

**ORDINANCE NO. 07-2019**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, PERTAINING TO PUBLIC NUISANCES; PROVIDING FOR THE REPEAL OF CHAPTER 10, ARTICLE II, SECTIONS 10-31, 10-32 AND 10-33 AND CHAPTER 54, ARTICLE III, DIVISION 3, SECTIONS 54-131, 54-132, 54-133 AND 54-134; PROVIDING FOR THE CREATION OF A NEW CHAPTER 10, ARTICLE II, SECTIONS 10-31, 10-32, 10-33, 10-34, 10-35, 10-36, AND 10-37; PERTAINING TO THE DEFINITION, DECLARATION, AND ABATEMENT OF NUISANCES; PROVIDING FOR THE AUTHORITY TO ENTER UPON PROPERTIES TO INSPECT SUSPECTED NUISANCES; PROVIDING FOR NOTICE TO THE PROPERTY OWNER OF THE EXISTENCE OF A NUISANCE; PROVIDING FOR APPEALS TO THE MAGISTRATE OF A NOTICE OF THE EXISTENCE OF A NUISANCE ON PROPERTY; PROVIDING FOR THE AUTHORITY TO ABATE NUISANCES, ASSESS FINES, AND REVOKE LOCAL BUSINESS TAX RECEIPTS; PROVIDING FOR THE RECOVERY OF TOWN EXPENSES IN ABATING NUISANCES; PROVIDING FOR THE RECORDATION OF ASSESSMENT LIENS TO RECOVER THE EXPENSES OF THE TOWN'S ABATEMENT OF A NUISANCES; PROVIDING FOR THE PROVISION OF CHRONIC NUISANCE SERVICES BY THE TOWN THAT AUTHORIZES THE IMPOSITION AND COLLECTION OF CHRONIC NUISANCE SERVICE ASSESSMENTS AGAINST REAL PROPERTY; ESTABLISHING A PROCEDURE FOR IMPOSING CHRONIC NUISANCE SERVICE ASSESSMENTS; PROVIDING THAT THE LIEN FOR A CHRONIC NUISANCE SERVICE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, SHALL BE PERFECTED AND SHALL ATTACH TO THE PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLL; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR THE REPEAL OF ALL LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Lake Park, Florida (Town) is a duly constituted municipality having such power and authority as are conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission has been previously advised by the Director of the Community Development Department that there are properties throughout the Town that have been abandoned or are not being properly maintained because of pending mortgage foreclosures, vacancies, or simple neglect, leading to the accumulation

of junk, trash, rubbish, debris, expired vegetation, weeds, overgrown grass and/or vegetation, stagnant water in swimming pools, and structures in need of repairs, painting and maintenance or which are not otherwise in accordance with the Town's Housing Code and/or the Florida Building Code ; and

**WHEREAS**, the Town Commission has previously enacted Chapter 10, Articles II and III of the Town Code which have established conditions which constitute a nuisance; and

**WHEREAS**, the Town Commission has previously enacted Chapter 54, Article III, Division 3, which establishes minimum standards for housing and facilities in the Town; and

**WHEREAS**, by the enactment of this Ordinance and existing Town Code provisions pertaining to nuisances, the Town Commission hereby declares that the accumulation of junk, trash, rubbish, debris, expired vegetation, weeds, overgrown grass and/or vegetation, stagnant water in swimming pools, structures in need of repairs, painting and maintenance; or otherwise not meeting the regulations established in the Town Code to be public nuisances; and

**WHEREAS**, the Town Commission hereby declares that properties with two or more documented calls for service by the Palm Beach County Sheriff's Office (PBSO) per calendar year which involve life safety matters such as drug overdoses and noise disturbances to be a public nuisance; and

**WHEREAS**, the Town Commission hereby declares that properties which are public nuisances may warrant the Town's abatement of same; and

