\_\_

## Memorandum

**To:** Town Council and Mayor

**From:** Terry O'Neil, Town Management Consultant

**Cc:** Kim Stanton, Town Clerk  
Rick Crary, Town Attorney

**Date:** November 2, 2022

**RE:** Adoption of Martin County's recently enacted Sex Offender Ordinance

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In June of this year, the Martin County Board of Commissioners adopted Ordinance No. 1182 establishing residency limitations for sexual offenders and sexual predators. The ordinance also applies within the Town of Jupiter Island, the Village of Indiantown, the Town of Sewall's Point and the City of Stuart. In that the Town of Ocean Breeze maintains an ordinance (Ordinance No. 37) preempting the application of County ordinances within the Town unless specifically authorized by Town ordinance, enacting the County's sex offender standards will require Council approval.

Accordingly, and noting that the County's standards currently apply in all other Martin County jurisdictions, staff has prepared the attached draft of Town Ordinance No. 330-2022 and **recommends its adoption on ~~first~~ reading.**  
**Second**

**Attached documents:**

- E-mail from Town Attorney
- Martin County Press Release
- Draft Town Ordinance No. 330-2022 (includes County Ordinance No. 1182 attached as Exhibit A)
- Town Ordinance No. 37

Terry

After reviewing the statutes, Florida Constitution and AG Opinions, I think that in an abundance of caution in order to confirm the applicability of Martin County's new Sexual Predator ordinance within the boundaries of the Town, I would advise that pursuant to the Town's Ordinance #37 the council would need to adopt an ordinance expressly approving application and enforcement of that ordinance within the Town.

I have called Assistant County Attorney David Arthur to discuss the potential need for such an ordinance. Mr. Arthur says that's no problem and that there is also no hurry for the Town to adopt the ordinance at its upcoming meeting. He says the County's ordinance will not take effect for 90 days (i.e., not until September).

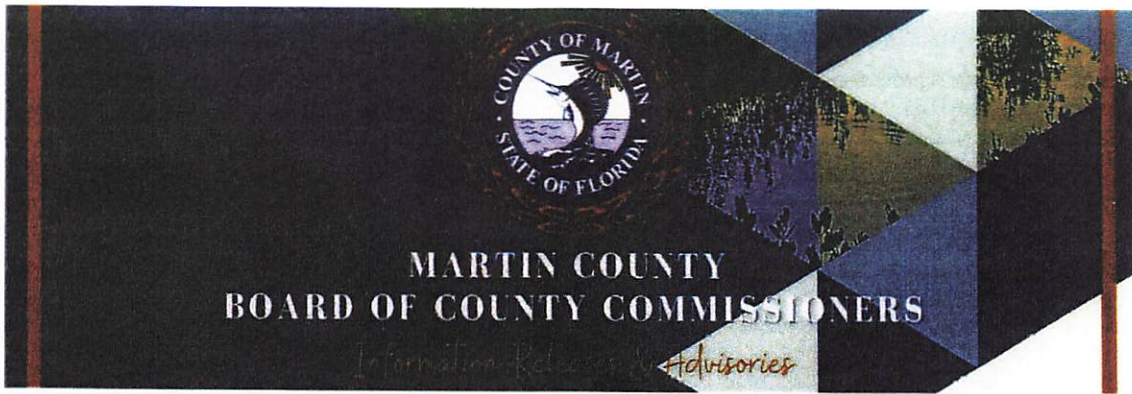
So, the Council will have time to duly consider the matter and bring the matter back for adoption of an ordinance with readings in July and August. (Please note that I will likely be out of town for the August meeting).

Mr. Arthur would like to have a copy of Ordinance #37, which per my notes was adopted in November of 1985. Please have Pam or someone make a copy and send it to him at [darthur@martin.fl.us](mailto:darthur@martin.fl.us)

Kind regards,  
Rick

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FOR IMMEDIATE RELEASE

## **Martin County Board of County Commissioners Passes Ordinances Protecting the Community**

STUART, Fla (June 7, 2022) – At the June 7 meeting, the Board adopted two ordinances through the public hearing process, adding further protections for our community. The County has a substantial interest in maintaining the quality of life and protecting the health, safety and welfare of residents and visitors.

### **Restrictions on Sexual Offenders and Sexual Predators**

The Board was asked to consider the adoption of an ordinance by the Martin County Sheriff, requiring residential and other restrictions on sexual offenders and sexual predators. The Board adopted the ordinance that will take effect 90 days from June 7. The ordinance prohibits sexual offenders from:

- residing within 2,500 feet of a public or private kindergarten, elementary, middle or secondary (high) school or child care facility
- knowingly accessing County and municipal parks when children under sixteen years of age are present, with an exception for an offender who is the parent or legal guardian of a child present in the park
- accessing child care facilities, with an exception for an offender picking up or dropping off his or her child at the facility and the facility is supervising
- knowingly being within 300 feet of any child safety zone – schools, child care facilities, parks and school bus stops when children under sixteen years of age are present

### **Prohibition of the Sale of Rabbits, Dogs and Cats at Pet Stores**

With Board direction, staff drafted language amending Martin County code to prohibit the sale of dogs and cats by pet stores. Martin County has now joined counties throughout Florida protecting animals and residents. By legislating these protections, the path forward for adoptions is clear, as pet stores may still collaborate with animal shelters and/or private nonprofit organizations to show adoptable rabbits, dogs and cats.

To hear public input and the Board's discussion on these topics, watch the June 7 meeting on the County's [YouTube Channel](#). Residents are encouraged to visit [www.martin.fl.us](http://www.martin.fl.us), Martin County's online resource for services, news and information, and connect with us on social media - follow us on [Facebook](#), [Twitter](#) and [Instagram](#).

###

Martha Ann Kneiss | Office of Communications  
Office: 772-463-2810 | Mobile: 772-214-2790 | [mkneiss@martin.fl.us](mailto:mkneiss@martin.fl.us)

### **About the Martin County Board of County Commissioners**

The five-member Board of County Commissioners is the legislative governing body of Martin County. Each Commissioner is elected to a four-year term by voters in the countywide area. Chapter 125.01 of the Florida Statutes establishes the specific duties and powers of the Board of County Commissioners. Exercising their legislative powers, the County Commission adopts ordinances (local laws) and resolutions to establish policies and programs to protect the health, safety and general welfare of Martin County residents.





BEFORE THE TOWN COUNCIL  
TOWN OF OCEAN BREEZE, FLORIDA  
ORDINANCE NO. 330-2022

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA EXPRESSLY APPROVING THE APPLICATION AND ENFORCEMENT OF MARTIN COUNTY ORDINANCE NO. 1182 "RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS AND SEXUAL PREDATORS" WITHIN THE TOWN OF OCEAN BREEZE; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES

\* \* \* \* \*

**WHEREAS**, Town Ordinance No. 137 provides that the application of a Martin County ordinance within the Town is preempted unless specifically adopted by Town ordinance, and

**WHEREAS**, on June 7, 2022, the Martin County Board of County Commissioners, with the encouragement of the Martin County Sheriff, adopted Ordinance No. 1182 establishing residential restrictions on sexual offenders and sexual predators, and

**WHEREAS**, the Ocean Breeze Town Council has reviewed County Ordinance No. 1182 and considers its application within Ocean Breeze to be in the Town's best interest.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA, THAT:**

**SECTION 1:** Martin County Ordinance No. 1182 "*Residential Restrictions on Sexual Offenders and Sexual Predators*" (*Exhibit A attached*), as may be amended from time to time, shall be applicable within the Town of Ocean Breeze.

**SECTION 2:** All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

**SECTION 3:** If any word, clause, sentence, paragraph, section or part thereof contained in the Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

PASSED on First Reading this 14<sup>th</sup> day of November, 2022.

Council Member Arnold offered the foregoing ordinance and moved its approval upon First Reading. The motion was seconded by Council Member Docherty and upon being put to a roll call vote, the vote was approved unanimously.

ADOPTED on Second Reading this 12<sup>th</sup> day of December, 2022.

	YES	NO	ABSENT
Kenneth De Angeles, President			
William Arnold, Vice-President			
Kevin Docherty, Council Member			
Elizabeth Reese, Council Member			
Gina Kent, Council Member			
Sandy Kelley, Council Member			

ATTEST:

\_\_\_\_\_  
KIM STANTON, TOWN CLERK

\_\_\_\_\_  
KENNETH DE ANGELES, PRESIDENT

\_\_\_\_\_  
KAREN OSTRAND, MAYOR

APPROVED AS TO FORM:

\_\_\_\_\_  
WILLIAM F. CRARY II, TOWN ATTORNEY

EXHIBIT A

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

ORDINANCE NUMBER 1182

AN ORDINANCE OF MARTIN COUNTY, FLORIDA, ADDING ARTICLE 7, RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS AND SEXUAL PREDATORS TO CHAPTER 111, MISCELLANEOUS PROVISIONS, GENERAL ORDINANCES, MARTIN COUNTY CODE; PROVIDING FOR APPLICABILITY, CONFLICTING PROVISIONS AND SEVERABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE, CODIFICATION AND AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Article 8, Section 1(f) of the Florida Constitution concerning non-charter counties such as Martin County, the Board of County Commissioners may enact ordinances applying not only to the unincorporated areas but also to incorporated areas, that is, municipalities, so long as the ordinance is not in conflict with a municipal ordinance in which case the ordinance shall not be effective within the municipality to the extent of such conflict; and

**WHEREAS**, pursuant to Sections 944.606(2) and 943.0435(12), Florida Statutes, the Florida Legislature has found and determined that the protection of the public from sexual offenders, particularly those who have committed offenses against minors, is a paramount governmental interest; and

**WHEREAS**, Sections 775.215, 947.1405(7)(a)2. and 948.30(1)(b), Florida Statutes, provide for one thousand (1,000) feet residence prohibitions from specified locations for certain sexual offenders and sexual predators; and

**WHEREAS**, pursuant to Section 125.01(1)(t), Florida Statutes, the Board of County Commissioners is authorized to adopt ordinances and resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violation of ordinances in accordance with law; and

**WHEREAS**, pursuant to Section 125.01(1)(w), Florida Statutes, the Board of County Commissioners is authorized to perform any other acts not inconsistent with law, which acts are in the common interest of the people of the County, and to exercise all powers and privileges not specifically prohibited by law; and

**WHEREAS**, the County has a substantial and compelling interest in maintaining the quality of life and protecting the health, safety and welfare of citizens at schools, child care facilities and parks to engage in positive education, economic and social activities, and has a substantial and compelling interest in allowing the citizens to gainfully and productively use and

enjoy the facilities in such areas in the County without victimization at the hands of a sexual offender or sexual predator; and

**WHEREAS**, the County finds that the creation of a sexual offender and sexual predator residency prohibition section of the Martin County Code of Ordinances, which would prohibit sexual offenders and sexual predators under certain Florida Statutes from residing within twenty-five hundred (2,500) feet of specified locations in the County, is in the best interest of the health, safety and welfare of the residents, citizens, and visitors of the County; and

**WHEREAS**, the Florida Third District Court of Appeal has held that a county ordinance nearly identical to this proposed ordinance was valid and not preempted by the Legislature in *Exile v. Miami-Dade County*, 35 So.3d 118, 118 - 119 (2010) and *Calderon v. State of Florida*, 93 So.3d 439, 440 - 441 (2012); and

**WHEREAS**, the enactment of this proposed ordinance will not conflict with any municipal ordinance.

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS, MARTIN COUNTY, FLORIDA, THAT:**

**PART 1: ADDITION OF ARTICLE 7, RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS AND SEXUAL PREDATORS, TO CHAPTER 111, MISCELLANEOUS PROVISIONS, GENERAL ORDINANCES, MARTIN COUNTY CODE**

Article 7, Residential Restrictions on Sexual Offenders and Sexual Predators, is hereby added to Chapter 111, Miscellaneous Provisions, of the Martin County Code of Ordinances to read as follows:

**ARTICLE 7. RESIDENTIAL RESTRICTIONS ON  
SEXUAL OFFENDERS AND SEXUAL PREDATORS**

**Section 111.149. - Title.**

This ordinance shall be known and may be cited as "The Martin County Residential Restrictions Ordinance".

**Section 111.150. - Findings and Intent.**

1. Repeat sexual offenders, sexual offenders who use physical violence and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses. Most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of



their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

2. The intent of this article is to serve the County's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the County, particularly children, by prohibiting sexual offenders and sexual predators from: (i) establishing temporary or permanent residence in certain areas where children are known to regularly congregate; (ii) renting or leasing certain property to sexual offenders or sexual predators if such property is located in close proximity to where children are known to regularly congregate; and (iii) accessing parks and child care facilities.

#### **Section 111.151. - Applicability.**

This ordinance shall be applicable to the incorporated and unincorporated areas of Martin County to the extent not in conflict with a valid municipal ordinance.

#### **Section 111.152. – Definitions and References to Statutes and Codes.**

A. Definitions. The following terms and phrases, whether the first letter is capitalized or in lower case or in the singular or plural, when used in this ordinance shall have the meanings ascribed to them in this section unless the context otherwise requires:

1. “Child” or “children” means any person(s) less than sixteen (16) years of age.
2. “Child care facility”, as defined in Section 402.302(2), Florida Statutes, means any child care center or child care arrangement which provides child care for more than five (5) children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, whether or not operated for profit, and that is duly licensed pursuant to Sections 402.301 - 319, Florida Statutes, and Rule 65C-22, Florida Administrative Code.
3. “Child safety zone” means an area three hundred (300) feet extending from schools, child care facilities, parks, and school bus stops measured in a manner similar to the measurement of the residency restriction area provided in this ordinance.
4. “Convicted” or “conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere plea (or an Alford or Kennedy plea), regardless of whether adjudication is withheld or if there is a suspended execution or imposition of sentence, resulting in a “sanction,” which includes, but is not limited to, community control, community service, conditional release, controlled release, a fine, hospitalization or institutionalization, monitoring, parole, probation, remedial program, or incarceration in a federal prison, state prison, private correctional facility, or local detention facility including but not limited to a county or municipal jail. Convictions may be from any federal or state

jurisdiction, the jurisdictions of any territory or possession of the United States, a military tribunal including courts-martial conducted by any branch of the Armed Forces of the United States, any tribal jurisdiction, and any foreign jurisdictions, that is, jurisdictions outside of the United States and its possessions and territories where the foreign jurisdiction accords the minimum of due process to an accused and has followed the foreign jurisdiction's own procedures.

5. "Day" means a calendar day.
  6. "Legal guardian" or "guardian" shall mean biological or adoptive parent of a child registered at a child care facility or a person who is responsible for the care and maintenance of said child pursuant to Florida Statutes or similar laws of another jurisdiction.
  7. "Park" means a County or municipal park.
  8. "Permanent residence" means a place where a person abides, lodges, or resides for three (3) or more consecutive days.
  9. "Reside" or "residence" means to have a place of permanent residence, temporary residence, or transient residence.
  10. "School" means a public or private kindergarten, elementary, middle or secondary (high) school or any educational facility operated by the Martin County Public School System.
  11. "Sexual offender" shall have the meaning ascribed to such term in Section 943.0435, Florida Statutes.
  12. "Sexual offense" means a conviction under Sections 794.011, 800.04, 827.071, 847.0135 excluding 847.135(6), or 847.0145, Florida Statutes, or a similar law of another jurisdiction in which the victim or apparent victim of the sexual offense was less than sixteen (16) years of age, excluding Section 794.011(10), Florida Statutes.
  13. "Sexual predator" shall have the meaning ascribed to such term in Section 775.21, Florida Statutes.
  14. "Temporary residence" means a place where the person abides, lodges, or resides for a period of three (3) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of three (3) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.
  15. "Transient residence" means a place where a person lives, remains, or is located for a period of three (3) or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a structure or outdoor area where the person sleeps or seeks shelter and a location that has no specific street address.
- B. References to Statutes and Codes. Any amendment, revision, re-codification or change to any statute or code that is cited in this ordinance shall be as effective as the

original citation. Nothing herein shall preclude the County from amending this ordinance as necessary.

**Section 111.153. - Sexual Offender and Sexual Predator Residence Prohibition; Penalties.**

1. It is unlawful for any person who has been convicted of a violation of Sections 794.011 (sexual battery), 800.04 (lewd and lascivious acts on/in presence of persons under age 16), 827.071 (sexual performance by a child), 847.0135 (sexual acts transmitted over computer) excluding 847.0135(6), or 847.0145 (selling or buying of minors for portrayal in sexually explicit conduct), Florida Statutes, or a similar law of another jurisdiction, in which the victim or apparent victim of the offense was less than sixteen (16) years of age, to reside within 2,500 feet of any school or child care facility.
  - a. The 2,500-foot distance shall be measured in a straight line from the outer boundary of the real property that comprises a sexual offender's or sexual predator's residence to the nearest boundary line of the real property that comprises a school or child care facility. The distance may not be measured by a pedestrian route or automobile route, but instead as the shortest straight-line distance between the two points.
2. Penalties. A person who violates this section shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for not more than three hundred sixty-four (364) days or by both such fine and imprisonment.

**Section 111.154. - Exceptions.**

1. A sexual offender or sexual predator residing within 2,500 feet of any school or child care facility does not commit a violation of this section if any of the following apply:
  - a. The sexual offender or sexual predator established a residence on or before September 5, 2022. The sexual offender or sexual predator shall not be deemed to have established a residence or registered said residence for purposes of this section if the residence is an illegal multifamily apartment unit within a neighborhood zoned for single-family residential use.
  - b. The sexual offender or sexual predator was a minor when he or she committed the sexual offense and was not convicted as an adult.
  - c. The school or child care facility was opened after the sexual offender or sexual predator established the residence.
2. This section shall not apply to a sexual offender or sexual predator who is convicted of a subsequent sexual offense as an adult after residing at a registered residence within 2,500 feet of a school or child care facility.