**WHEREAS**, the accumulation of trash, junk, or debris, expired plant material, excessive growth of grass or vegetation, weeds, brush, branches is unhygienic, unhealthy, visually unpleasant or an unaesthetic condition to the reasonable person of average sensibilities, and potentially depreciates the value of a property as well as neighboring properties and the Town in general; and

**WHEREAS**, having had two or more calls for service pertaining to life-safety matters such as drug overdoses per calendar year by the Palm Beach County Sherriff's Office (PBSO), or noise disturbances associated with a property, presents a threat to the overall quality of life and safety of the Town's residents, and particularly those who reside in the immediate neighborhood where the public nuisance exists; and

**WHEREAS**, the Town Commission finds that the abatement of nuisances as authorized by this Ordinance would further the health safety, and general welfare of the Town's residents and businesses and;

**WHEREAS**, the Town Commission finds that the abatement of public nuisances as authorized herein, would enhance the value, quality of life, and safety of the Town's residents and the desirability of commercial properties in the Town; and

**WHEREAS**, the maintenance of a public nuisance as described herein and the failure of a property owner to timely abate same, may require that the Town's intervention to abate the nuisance by the most expeditious and cost-effective methods possible and to assess an irreparable and irreversible fine against the property owner; and

**WHEREAS**, with respect to commercial properties in the Town which are harboring a public nuisance, the Town Commission authorizes the revocation of a business tax receipt until the property owner abates the nuisance; and

**WHEREAS**, the Town Commission finds that the provision of services to abate, revoke and fine declared nuisances existing upon properties provides a direct, special benefit to assessed real properties in the Town; and

**WHEREAS**, the Town has the authority to impose assessments on properties which have been adjudicated to be a nuisance and revoke business tax receipts; and

**WHEREAS**, the Town has the authority to use the uniform method set forth Chapter 197, Florida Statutes to levy, collect, and enforce the collection of non-ad valorem assessments against real property which has been determined by the Town Special Magistrate or court of competent jurisdiction to be a public nuisance.

**WHEREAS**, a property owner which has not abated a nuisance within the time prescribe by the Town's Special Magistrate or a court of competent jurisdiction and/or has not timely paid the costs charged for the abatement by the Town, shall be subject to a non-ad valorem assessment pertaining to the property, and said assessment shall be included on the property owner's annual tax bill; and

**WHEREAS**, if following the receipt of the non-ad valorem assessment, it is not timely paid, a special assessment lien may be recorded against the property; and

**WHEREAS**, the Town Commission hereby amends its Code of Ordinances to authorize the use of the uniform method to levy and collect non-ad valorem assessments against properties which are maintaining a public nuisance as referenced herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:**

**Section 1.** The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

**Section 2.** Chapter 54, Article III, Division 3, Sections 54-131, 54-132, 54-

133 and 54-134 of the Town Code, are repealed as follows:

~~Sec. 54-131. — Nuisance declared.~~

~~It is hereby declared and determined by the town commission, that the following shall each individually, or in any combination, be considered nuisances when they exist upon a lot in the town:~~

- ~~(1) — Accumulations of waste, yard trash, or rubble and debris;~~
- ~~(2) — Accumulations of waste, yard trash, or rubble and debris that may harbor rats or poisonous snakes or that may contain pools of water that may serve as breeding grounds for insects or other disease vectors;~~
- ~~(3) — Uncultivated vegetation greater when:
  - ~~a. — Greater than 12 inches in height located on nonresidential vacant lots; or~~
  - ~~b. — Greater than eight inches in height when located on developed or undeveloped residential or developed nonresidential lots.~~~~
- ~~(4) — Schinus terebinthifolius (commonly known as Brazilian Pepper) bushes or trees, if uncultivated;~~
- ~~(5) — Uncultivated vegetation that constitutes a fire hazard; or~~
- ~~(6) — Vegetation, whether or not cultivated, that impedes or obstructs adequate view of intersections, traffic signs, railroad crossings or traffic from any street, road, or highway.~~
- ~~(7) — Any standing dead trees in close proximity to developed lots or rights-of-way.~~