**Section 111.155. - Property Owners or Lessors Prohibited from Renting Real Property to Certain Sexual Offenders or Sexual Predators; Penalties.**

1. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to this ordinance, if such place, structure, or part thereof, trailer or other conveyance, is located within 2,500 feet of a school or child care facility. Knowingly renting to a sexual offender or predator shall include, but shall not be limited to, renting or leasing a residence after being notified that the prospective renter, lessee or adult resident is a sexual offender or predator as defined in this ordinance.
2. Prior to letting, renting or leasing any place, structure, or part thereof, trailer or other conveyance for use as a permanent or temporary residence that is located within 2,500 feet of a school or child care facility, and annually thereafter if a rental agreement is entered into, the owner or lessor shall obtain confirmation of a nationwide search from the Martin County Sheriff's Office or other law enforcement agency that the prospective renter, lessee or adult resident is not a registered sexual offender or sexual predator as a result of a conviction of a sexual offense as defined in this ordinance. A person may call the Martin County Sheriff's Office to obtain assistance or referrals to determine whether a prospective renter, lessee or adult resident is a sexual offender or predator and to determine whether a residence is 2,500 feet from a particular school or child care facility.
3. Penalties.
  - a. A person who violates subsection 1 of this section shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County jail for not more than sixty (60) days, or both such fine and imprisonment. A person who is convicted of a second or subsequent violation of subsection 1 of this section shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the County jail for not more than 364 days, or by both such fine and imprisonment.
  - b. A person who violates subparagraph 2 of this section shall be punished by a civil penalty of \$500.00 for each day of violation or noncompliance.

**Section 111.156. - Sexual Offender and Sexual Predator Access to Parks and Child Care Facilities Restricted; Penalties.**

1. It is unlawful for a sexual offender or sexual predator convicted of a sexual offense to knowingly be present in a County or municipal park when a child under the age of 16 years is present, unless the sexual offender or sexual predator is the parent or legal guardian of a child present in the park.

2. Within one hundred eighty (180) days after the effective date of this ordinance, signage at the entrance of County and municipal parks shall include notification that a person convicted of a sexual offense shall not be present in a park when a child under the age of sixteen (16) years is present, unless the sexual offender or sexual predator is the parent or guardian of a child present in the park.
3. It is unlawful for a sexual offender or sexual predator convicted of a sexual offense to knowingly enter or remain in a child care facility ("facility") or on its premises unless the sexual offender or sexual predator:
  - a. Is dropping off or picking up a child registered at the facility and is the parent or legal guardian of said child; and
  - b. Remains under the supervision of a facility supervisor or his or her designee while on the facility premises.
4. Penalties. A person who violates this section shall be punished by a fine not to exceed \$500.00 or imprisonment in the County jail for not more than 60 days, or by both such fine and imprisonment. A person who is convicted of a second or subsequent violation of this section herein shall be punished by a fine not to exceed \$1,000.00 or imprisonment in the County jail for not more than 364 days, or by both such fine and imprisonment.

**Section 111.157. - Loitering or prowling in child safety zone; penalties.**

1. It is unlawful for any sexual offender or sexual predator:
  - a. To loiter or prowl with the intent to commit a sexual offense while knowingly within a child safety zone when children are present; and
  - b. To engage in overt conduct that, under the circumstances, manifests an intent to commit a sexual offense.
2. Conduct which may, under the circumstances, be deemed adequate to manifest an intent to commit a sexual offense includes, but is not limited to, conduct such as the following:
  - a. Making sexual conversation or sexual remarks to a child;
  - b. Making lewd or sexual gestures to a child, or exposing sexual organs to a child; and
  - c. Giving gifts of candy, money, music, or other items to a child to which he or she is not related or acquainted.
3. Unless flight by the sexual offender or sexual predator or other circumstance makes it impracticable, a law enforcement officer shall, prior to any arrest for an offense under this section, afford the sexual offender or predator an opportunity to explain his or her presence and conduct. No sexual offender or predator shall be convicted of an offense under this section if the law enforcement officer did not comply with this procedure or if it is proven at trial that the explanation given by the sexual

offender or predator is true, and that the sexual offender or predator had no intent to commit a sexual offense.

4. As used in this section a sexual offender or predator is related to a child if he or she is the father, mother, step-father, step-mother, grandparent, sibling, cousin, aunt, uncle or resides with the child. As used in this section a sexual offender or predator is acquainted with a child if he or she has been introduced to the child in the presence of an adult with legal authority to supervise the child.
5. Penalties. A person who violates this section shall be punished by a fine not to exceed \$500.00 or imprisonment in the County jail for not more than 60 days or by both fine and such imprisonment.
6. This section is not intended to limit or affect the applicability of any general loitering and prowling statutes to sexual offenders or predators, including, but not limited to, Section 856.021, Florida Statutes.

**Sections 111.158 – 111.163. – Reserved.**

**PART 2: APPLICABILITY OF ORDINANCE.**

This Ordinance shall be applicable to the unincorporated areas of Martin County, and to the incorporated areas of Martin County to the extent permitted by Article VIII, Section 1(f), of the Constitution of the State of Florida.

**PART 3: CONFLICTING PROVISIONS.**

Martin County ordinances, County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**PART 4: SEVERABILITY.**

If any portion of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

**PART 5: FILING WITH THE DEPARTMENT OF STATE.**

The Clerk be and hereby is directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

**PART 6: CODIFICATION.**

Provisions of this Ordinance shall be incorporated into the Martin County General Ordinances, except that parts 2 through 7 shall not be codified. The word “ordinance” may be changed to


"article," "section," or other word, and the sections of this Ordinance may be renumbered or re-lettered.

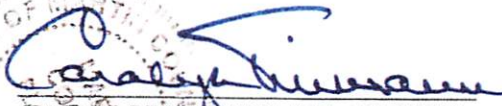
**PART 7: EFFECTIVE DATE**

This Ordinance shall take effect on September 5, 2022.

**PASSED AND DULY ADOPTED THIS 7<sup>th</sup> DAY OF JUNE, 2022.**

**ATTEST:**




  
CAROLYN TIMMANN, CLERK  
OF THE CIRCUIT COURT AND  
COMPTROLLER

**BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

  
DOUG SMITH, CHAIRMAN

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

  
SARAH W. WOODS  
COUNTY ATTORNEY

AN ORDINANCE OF THE TOWN OF OCEAN BREEZE, FLORIDA, PREEMPTING APPLICATION OF COUNTY ORDINANCES WITHIN THE INCORPORATED LIMITS OF THE TOWN OF OCEAN BREEZE WHICH ORDINANCES ARE NOT SPECIFICALLY ADOPTED BY ORDINANCE BY THE TOWN OF OCEAN BREEZE; PROVIDING FOR INSERTION IN THE TOWN CODE; PROVIDING REPEAL OF ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; PROVIDING FOR SEPARATION IN THE EVENT A SECTION OR PORTION IS DECLARED TO BE UNCONSTITUTIONAL; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Ocean Breeze has reviewed and considered the legal opinions stated in AGO 85-48 issued June 14, 1985, by the Attorney General of the State of Florida to the effect that a county ordinance may be enforced throughout the county, in municipalities as well as the unincorporated areas, if it is not in conflict with an ordinance of the municipalities and deals with a matter that is susceptible to county-wide regulation; and

WHEREAS, the Town Commission has determined that a broad construction of this Attorney General's Opinion would have the following consequences:

(a) The difficulty of determining whether a given county ordinance "deals with a matter that is susceptible to county-wide regulation" would create confusion and uncertainty; and

(b) The necessity for the officers and employees of the Town of Ocean Breeze to maintain constant familiarity with new county ordinances and the existing county code would result in administrative hardship; and

(c) The potential for inconsistent interpretations and enforcement of the same county ordinance within the unincorporate areas of the county and the Town of Ocean Breeze would be undesirable.

(d) The necessity for the government of the Town of Ocean Breeze to retain control of all matters of local concern.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN BREEZE, FLORIDA, that no ordinance, rule, regulation or other enactment of Martin County shall apply



within or be enforced within the incorporated limits of the Town of Ocean Breeze, Florida, unless such application and enforcement is expressly required under general or special law or expressly approved by the Town Commission through a duly enacted ordinance.

#### SEPARATION.

If any section, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to have been the intent of the Board to adopt this Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts had not been included herein. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, groups of persons, property, kind of property, circumstances or set of circumstances, such holdings shall not affect its applicability to any other person, property or circumstances.

#### REPEAL.

Town ordinances and Town resolutions, or parts thereof, in conflict with this Ordinance are hereby abolished and repealed to the extent of such conflict, except that this ordinance shall not operate to repeal ordinances in which any ordinance, rule, regulation or other enactment of Martin County has previously been adopted.

#### INCORPORATION IN TOWN CODE.

Provisions of this Ordinance shall be incorporated in the Town Code and the word "Ordinance" may be changed to "section", "article", or other appropriate word, and the sections of this Ordinance may be renumbered or relettered to accomplish such intention.

EFFECTIVE DATE.

This Ordinance shall become effective immediately upon the date of its adoption according to law.

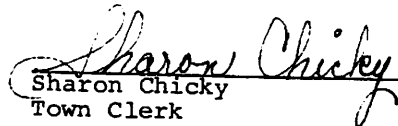
PASSED first reading at the regular meeting of the Town Commission held on the 9th day of September, 1985.


PASSED second reading at the regular meeting of the Town Commission held on the 14th day of October, 1985.

ADOPTED at the regular meeting of the Town Commission held on the 11th day of November, 1985.

ATTEST:

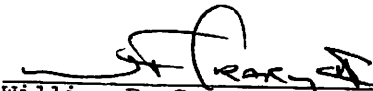
TOWN COUNCIL  
TOWN OF OCEAN BREEZE PARK

  
Sharon Chicky  
Town Clerk

By:   
Dorothy Green  
Its President

APPROVED AS TO FORM:

APPROVED:

  
William F. Crary II, Esq.  
Town Attorney

  
Carl E. Hoke  
Mayor

**Text of Ad:** 11/28/2022

**NOTICE OF PUBLIC MEETING  
TO CONSIDER AN ORDINANCE  
BY THE  
TOWN COUNCIL OF THE  
TOWN OF OCEAN BREEZE,  
FLORIDA**

NOTICE is hereby given that the Town Council of the Town of Ocean Breeze, Florida, is scheduled to meet on Monday, December 12th, 2022 at 10:30 A.M. at Ocean Breeze Resort Clubhouse, Pineapple Bay Room, 700 NE Seabreeze Drive, Ocean Breeze, Florida, 34957, to consider an ordinance approving the application and enforcement of Martin County Ordinance No. 1182 "Residential Restrictions on Sexual Offenders and Sexual Predators," the title of which is provided below.

**ORDINANCE NO. 330 - 2022**  
AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE, FLORIDA EXPRESSLY APPROVING THE APPLICATION AND ENFORCEMENT OF MARTIN COUNTY ORDINANCE NO. 1182 "RESIDENTIAL RESTRICTIONS ON SEXUAL OFFENDERS AND SEXUAL PREDATORS" WITHIN THE TOWN OF OCEAN BREEZE; PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND FOR OTHER PURPOSES

A full copy of Ordinance No. 330-2022 may be inspected at the Town Office during regular business hours 9 am-2 pm Monday-Friday at 1508 NE Jensen Beach Blvd, Jensen Beach, Florida. All interested parties may attend said meeting and be heard with respect to the proposed Ordinance. Any person deciding to appeal any decision made by the Council at the meeting will need to ensure that a verbatim record of the proceedings is made.

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the Town Office at 772-334-6826 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

Publish Dec 1, 2022  
TCN 5503869

## Town Clerk

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**From:** David Arthur <darthur@martin.fl.us>  
**Sent:** Wednesday, November 30, 2022 1:21 PM  
**To:** townclerk@townofoceanbreeze.org  
**Subject:** RE: Town of Ocean Breeze Ordinance 330 - 2022

Thanks, I will pass this on.

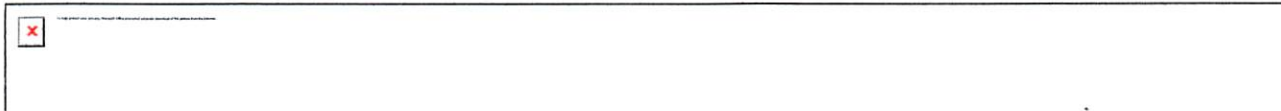
**David Arthur**

Senior Assistant County Attorney  
Martin County Administrative Center  
2401 S.E. Monterey Road  
Stuart, Florida 34996-3397  
(o) 772-288-5441

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**From:** Town Clerk <townclerk@townofoceanbreeze.org>  
**Sent:** Wednesday, November 30, 2022 11:05 AM  
**To:** David Arthur <darthur@martin.fl.us>  
**Subject:** Town of Ocean Breeze Ordinance 330 - 2022



Dear Attorney Arthur,

Our Town Management Consultant, Terry O'Neil, asked that I forward the attached Ordinance that has been passed on first reading and is scheduled for second reading on Monday, December 12, 2022.

Please let us know if you have any questions.

Thank you,

Kim Stanton  
Town Clerk



Town of Ocean Breeze  
Post Office Box 1025

Jensen Beach, FL 34958  
Telephone: (772) 334-6826  
Cell: (772)-215-2700  
Fax: (772) 334-6823  
[www.townofocceanbreeze.org](http://www.townofocceanbreeze.org)

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*The comments and opinions expressed herein are those of the author of this message and may not reflect the policies of the Martin County Board of County Commissioners. Under Florida Law, email addresses are public records. If you do not want your email address released in response to a public records request do not send electronic mail to this entity. Instead, contact this office by phone or in writing.*

TOWN OF OCEAN BREEZE  
MINUTES REGULAR TOWN COUNCIL MEETING  
Monday, November 14, 2022 10:30AM  
Ocean Breeze Resort Clubhouse, Pineapple Bay Room  
700 NE Seabreeze Way, Ocean Breeze, FL

**Excerpts Regarding Changing the Time for Town Council Meeting**

**Discussion for Changing the time for Town Council Meetings** – Council Member Docherty explained that several years ago he conducted a survey regarding holding Town Council meetings in the evening. With the addition of Seawalk, he proposed that the new Council Members reach out to Seawalk residents and informally ask them about their preferences for meeting times.

Mayor Ostrand added that there were many new residents in Ocean Breeze Resort who preferred evening meetings.

Discussion ensued regarding evening meetings.

President De Angeles asked for comments from the Council

Council Member Reese said that she had spoken with several residents in Seawalk who preferred evening meetings.

Discussion ensued regarding the procedure to change the time of Town Council Meetings.

David Wagner, 124 NE Bay Drive, commented that noise from Clubhouse activities may disrupt an evening meeting.

Mayor Ostrand commented that the Clubhouse restaurant was closed on Mondays, therefore any noise or disruption would be minimal.

Mr. Wagner responded that the pool would remain open and any noise from the pool would disrupt the meeting.

President De Angeles asked Council Member Docherty if he would like to make a motion to change the time of the meetings.

Council member Docherty said he would wait until the next meeting as he wanted to give residents time to consider the change.

**Council Member Docherty, seconded by Vice President Arnold, made a motion to continue the discussion of meeting time changes.**

Roll Call: Yes: Arnold, Kelley, Reese, Kent, Docherty; No: De Angeles; Motion Passed: 5-1



**From:** Chris Walters <CWalters@suncommunities.com>  
**Sent:** Tuesday, November 29, 2022 1:23 PM  
**To:** Town Clerk  
**Subject:** RE: Town Council Meeting Times

Hi Kim,  
This appears to be workable for us. We obviously will just need to coordinate with you prior to commencement to determine that we do not create any scheduling conflicts with activities.  
Best regards,  
Chris Walters  
District Manager  
Ocean Breeze Resort

**From:** Town Clerk <townclerk@townofoceanbreeze.org>  
**Sent:** Tuesday, November 29, 2022 10:50 AM  
**To:** Chris Walters <CWalters@suncommunities.com>; 'Town Clerk' <townclerk@townofoceanbreeze.org>; Cindy Walters <CWalters1@suncommunities.com>  
**Subject:** RE: Town Council Meeting Times

**EXTERNAL EMAIL - Verify sender before opening links or attachments!**

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Hi Chris,

The meetings would take place monthly on the second Monday of each month. Right now, the Council is reviewing information to help them make their decision and then the Council would have to adopt an Ordinance which takes two readings (2 months) so I think we would be safe to say IF they vote to move the meetings to the evenings, those meetings would likely start in about four to five months.

Don't forget, we always have our three budget meetings each year which take place at 5:01 pm and those meetings we generally clear with you as we go to set the schedule for the meetings because there is a lot of coordination taking place. We have one meeting in July and two meetings in September of each year.

Hope this helps clarify. Please let us know if we would be able to move our monthly morning meetings to evening meetings.

Thank you for all your help and cooperation.

Kim

**From:** Chris Walters [<mailto:CWalters@suncommunities.com>]  
**Sent:** Monday, November 28, 2022 3:22 PM  
**To:** Town Clerk <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)>; Cindy Walters <[CWalters1@suncommunities.com](mailto:CWalters1@suncommunities.com)>  
**Subject:** RE: Town Council Meeting Times

Hi Kim,  
Would you be kind enough to provide further detail as to what day of the month the proposed meetings would be held and the proposed commencement dates in an effort for us to determine any scheduling conflicts?  
Thanks and advise.

Chris Walters  
District RV Resort Manager  
Ocean Breeze Resort

**From:** Town Clerk <[townclerk@townofoceanbreeze.org](mailto:townclerk@townofoceanbreeze.org)>  
**Sent:** Monday, November 28, 2022 2:59 PM  
**To:** Chris Walters <[CWalters@suncommunities.com](mailto:CWalters@suncommunities.com)>; Cindy Walters <[CWalters1@suncommunities.com](mailto:CWalters1@suncommunities.com)>  
**Subject:** Town Council Meeting Times

**EXTERNAL EMAIL - Verify sender before opening links or attachments!**

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Hi Chris and Cindy,

The Town Council is in the process of making a decision to possibly move the Town Council meeting times from 10:30 am to the evening (starting between 5:00 pm and 7:30 pm).

At this time, we are gathering information for the Council and one of the items of concern is whether or not those starting meeting times would be open for the Town to use the resort clubhouse. As you know our meetings run from about one-half hour to an hour long.

Would you be so kind as to respond to this email to let us know that if the meetings times get changed, the Ocean Breeze Resort clubhouse would be available to the Town for these public meetings?

Thank you, in advance, for your help in this matter.

Kim

Kim Stanton  
Town Clerk



Town of Ocean Breeze  
Post Office Box 1025  
Jensen Beach, FL 34958  
Telephone: (772) 334-6826  
Cell: (772)-215-2700  
Fax: (772) 334-6823  
[www.townofoceanbreeze.org](http://www.townofoceanbreeze.org)



## **5. Discussion of Changing the Time for the Town Council Meetings – Kevin Docherty**

Council Member Docherty stated that he wanted Council to discuss the option of changing the Town Council Meeting time from 10:30 am to 5:00 pm or later. He explained that he felt that there would be more participation if the Regular Town Council meeting was held in the evening.