~~Sec. 54-133. Procedure for abatement of a nuisance.~~

~~(a) Authorized agents, employees and independent contractors of the community development department are empowered to enter upon and inspect lots on which a nuisance is suspected to exist. Any code compliance officer or Palm Beach County Sheriff's deputy or other authorized agent, employee or independent contractor of the town shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon residential, commercial or industrial property while in the discharge of duties imposed by these regulations. If an inspection reveals the presence of a nuisance, the community development department shall notify the property owner of the nuisance in the manner provided in section 9-42. The notice shall also:~~

~~(1) Advise the property owner of the right to a hearing as provided in section 54-134;~~

~~(2) Specify what corrective action must be taken and the date by which the corrective action must be completed;~~

~~(3) State that a failure to abate the nuisance as required by the notice will result in the abatement of the nuisance by the town community development department or an outside contractor retained by the town and that the cost incurred by the town in~~

~~the abatement of the nuisance shall be assessed against the property as a lien; and~~

~~(4) That a lien shall be recorded against the property in the public records of Palm Beach County.~~

~~(5) That the failure of the property owner to file an appeal of the determination of a nuisance before the expiration of the date specified in the notice for completion of the corrective action, shall constitute a waiver of the property owner's right to a hearing and right to appeal the town's determination of a nuisance.~~

~~The appeal forms required in section 54-134 shall be included in the notice, along with a statement that such form must be used to appeal the administrative determination.~~

~~(b) If an appeal is filed, a quasi-judicial hearing will be scheduled by the town's code compliance division before the town's special magistrate. The town shall give the property owner notice of the hearing in the manner provided in section 9-42.~~

~~(c) If no appeal is filed the community development department shall, upon the expiration of the compliance date, reinspect the property to determine whether or not the nuisance has been abated to the satisfaction of the town. If the community development department determines that the property still harbors a nuisance, and/or the required corrective action is not completed to the satisfaction of the town manager, the town may immediately commence all reasonable actions necessary to abate the nuisance. To accomplish that goal, the community development department and/or its agents are authorized by the town commission to enter upon the property and to take all steps reasonably necessary to effect the abatement.~~

- (d) ~~If abatement is effected by the community development department, the cost to the town of abating the nuisance on each lot, including an administrative and operating fee of \$600.00, shall be calculated and assessed against the lot by the community development director or the town manager. The assessment shall contain a legal description of the property, the street or physical address, state the cost of abatement, and specify the administrative and operating fee. The community development department shall mail a notice of the assessment to the owner at the owner's last known address by regular U.S. mail. Until full payment is received, assessments shall be legal, valid and binding liens upon the property. The assessment shall become due and payable to the town as of the date of the mailing of the notice of assessment, interest shall begin to accrue at the statutory rate per annum on any unpaid portion thereof.~~
- (e) ~~As soon as possible after the assessment has been made by the community development director or town manager, a certified copy of the assessment shall be recorded in a claim of lien in the public records of Palm Beach County. The lien shall become effective on the date that a copy of the lien is recorded.~~
- (f) ~~Lien assessments, together with interest thereon, may be enforced by civil action in the appropriate court of competent jurisdiction. The lien created hereby shall be a first lien, equal to a lien for nonpayment of property taxes, on any lot against which an assessment for costs to abate a nuisance has been recorded. The lien shall continue in full force until discharge by payment or otherwise, until settled and released by the community development director or the town manager.~~
- (g) ~~The community development department shall mail a notice that a lien has been recorded to the record owner of each lot described in the lien for the assessments. The notice shall be sent by certified or registered mail, return receipt requested, to the owner's last known address. The notice shall be in a form prepared by the community development department, which shall include the following information:~~
- ~~Name and address of the owner;~~
  - ~~Legal description of the lot where the nuisance has been abated;~~
  - ~~Date of mailing of the notice of the lien;~~
  - ~~A brief description of the nuisance;~~
  - ~~Date that notice was originally sent to abate the nuisance;~~
  - ~~A statement of the actual costs of abatement, the administrative fee, and any interest due;~~
  - ~~Instructions regarding payment and removal of the lien; and~~
  - ~~Additional information as necessary and appropriate.~~

(h) ~~Nothing in this part shall prevent the town or the community development department from pursuing enforcement of this article through other processes.~~

~~Sec. 54-134. Appeal procedures.~~

~~At any time before the expiration of the time specified in the notice for the completion of the corrective action to abate the nuisance, the property owner may appeal the town's determination that a nuisance exists on the property by submitting an appeal on form prepared by the community development department together with a certified check or money order in the amount of \$200.00 made payable to the Town of Lake Park, which amount shall constitute a fee necessary to defray the costs to the town, the town attorney, the community development department, and for the special magistrate hearing, and the processing and administering [of] the appeal. Failure to file an appeal or to appear before the special magistrate within the proscribed time shall be deemed a waiver of the property owner's rights to appeal the administrative action. The special magistrate shall hear the appeal on its regularly scheduled agenda and the hearing shall be conducted in accordance with the procedure set forth in section 9-37, and fines, costs and fees may be imposed by the special magistrate in the same manner as provided in section 9-39 and other. The town's code compliance division shall give the property owner written notice of the date and location of the scheduled hearing in the same manner as provided in section 9-42. The decision of the special magistrate shall be final and the final order finding a nuisance and imposing a fine and costs shall be recorded by the town and shall constitute a lien of the town against the subject property any other property owned by the property owner in the state of Florida.~~

**Section 3.** Chapter 10, Article II, Section 10-31, 10-32 and 10-33 of the Town Code, are repealed and replaced as follows:

~~Sec. 10-31. Definitions.~~

~~For the purposes of this article, the word "nuisance" is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:~~

- ~~(1) Injures or endangers the comfort, repose, health or safety of others;~~
- ~~(2) Offends decency;~~
- ~~(3) Is offensive to the senses;~~



- ~~(4) — Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage;~~
- ~~(5) — In any way renders other persons insecure in life or the use of property; or~~
- ~~(6) — Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.~~

~~Sec. 10-32. — Prohibited nuisances on developed or cleared lots.~~

~~The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance and are prohibited within the town; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:~~

- ~~(1) — Noxious weeds and other rank vegetation; excessive or untended undergrowth, dead or dying plant materials, tree branches, lawn clippings and other excessive or untended vegetation;~~
- ~~(2) — Accumulation of rubbish, trash, refuse, junk, debris, and other abandoned materials, metals, lumber or other things;~~
- ~~(3) — Any condition which provides harborage for rats, mice, and other vermin or for the breeding of mosquitoes;~~
- ~~(4) — Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;~~
- ~~(5) — All unnecessary or unauthorized noises and annoying vibrations, including animal noises;~~
- ~~(6) — All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;~~
- ~~(7) — The carcasses of animals or fowl not disposed of within a reasonable time after death;~~
- ~~(8) — The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances;~~
- ~~(9) — Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;~~
- ~~(10) — Any accumulation of stagnant water on any lot or piece of ground;~~
- ~~(11) — Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.~~

~~Sec. 10-33. Prohibited.~~

~~It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance.~~

**Sec. 10-31. Definitions.**

For the purposes of Article II, the following words are hereby defined as follows:

**Abate** shall mean to remove, reduce, put an end to or do away with a nuisance.

**Adjacent property** shall mean the lot or lots immediately adjacent or contiguous to a lot that is subject to review under this Ordinance.

**Department** shall mean the Community Development Department.

**Developed** shall mean a lot or property containing buildings, structures, paving, or other improvements; excluding solely underground utilities, pipes, wires, cables, culverts, conduits, or other similar improvements or facilities; or plantings; all of which are maintained and utilized in a manner permitted by the Town Code.

**Lot or Property** shall mean any tract or parcel of land, including any structure thereon.

**Nonresidential** shall mean any lot or property upon which any building, structure or open area is not used primarily as a private residence or dwelling.