Council Member Docherty made a motion to change the Town Council Meetings from 10:30 am to 5:00 pm.

Vice-President Gerold asked if the Town Charter would need to be amended to adjust the meeting times.

Town Management Consultant Mr. O'Neil stated that the time could be changed by an ordinance, but that two public hearings would need to be held prior to approving.

Council Member Locatis commented that he had spoken with various residents and the consensus was that the Seawalk residents attended the recent budget meetings because the meetings were regarding the Town budget and the millage rate. He commented that these meetings are mandated to take place at 5:01pm and that he didn't believe there were any benefits to moving the Regular Town Council meeting time.

Council Member Arnold concurred with Council Member Locatis.

Council Member Wagner agreed with both Council Member Locatis and Council Member Arnold.

Mayor Ostrand stated the importance of discussing the matter especially in light of the fact that there were working residents of the Town who are interested in running for Council, but were not willing because the current Town meeting time interfered with their work schedule. She added that the meetings, typically, were generally over within one hour.

Vice-President Gerold informed the Council about the other cities and their meeting times.

Deirdre Henry, Ocean Breeze Resort, stated her concerns regarding paying staff overtime to attend evening meetings and agreed with Council Member Locatis.

President De Angeles asked for a second.

Motion failed due to lack of a second.

**6. Comments from the public on topics not on the agenda – Jay Spicer, Martin County Fair Manager,** provided background information on the current programs that the fair was providing to encourage youth to get involved with various areas of farming, etc. Mr. Spicer, asked for the Town's support in funding to get the new fair grounds infrastructure in place.

Discussion ensued regarding how the Town could support the new fairgrounds.

President De Angeles asked for further public comment.

There was none.



Attorney Crary stated that the decision to accept the lot should be with the Mayor (conditionally authorized by the Council) and that he would certainly advise her of his opinions once the new title commitment arrives. He stated that the Council would authorize the Mayor, under these circumstances, to make the decision to accept and move forward.

Council Member Docherty asked Attorney Crary for an estimation of fees associated with accepting ownership of Parcel "A".

He commented that it was difficult to predict such a thing but that his costs are based on hours. He spoke about the strange complexity of this particular lot. He spoke about the poorly written de-annexation statute, possible obstacles regarding de-annexation and that he estimated a possible ten thousand dollar range outside of any litigation.

Discussion ensued regarding the background of the Seawalk exits, maintenance of the parcel, a possible de-annexation ordinance, possible uses for the parcel, history of the parcel and Ocean Breeze West, accepting the parcel with contingencies, possible closing issues, Forestar's unwillingness to extend the deadline to accept the parcel, easement with Martin County Utilities for the water main, procedures for accepting or not accepting the parcel, possible conditions for acceptance, maintenance of the parcel, septic conversion, PUD language, sewer connections to the site, size of the parcel not suitable for a Town office/meeting facility, possible long range plans for a Town office, possible future sewer assessments.

Mayor Ostrand stated that she believed the Council should not accept the property and stated her reasons.

Council Member Arnold, seconded by Council Member Wagner, made a motion to reject taking ownership of Parcel "A".

Roll Call Vote: Yes: Locatis, Wagner, De Angeles, Arnold, Gerold & Docherty; No: None; Motion Passed - 6 - 0

**8. Discussion of Changing Time of Regular Town Council Meetings** – Council Member Docherty spoke about the Town's growth, the Seawalk development and the possibility of moving the time of the regular town council meetings from 10:30 a.m. to an evening meeting. He added that he took a simply survey of forty residents over the past couple of weeks and asked them one simple question. He reported that 34 residents of those surveyed stated that they would be more inclined to attend an evening meeting versus 6 people who would leave the meeting time at 10:30 a.m. He also reported the meeting times of surrounding towns and cities were in the evening. He spoke about how he volunteered for Mayor Flynn and Mayor Menino of Boston and that city meetings were at 7:30 pm. He asked for a discussion to look into changing the meeting time to five, six or seven o'clock p.m. He spoke about the Seawalk community and the fact that it was not a 55 and older community. He spoke about full-time workers and how working during the day might interfere with attending town council meetings. He asked staff to look into the possibility of changing the meeting time sometime after April 1, 2021. He asked for comments from the Town Council in order to take the next step.

President De Angeles asked for comments from the Town Council.

Council Member Locatis stated that Seawalk would have a home owner's association and would be hiring a manager to enforce the rules, etc. and he did not believe those residents would be attending the Town meetings unless they wanted a PUD change. He added that he did not want to change the meeting time unless the residents of the resort wished to change the time.

Mayor Ostrand commented that the residents of Seawalk should be able to attend the meetings and that they would be more inclined if the meetings were in the evening.

Council Member Arnold stated that he believed the majority should rule, but that he was not for making that change.

Vice-President Gerold stated that he would like to think about the issue more and get more feedback from the residents before making a decision.

President De Angeles asked Pam Orr, Town Clerk, for her opinion on the matter.

Mrs. Orr stated that when she and Kim were hired it was with the understanding that the meetings were in the morning. She stated that would be something to think about.

President De Angeles asked Mr. O'Neil for his opinion.

Mr. O'Neil stated that if staff were to bring back a draft ordinance sometime in April, this would give the individual council members time to hear from residents. He added that the staff could do some research on the impacts of moving the meeting time to an evening time and bring forward a draft ordinance as a placeholder and that the Council could then deliberate to make a decision.

Council Member Arnold asked the audience to indicate if they would prefer evenings. He then asked the audience to indicate if they would prefer daytime.

President De Angeles asked the Town Clerk if everything (pertaining to the Town Council meetings) was on the Town website.

Pam Orr indicated "yes."

President De Angeles asked the Council if they would like to get a draft ordinance for a future meeting.

Council Member Docherty, seconded by Vice-President Gerold, who stated he did not agree but to get some research done and questions answered, made a Motion that the Town Manager and staff look into this and come back with a draft ordinance by April 1, 2021 and let the Council know the pros and cons of changing the regular town council meeting time from the morning to an evening time including any additional costs to the Town.

Attorney Cray stated that his rate would probably be the same even though it would be inconvenient for him to attend at night.

Pam Orr, Town Clerk asked if a draft ordinance was to be brought forth.

President De Angeles answered "no."

The Council Member concurred.

Mr. O'Neil stated that the motion mentioned by April 1, 2020 and asked if that meant for the first meeting in April, 2021.

Council Member Docherty answered "yes."

All in Favor: Yes: De Angeles, Gerold, Arnold, Docherty & Locatis; No: Wagner; Motion Passed - 5 - 1

## Memorandum

To: Town Council and Mayor

From: Terry O'Neil, Town Management Consultant

CC: Pam Orr, Town Clerk  
Kim Stanton, Town Bookkeeper  
Rick Crary, Town Attorney  
Holly Vats, Town Financial Advisor

Date: April 6, 2021

Re: Town Council meetings

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During last November's Council meeting, Member Docherty raised the issue of moving the Town's once-a-month Council meetings from 10:30 AM to 5 PM, or perhaps later. In prompting the discussion, Mr. Docherty pointed out that both the Resort and Seawalk communities are developing rapidly and that more and more of our new residents have jobs – thus making daytime meetings more difficult to attend (minutes attached). It was agreed that staff would look into the matter, particularly in terms of operations, and report back in April 2021. This memo has been drafted for that purpose.

At present, the Town Charter requires that the Council meet at least once a month at a date and time determined by ordinance. Ordinance No. 66, copy attached, requires that regular Council meetings be held on the second Monday of each month at 10:30 AM. Unlike Town Charter amendments, which require voter approval, ordinances may be changed by a simple majority vote of the Council upon two public hearings.

**Staff/Operational Considerations**

Both the Town Clerk and Bookkeeper were hired with the understanding that monthly meetings would take place during the day, which continues to be their preference, however, each is willing to adapt if need be. The Town Attorney prefers daytime meetings but is willing to attend evening meetings as circumstances permit. Mr. Crary cautions that his practice calls for him to appear before other local jurisdictions that hold night meetings and that scheduling conflicts may occasionally arise. Town Financial Consultant, Holly Vath, has no preference with regard to daytime or evening meetings. As the Town's Management Consultant, I prefer daytime meetings but can adjust if there's a change. <sup>So</sup>

Under the Ocean Breeze East PUD agreement, Town meetings are held at the resort clubhouse. The owner, Sun Communities, offers no objection to evening meetings provided its options for holding other events, (i.e.: food and bar service, parties, group activities, etc.) are not curtailed. At present, Sun's restaurant/bar is not open on Mondays, but this is subject to change. In sum, if Council meetings are to be held in the evening, all parties should be aware that other events or activities elsewhere in the clubhouse may be occurring at the same time.

As for the meeting practices of neighboring jurisdictions, a list of other Treasure Coast local governments and their meeting schedules is attached.

Staff awaits any further direction on this matter.

AN EMERGENCY ORDINANCE OF THE TOWN  
OF OCEAN BREEZE PARK, FLORIDA  
SETTING AND CONFIRMING THE TIME  
AND PLACE OF REGULAR MEETINGS OF  
THE TOWN COUNCIL;

WHEREAS, the revised Town Charter requires that regularly scheduled meetings of the Town Council be set by ordinance;

BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN BREEZE PARK, FLORIDA:

SECTION I: That an emergency exists within the Town of Ocean Breeze Park affecting the health, welfare and safety of the citizens of said town.

SECTION II: That regularly scheduled meetings of the Town Council shall be held at the Town Hall at 10:30 a.m. on the second Monday of each month, unless such day is a holiday, in which such event such meeting shall take place at the aforesaid time and place upon the next following Monday which is not a holiday.

SECTION III: Special meetings may be held as provided in the Charter.

SECTION IV: It is hereby acknowledged and confirmed that the foregoing schedule of regular meetings has been a longstanding procedure well known within the community.

SECTION V: This Ordinance shall become effective immediately upon its adoption.

PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 14th day of September, 1992.

TOWN COUNCIL  
TOWN OF OCEAN BREEZE PARK

By: Kerathy Leechan  
Its President

ATTEST:

Sharon Chicky  
Town Clerk

APPROVED:

Scott D. Hines  
Mayor

APPROVED AS TO FORM:

[Signature]  
TOWN ATTORNEY

<b>Jurisdiction</b>	<b>Regular meeting(s) per month</b>	<b>Time</b>
Martin County	2nd and 4th Tuesday	9:00 AM
City of Stuart	2nd and 4th Monday	5:00 PM
Village of Indian Town	2nd and 4th Thursday	6:30 PM
Town of Sewall's Point	2nd and 4th Tuesday	5:30 PM & 7:00 PM
Town of Jupiter Island	one (varies)	9:30 AM
Town of Ocean Breeze	2nd Monday	10:30 AM
St. Lucie County	1st and 3rd Tuesday	6:00 PM & 9:00 AM
City of Port Saint Lucie	2nd and 4th Monday	6:30 PM
City of Fort Pierce	1st and 3rd Monday	6:00 PM & 4:30 PM
St. Lucie Village	3rd Tuesday	6:30 PM
Indian River County	1st, 2nd and 3rd Tuesday	9:00 AM
City of Vero Beach	1st and 3rd Tuesday	8:30 AM
Indian River Shores	4th Thursday	9:00 AM
City of Sebastian	2nd and 4th Wednesday	6:00 PM
City of Fellsmere	1st and 3rd Thursday	7:00 PM
Town of Orchid	1st Wednesday	9:00 AM
Okeechobee County	2nd and 4th Thursday	9:00 AM
City of Okeechobee	1st and 3rd Tuesday	6:00 PM





The History Museum of Jensen Beach, Inc.  
PO Box 1536  
Jensen Beach FL 34958-1536  
A 501c3 Non-profit Public Charity #27-2566756  
Solicitation of Contributions Act License #CH55278

**Donation Request**

RE: Town of Ocean Breeze

December 7, 2022

Dear Ocean Breeze Town Council,

On behalf of the Board of Directors of *The History Museum of Jensen Beach, Inc.*, I want to thank you for your commitment to donate \$100 to our community museum.

We are indeed grateful for this donation. As you know, our museum showcases many historic items from the Town of Ocean Breeze.

Warm Regards,

Ann Kagdis  
Board President

*All items donated to the History Museum of Jensen Beach are deductible for income tax purposes at their present market value. The History Museum of Jensen Beach is not required to value the property it receives from the donor. I.R.S. Code places the responsibility for estimating the "Fair Market Value" upon the donor. The History Museum of Jensen Beach does not provide any good or services in consideration, in whole or in part, for any property contributed. This receipt complies with the contemporaneous substantiation requirement under I.R.S. code section 170(F) (8).*

*The History Museum of Jensen Beach, Inc. preserves the heritage of the greater Jensen Beach area for the benefit of present and future generations. The museum promotes the collection, preservation, and educational interpretation of its local people, institutions, and its cultural and economic development. The museum displays early Jensen Beach artifacts, photos, and documents.*



# Check-A-Charity

*KNOW HOW YOUR MONEY IS BEING SPENT*

**THE HISTORY MUSEUM OF JENSEN BEACH, INC., JENSEN BEACH, FL**

Registration Number :CH55278

Expiration Date : 5/23/2023

Revenue Source : DCS Financial Statement (12/31/2021)

Total Revenue : \$4,501.20

Program Services Expenses : \$.00 0%

Total Expenses : \$6,109.91

Administrative Expenses : \$4,320.21 71%

Surplus/Deficit : -\$1,608.71

Fundraising Expenses : \$1,789.70 29%



**Town of Ocean Breeze Approved & Proposed Contributions as of 12/12/2022**

<b>Contributions</b>	<b>Amount</b>	
Jensen Beach Chamber of Commerce	\$180.00	Approved 11/14/2022
Environmental Studies Center	\$275.00	Approved 11/14/2022
United Way of Lee County	\$250.00	Approved 11/14/2022

**Proposed Contributions (to be voted on December 12<sup>th</sup>, 2022)**

History Museum of Jensen Beach	\$100.00
Entrepreneurship Foundation	\$200.00
<b><u>Total</u></b>	<b>\$1,005.00</b>

**Contributions Budget Line Item: \$1,000.00**

Total Amount approved to date: \$705.00  
Total Amount proposed/unapproved: \$300.00

**Remaining Balance of Contributions Budget if Proposed Contributions are passed: \$-5.00**



**The Entrepreneurship Foundation, Inc.**  
PO Box 1536  
Jensen Beach FL 34958-1536  
A 501c3 Non-profit Public Charity #26-2948572  
Solicitation of Contributions Act License #CH55265

RE: Town of Ocean Breeze

December 7, 2022

Dear Ocean Breeze Town Council,

On behalf of the Board of Directors of *The Entrepreneurship Foundation, Inc.*, I want to thank you for your commitment to donate \$200 to our community foundation that supports our local schools.

We are indeed grateful for this donation.

Warm Regards,

Ronald E. Rose  
Secretary/Treasurer

*The Entrepreneurship Foundation, Inc. is a catalyst to cultivate, foster, encourage, and promote a community based entrepreneurial climate by being a unifying source that helps pull together educational, governmental, and private sector resources for the benefit of current and future entrepreneurs. The foundation also provides resources needed to support entrepreneurial development primarily in local Jensen Beach area schools which includes the Environmental Studies Center, Jensen Beach Elementary School, Felix A. Williams Elementary School, Stuart Middle School, and Jensen Beach High School, and also includes Martin County High School, and South Fork High School. The Foundation partners with the Jensen Beach Chamber of Commerce Education Committee on initiatives that include the Foundation's sponsorship of the Teachers & Staff Welcome Back Appreciation Breakfast, Adopt-A-Class Programs, school supply drives, scholarships to high school seniors, Teacher and Student of the Month recognition, and Junior Achievement programs. The Foundation's annual fundraising event is the Art, Music & Benefit Auction that raises money to support the art and music programs at Jensen Beach Elementary School, Felix A. Williams Elementary School, Stuart Middle School, and Jensen Beach High School.*



# Check-A-Charity

*KNOW HOW YOUR MONEY IS BEING SPENT*

**THE ENTREPRENEURSHIP FOUNDATION, INC., JENSEN BEACH, FL**

Registration Number :CH55265

Expiration Date : 5/22/2023

Revenue Source : DCS Financial Statement (12/31/2021)

Total Revenue : \$3,701.00

Program Services Expenses : \$3,400.00 **86%**

Total Expenses : \$3,975.00

Administrative Expenses : \$.00 **0%**

Surplus/Deficit : -\$274.00

Fundraising Expenses : \$575.00 **14%**

**Town of Ocean Breeze Approved & Proposed Contributions as of 12/12/2022**

<b>Contributions</b>	<b>Amount</b>	
Jensen Beach Chamber of Commerce	\$180.00	Approved 11/14/2022
Environmental Studies Center	\$275.00	Approved 11/14/2022
United Way of Lee County	\$250.00	Approved 11/14/2022

**Proposed Contributions (to be voted on December 12<sup>th</sup>, 2022)**

History Museum of Jensen Beach	\$100.00
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<b><u>Total</u></b>	<b>\$1,005.00</b>

**Contributions Budget Line Item: \$1,000.00**

Total Amount approved to date: \$705.00  
Total Amount proposed/unapproved: \$300.00

**Remaining Balance of Contributions Budget if Proposed Contributions are passed: \$-5.00**

# **GENERAL INFORMATION ITEMS**

**The attached items (i.e.: correspondence, e-mails, reports, etc.) are provided as general information and are not necessarily subject to discussion during this meeting unless Council Members or the Mayor wish to do so.**





November 10, 2023

Via U.S Certified Mail # 7020 0090 0000 0354 7119

Mr. Terry O'Neil

Town Manager, Town of Ocean Breeze

Re: PUD Tolling/Extension

Dear Mr. O'Neil,

As a representative for NHC-FL143, LLC (the "Applicant") hereby provides notice to the Town of Ocean Breeze that Applicant intends to exercise the tolling and extension of all obligations pertaining to the deadline submissions pursuant to the Planned Unit Development associated with Applicant's property. Applicant is providing this notification pursuant to 252.363 Fla. Stat. and Governor DeSantis' State of Emergency declaration, as issued by Executive Order 22-253 dated November 7, 2022. The impact of Subtropical Storm Nicole would affect the state of Florida, and limits the Applicant's ability to execute as intended the commitments outlined in the OBE PUD. This tolling and extension applies to all dates, schedules and deadlines outlined in Resolution 219-2019 including but not limited to Item 25 – Development Timetable, and all subsequent schedule amendments as outlined in amended Resolutions number 223-2015, 234-2016 and 238-2016, and Ordinances No. 241-2016 and 291-2019.