**Owner** shall mean the holder of the title in fee simple and any person, group or persons, community association or other partnership or corporate entity in whose name tax bills on the property are submitted. It shall also mean owner or owners of record of a lot as such appears in the official records of the Property Appraiser's Office in and for Palm Beach County.

**Rubbish and debris** shall mean waste materials resulting from the construction or demolition of structures or buildings. This shall include construction material left or abandoned on a lot or property.

**Serious threat to the public health, safety, and welfare** is defined as, but not limited to the existence of a vacant unsecured structure, a swimming pool not properly maintained or fenced, or other condition existing upon the property which the Department Director or Building Official has determined poses a life safety issue or physical danger to the public.

**Street** shall mean any strip of land which is open to the public for the use of vehicular traffic and containing delineations, signs, or other traffic control devices to channel traffic.

**Special Magistrate or Magistrate** shall mean a licensed Florida attorney appointed by the Town Commission to hear code enforcement cases, including cases involving alleged nuisances.

**Structure** shall mean anything that is constructed or built from different interrelated parts with a fixed location on the ground and located on a lot or property in the town.

**Tree** shall mean any woody plant or palm which, in its mature state under normal growing conditions, reaches a height of 15 feet or greater.

**Uncultivated vegetation** shall mean living plants allowed to grow in an uncontrolled manner, or not cared for or maintained on a regular basis. Native vegetation in its natural state, including mangroves, shall be considered uncultivated vegetation.

**Waste** shall mean garbage, rubbish and refuse from residential, commercial, or industrial activities, including kitchen and table food waste, animal, or vegetative waste that is attendant with or results from the storage, preparation, cooking, or handling of food material; paper, wood, and wood scraps, cardboard, cloth, glass, rubber, plastic; discarded automobiles, tires and automobile fixtures; household goods and appliances; toys; tools and equipment; trash; debris; lumber; appliances; machinery and similar materials.

**Yard trash** shall mean abandoned vegetative material from landscaping, maintenance or land clearing operations, and includes such materials as tree and shrub trimmings, grass clippings, palm fronds, tree limbs, tree stumps, and similar materials.

**Sec. 10-32. Nuisances declared.**

It is hereby declared and determined by the Town Commission, that the good aesthetic appearance of lots or properties within the Town preserves the value of other properties. The conditions as set forth herein below, which, if maintained upon a lot or property are hereby declared by the Commission to be a public nuisance:

- (1) Accumulations of waste, yard trash, or rubble and debris;
- (2) Accumulations of water or the pooling of water on a lot that may serve as breeding grounds for insects or other disease vectors;
- (3) The excessive growth of grass, weeds, branches, and other uncultivated vegetation greater than 12 inches in height located on a vacant property; or greater than 7 inches in height when located on developed residential or nonresidential properties.
- (4) Uncultivated vegetation that is determined to constitute a fire hazard;
- (5) Vegetation, whether or not cultivated, that impedes or obstructs the view of intersections, traffic signs, railroad crossings or traffic from any street, road, or highway; or that interferes with the enjoyment of private property, or grows onto neighboring lots;
- (6) Any standing dead trees whether on a developed or undeveloped lot;
- (7) Swimming pools that do not meet water clarity requirements or the safety barrier requirements of the Florida Building Code, Sections 424.2.17.1.1 through 424.2.17.1.14; or
- (8) Any lot, or a structure on a lot which harbors vermin, rats, insects, poisonous snakes or other wild animals, which may pose a danger to humans or domesticated animals.
- (9) Any structure on a lot which does not meet the minimum housing standards as established in Chapter 54, Article III, Division 3 of the Town Code.
- (10) Any structure which does not meet one or more provisions of the Florida Building Code, which in the opinion of the Building Official render the premises uninhabitable;
- (11) Any activity which is injurious to, or endangers the comfort, repose, health, safety or welfare of the public;