The above-mentioned emergency declaration effectively extends the period to excise the rights under a permit, authorization or other regulatory obligation for 6 months in addition to the tolled period outlined in each of the outlined Resolutions.

As stated in previous communications, applicant continues to diligently work towards satisfying all commitments as expeditiously as possible.

Please do not hesitate to contact me if you have any questions.

Yours truly,

Gena May

cc: Community Manager

Robert Raynes, Attorney at Law

Matthew Chosid, Attorney at Law

Ocean Breeze RV Resort  
3000 NE Indian River Dr, Jensen Beach, FL

# STATE OF FLORIDA

## OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 22-253 (Emergency Management –Subtropical Storm Nicole)

**WHEREAS**, as of 4:00 AM EST on November 7, 2022, Subtropical Storm Nicole was located 555 miles East of Nassau, Bahamas with maximum sustained winds of 45 miles per hour; and

**WHEREAS**, the National Hurricane Center predicts Subtropical Storm Nicole will impact Florida's East Coast and could affect portions of the previously impacted area still recovering from Hurricane Ian; and

**WHEREAS**, there is a risk of dangerous storm surge, heavy rainfall, flash flooding, strong winds, hazardous seas, beach erosion, and the potential for isolated tornadic activity for Florida's Peninsula; and

**WHEREAS**, the threat posed by Subtropical Storm Nicole requires that timely precautions are taken to protect the communities, critical infrastructure, and general welfare of Florida; and

**WHEREAS**, as Governor, I am responsible to meet the dangers presented to Florida and its people by this emergency.

**NOW, THEREFORE, I, RON DESANTIS**, as Governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a) of the Florida Constitution and by the Florida Emergency Management Act, as amended, and all other applicable laws, promulgate the following Executive Order, to take immediate effect:

Section 1. Because of the foregoing conditions, which are projected to constitute a major disaster, I declare that a state of emergency exists in Brevard, Broward, Charlotte, Citrus, Clay, Collier, DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Highlands, Hillsborough, Indian River,



Lake, Lee, Manatee, Martin, Miami-Dade, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Polk, Putnam, Sarasota, Seminole, St. Johns, St. Lucie, Sumter, and Volusia Counties.

Section 2. I designate the Director of the Division of Emergency Management as the State Coordinating Officer for the duration of this emergency and direct him to execute the State's Comprehensive Emergency Management Plan and other response, recovery, and mitigation plans necessary to cope with the emergency. Pursuant to section 252.36(1)(a), Florida Statutes, I delegate to the State Coordinating Officer the authority to exercise those powers delineated in sections 252.36(6)-(12), Florida Statutes, which he shall exercise as needed to meet this emergency, subject to the limitations of section 252.33, Florida Statutes. In exercising the powers delegated by this Executive Order, the State Coordinating Officer shall confer with the Governor to the fullest extent practicable. The State Coordinating Officer shall also have the authority to:

A. Invoke and administer the Emergency Management Assistance Compact ("EMAC") (sections 252.921-252.9335, Florida Statutes) and other compacts and agreements existing between the State of Florida and other states, and the further authority to coordinate the allocation of resources from such other states that are made available to Florida under such compacts and agreements so as to best meet this emergency.

B. Seek direct assistance and enter into agreements with any and all agencies of the federal government as may be needed to meet this emergency.

C. Direct all state, regional, and local governmental agencies, including law enforcement agencies, to identify personnel needed from those agencies to assist in meeting the response, recovery, and mitigation needs created by this emergency, and to place all such personnel under the direct command and coordination of the State Coordinating Officer to meet this emergency.

D. Direct the actions of any state agency as necessary to implement the Federal Emergency Management Agency's National Disaster Recovery Framework.

E. Designate Deputy State Coordinating Officers and Deputy State Disaster Recovery Coordinators, as necessary.

F. Suspend the effect of any statute, rule, or order that would in any way prevent, hinder, or delay any mitigation, response, or recovery action necessary to cope with this emergency. In accordance with section 252.3611(1), Florida Statutes, any such order, declaration, or other action shall specify each statute or rule being amended or waived, if applicable, and the expiration date for the order or action.

G. Enter orders as may be needed to implement any of the foregoing powers. The requirements of sections 252.46(1)-(2) and 120.54(4), Florida Statutes, do not apply to any such orders issued by the State Coordinating Officer. No such order shall remain in effect beyond the expiration of this Executive Order, including any extension thereof.

Section 3. I order the Adjutant General to activate the Florida National Guard, as needed, to deal with this emergency.

Section 4. I find that the special duties and responsibilities resting upon some state, regional, and local agencies and other governmental bodies in responding to this emergency may require them to suspend or waive certain statutes, rules, ordinances, and orders they administer. Therefore, I issue the following authorizations:

A. Pursuant to section 252.36(6)(a), Florida Statutes, the Executive Office of the Governor may suspend all statutes and rules affecting budgeting to the extent necessary to provide budget authority for state agencies to cope with this emergency. The requirements of sections 252.46(1)-(2) and 120.54(4), Florida Statutes, do not apply to any such suspension issued by the

Executive Office of the Governor. No such suspension shall remain in effect beyond the expiration of this Executive Order, including any extension thereof.

B. Each state agency may suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business or the orders or rules of that agency, if strict compliance with the provisions of any such statute, order, or rule would in any way prevent, hinder, or delay necessary action in coping with the emergency. This includes, but is not limited to, the authority to suspend any and all statutes, rules, ordinances, or orders which affect leasing, printing, purchasing, travel, and the condition of employment and the compensation of employees. In accordance with section 252.3611(1), Florida Statutes, any agency order, declaration, or other action suspending a statute or rule shall specify each statute or rule being amended or waived, if applicable, and the expiration date for the order or action. The requirements of sections 252.46(1)-(2) and 120.54(4), Florida Statutes, shall not apply to any such suspension issued by a state agency. No such suspension shall remain in effect beyond the expiration of this Executive Order, including any extension thereof.

C. In accordance with section 252.38(3), Florida Statutes, each political subdivision within the State of Florida may waive the procedures and formalities otherwise required of the political subdivision by law pertaining to:

- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety, and welfare of the community;
- 2) Following local procurement and contracting policies;
- 3) Entering into contracts; however, political subdivisions are cautioned against entering into time and materials contracts without a ceiling as defined by 2 CFR 200.318(j) or cost plus a percentage of cost contracts prohibited by 2 CFR 200.324(d);
- 4) Incurring obligations;

- 5) Employment of permanent and temporary workers;
- 6) Utilization of volunteer workers;
- 7) Rental of equipment;
- 8) Acquisition and distribution, with or without compensation, of supplies, materials, and facilities; and
- 9) Appropriation and expenditure of public funds.

D. All agencies whose employees are certified as disaster service volunteers within the meaning of section 110.120(2)(d), Florida Statutes, may, in accordance with section 110.120(3), Florida Statutes, release any such employees for such service as requested by the employee to meet this emergency.

E. The Secretary of the Florida Department of Transportation (DOT) may:

- 1) Waive the collection of tolls and other fees and charges for the use of the Turnpike and other public highways, to the extent such waiver may be needed to provide emergency assistance or facilitate the evacuation of the affected counties;
- 2) Manage the flow of traffic or close any and all roads, highways, and portions of highways as may be needed for the safe and efficient transportation of evacuees to those counties that the State Coordinating Officer may designate as destination counties for evacuees in this emergency;
- 3) Suspend enforcement of the registration requirements pursuant to section 316.545(4), Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

4) Waive by special permit the warning signal requirements in the Utility Accommodations Manual to accommodate public utility companies from other jurisdictions which render assistance in restoring vital services; and

5) Waive the size and weight restrictions for divisible loads on any vehicles transporting emergency equipment, services, supplies, and agricultural commodities and citrus as recommended by the Commissioner of Agriculture, allowing the establishment of alternate size and weight restrictions for all such vehicles for the duration of the emergency. The DOT shall issue permits and such vehicles shall be subject to such special conditions as the DOT may endorse on any such permits.

Nothing in this Executive Order shall be construed to allow any vehicle to exceed weight limits posted for bridges and like structures, or relieve any vehicle or the carrier, owner, or driver of any vehicle from compliance with any restrictions other than those specified in this Executive Order, or from any statute, rule, order, or other legal requirement not specifically waived or suspended herein or by supplemental order by the State Coordinating Officer.

F. The Executive Director of the Department of Highway Safety and Motor Vehicles (DHSMV) may:

1) Suspend enforcement of the registration requirements pursuant to sections 316.545(4) and 320.0715, Florida Statutes, for commercial motor vehicles that enter Florida to provide emergency services or supplies, to transport emergency equipment, supplies or personnel, or to transport FEMA mobile homes or office style mobile homes into or from Florida;

2) Waive the hours-of-service requirements for such vehicles;

3) Suspend the enforcement of the licensing and registration requirements under the International Fuel Tax Agreement (IFTA) pursuant to chapter 207, Florida Statutes, and the International Registration Plan (IRP) pursuant to section 320.0715, Florida Statutes, for motor

carriers or drivers operating commercial motor vehicles that are properly registered in other jurisdictions and that are participating in emergency relief efforts through the transportation of equipment and supplies or providing other assistance in the form of emergency services;

4) Waive fees for duplicate or replacement vessel registration certificates, vessel title certificates, vehicle license plates, vehicle registration certificates, vehicle tag certificates, vehicle title certificates, handicapped parking permits, replacement drivers' licenses, and replacement identification cards and to waive the additional fees for the late renewal of or application for such licenses, certificates, and documents due to the effects of adverse weather conditions; and

5) Defer administrative actions and waive fees imposed by law for the late renewal or application for the above licenses, certificates, and documents, which were delayed due to the effects of adverse weather conditions, including in counties wherein the DHSMV has closed offices, or any office of the County Tax Collector that acts on behalf of the DHSMV to process renewals has closed offices due to adverse weather conditions.

Recordkeeping and other applicable requirements for existing IFTA and IRP licensees and registrants are not affected by this Executive Order. The DHSMV shall promptly notify the State Coordinating Officer when the waiver is no longer necessary.

G. In accordance with section 465.0275(2), Florida Statutes, pharmacists may dispense up to a 30-day emergency prescription refill of maintenance medication to persons who reside in an area or county covered under this Executive Order and to emergency personnel who have been activated by their state or local agency but who do not reside in an area or county covered by this Executive Order. In accordance with section 465.019(4)(b), Florida Statutes, a hospital that operates a Class II or Class III institutional pharmacy located in an area or county covered



under this Executive Order may prescribe and dispense a supply of a medicinal drug lasting up to 72 hours.

H. All state agencies responsible for the use of state buildings and facilities may close such buildings and facilities in those portions of the State affected by this emergency, to the extent necessary to meet this emergency. I direct each state agency to report the closure of any state building or facility to the WebEOC system utilized by the Division of Emergency Management. Under the authority contained in section 252.36, Florida Statutes, I direct each county to report the closure of any building or facility operated or maintained by the county or any political subdivision on a daily basis to the WebEOC system. Furthermore, I direct the Secretary of the Department of Management Services to:

- 1) Maintain an accurate and up-to-date list of all such closures; and
- 2) Provide that list daily to the State Coordinating Officer.

I. All state agencies may abrogate the time requirements, notice requirements, and deadlines for final action on applications for permits, licenses, rates, and other approvals under any statutes or rules under which such applications are deemed to be approved unless disapproved in writing by specified deadlines. All such time requirements that have not yet expired as of the date of this Executive Order are suspended and tolled to the extent necessary to meet this emergency.

J. All agencies shall implement Selected Exempt Services (SES) Extraordinary Payment Plans and Career Service Regular Compensatory Leave Payment Plans for:

- 1) All essential agency personnel who are required to work extraordinary hours when state-owned or state-operated facilities are closed in response to an emergency condition. Employees who are eligible to receive extraordinary pay under the agency's activated plan shall accrue special compensatory leave credits for work performed during facility closures

up to the number of hours in the employee's established workday. For these employees, any additional time worked beyond the employee's established workday during facility closures will result in extraordinary pay;

2) All agency personnel who are assigned to the State Emergency Operations Center and are required to work extraordinary hours; and

3) All agency personnel who are deployed throughout the state in response to an emergency condition and are required to work extraordinary hours.

K. All state agencies may waive the forty-day time limit to issue a warrant pursuant to section 215.422(3)(a)-(b), Florida Statutes. This waiver applies to invoices and reimbursement requests arising from this emergency that were received, inspected, and approved by the agency prior to the expiration of this Executive Order, including any extension thereof. This waiver of section 215.422(3)(a)-(b), Florida Statutes, and all waivers based upon this waiver shall expire upon the expiration of this Executive Order, including any extension thereof.

L. The provisions of section 934.50, Florida Statutes, excluding subsection (4), are waived for state and local agencies conducting emergency operations arising from the state of emergency for the limited purpose of capturing aerial evidence concerning the amount of damage sustained to private and public property; to assist in search, rescue, and recovery activities; and prevent imminent danger to life or serious damage to property.

Section 5. All public facilities, including elementary and secondary schools, community colleges, state universities, and other facilities owned or leased by the state, regional or local governments that are suitable for use as public shelters shall be made available at the request of the local emergency management agencies to ensure the proper reception and care of all evacuees. Under the authority contained in section 252.36, Florida Statutes, I direct the Superintendent of each public school district in the State of Florida to report the closure of any school within its

district to the Commissioner of the Florida Department of Education. Furthermore, I direct the Commissioner of the Department of Education to:

A. Maintain an accurate and up-to-date list of all such closures; and

B. Provide that list daily to the State Coordinating Officer.

Section 6. I find that the demands placed upon funds specifically appropriated to state and local agencies for disaster relief or response are unreasonably great and that such funds may be inadequate to pay the costs of coping with this emergency. In accordance with section 252.37(2)(b), Florida Statutes, I direct that sufficient funds be made available, as needed, by transferring and expending moneys from the Emergency Preparedness and Response Fund created under section 252.3711, Florida Statutes.

In accordance with section 252.37(2)(a), Florida Statutes, state agencies responding to this emergency must first spend funds specifically appropriated for disaster relief or response. If no specifically appropriated funds exist, or if funds specifically appropriated are exhausted, state agencies are authorized to spend funds from the Emergency Preparedness and Response Fund through the procedures outlined in Memorandum No. 22-046, Emergency Preparedness and Response.

Section 7. All state agencies entering emergency orders, emergency rules, or other emergency actions in response to this emergency shall advise the State Coordinating Officer contemporaneously or as soon as practicable thereafter, and, pursuant to section 252.36(3)(b), Florida Statutes, shall submit the order or declaration to the Division of Administrative Hearings within five days of issuance.

Section 8. Medical professionals and workers, social workers, and counselors with good and valid professional licenses issued by states other than the State of Florida may render such services in Florida during this emergency for persons affected by this emergency with the

condition that such services be rendered to such persons free of charge, and with the further condition that such services be rendered under the auspices of the American Red Cross or the Florida Department of Health.

Section 9. Pursuant to section 501.160, Florida Statutes, it is unlawful and a violation of section 501.204, Florida Statutes, for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is necessary for consumption or use as a direct result of the emergency.

Section 10. Under the authority contained in sections 252.36(6)(a), (g), and (m), Florida Statutes, I direct that, for the purposes of this emergency, the term “essentials”, as defined by section 252.359(2), Florida Statutes, shall be the same as and no more expansive than the term “commodity”, as defined by section 501.160(1)(a), Florida Statutes (hereinafter referred to collectively or alternatively as “essential commodities”). Accordingly, any person who delivers essential commodities to a location in the area(s) declared to be under a state of emergency by this Executive Order, and when necessary to ensure that those commodities are made available to the public, may travel within evacuated areas and exceed curfews, provided the State Coordinating Officer determines, after consultation with the appropriate Emergency Support Function(s), that:

- A. Law enforcement officials in the declared area(s) can provide adequate security to protect the essential commodities from theft;
- B. The weight of a delivery vehicle will not jeopardize the structural integrity of any roadway or bridge located within the declared area;
- C. Delivery vehicles will not negatively impact evacuation activities in the declared area(s); and

D. Delivery vehicles will not negatively impact any response or recovery activities occurring within the declared area(s).

After consulting with the appropriate Emergency Support Function(s), and after consulting with local officials, the State Coordinating Officer may dictate the routes of ingress, egress, and movement within the declared area(s) that drivers must follow when delivering essential commodities.

Provided he or she is actually delivering medications, any person authorized to deliver medications under chapter 893, Florida Statutes, qualifies as a person delivering essential commodities.

In order to qualify as a person delivering essential commodities under this section, a person must be in the process of delivering essential commodities only. If an individual is transporting both essential and non-essential commodities, then this section shall not provide any authorization for that individual to enter into or move within the declared area(s).

Section 11. Consistent with Executive Order 80-29, nothing in this Executive Order shall prevent local jurisdictions in any area not declared to be under a state of emergency by this Executive Order from taking prompt and necessary action to save lives and protect the property of their citizens, including the authority to compel and direct timely evacuation when necessary.

Section 12. I authorize the Florida Housing Finance Corporation to distribute funds pursuant to section 420.9073, Florida Statutes, to any county, municipality, or other political subdivision located within the area(s) declared to be under a state of emergency by this Executive Order. The authority of the Florida Housing Finance Corporation to distribute funds in connection with this emergency shall expire six months after the expiration of this Executive Order, including any extension thereof.

Section 13. All actions taken by the Director of the Division of Emergency Management with respect to this emergency before the issuance of this Executive Order are ratified.

Section 14. This Executive Order is effective immediately and shall expire sixty (60) days from this date unless extended.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed, at Tallahassee, this 7th day of November 2022.

  
\_\_\_\_\_  
RON DESANTIS, GOVERNOR

ATTEST:

  
\_\_\_\_\_  
SECRETARY OF STATE

NOV 10 2022  
TALLAHASSEE  
FLORIDA