(12) Any activity which results in at least two calls for service per calendar year by law enforcement and/or fire rescue for life-safety matters such as drug overdoses or disturbances involving excessive or prolonged noise or sounds, or which constitutes an activity that is determined to be injurious to, or endangers the comfort, repose, health, welfare, or safety of Town residents or businesses;

(12) Interferes with, obstructs or tends to obstruct or render dangerous for passage any public or private street, highway, sidewalk, stream, canal, ditch, or storm water drainage facility;

(13) Renders another property owner unsafe, including fear for one's own life or the lives of others; or the resident, business owner or employee, or residents use and enjoyment of a lot or property;

(14) Tends to depreciate the property value of a lot or the lots of others.

(15) Lots or properties which are vacant or upon which an abandoned structure exists, which may be overgrown with vegetation and which have been documented as being used by vagrants for habitation; or which has been the location of a reported crime or crimes, including but not limited to loitering, trespassing, the sale, possession or consumption of illegal drugs, prostitution or other crimes commonly known as "street crimes."

(16) Properties upon which nuisance trees exist including Melaleuca quinquenervia (Punk Tree, Cajeput or Paper Tree), Casurina Sap (Australian Pine), Acacia Articulataeformis (Earleaf tree) and Schinus terebinthifolius (Brazilian Pepper).

**Sec. 10-33. Entry upon property to inspect suspected nuisances authorized.**

The Department's code compliance officers, Palm Beach County Sherriff's Deputies, or any other authorized town employee or agent is permitted to enter upon and inspect any lot or property upon which a nuisance is suspected to exist. Any code compliance officer, Palm Beach County Sheriff's Deputy, or other authorized town agent, employee or independent contractor shall be immune from prosecution, civil or criminal, where he or she had reasonable, good faith belief that it was necessary to enter upon a lot or property to lawfully discharge his or her duties. If an inspection reveals the presence of a nuisance, the Department shall notify the property owner of the nuisance in the manner provided in Section 10-36.

**Section 4.** Chapter 10, Article II, Sections 10-34, 10-35,10-36, and 10-37 are hereby created as follows:

**Sec. 10-34. Notice of the existence of a nuisance and general procedure.**

(1) If the inspection of a lot or property by the Department reveals the presence of a nuisance, the owner shall be provided written notification of the town's determination that a nuisance exists upon the property. The notice shall inform the owner of the nature of the nuisance; and shall set forth a reasonable time, not to exceed 10 days to abate the nuisance, unless the Department finds that the circumstances require more than 10 days.

(2) In the event the property is believed to pose a serious threat to the public health, safety and welfare, or of the condition is such that it is irreparable or irreversible in nature, the Department shall make all reasonable attempts to notify the owner and that the Department is seeking an immediate hearing of the Special Magistrate. A serious threat to the public health, safety, and welfare is defined as, but not limited to the existence of a vacant unsecured structure, a swimming pool not properly maintained or fenced, or other condition existing upon the property which the Department Director or Building Official has determined poses a life safety issue or physical danger to the public. Pursuant to section 162.06, F.S. the Department may immediately seek a hearing before the Special Magistrate authorizing the Department to abate the nuisance. Also, pursuant to 162. , F.S., the Department is authorized to make repairs or otherwise correct the violation.

(3) The Department shall certify its expenses incurred in the repairs, correction or abatement of the nuisance. In the event a nuisance is determined based on statistical information received by the Palm Beach County Sheriff's Office resulting in the presence of a nuisance as defined herein, the nuisance shall be noticed and scheduled for a Special Magistrate Hearing pursuant to the procedures in Chapter 9 of the Town Code.

(4) Notice pursuant to this Section shall be delivered to the owner in accordance with the procedures set forth in section 162.12, F.S.

(5) The notice shall advise the property owner of the following:

(a) The owner may appeal the Department's finding of the existence of a nuisance to the Town's Special Magistrate pursuant to Section 10-39; and

(b) That the failure of the owner to appeal the determination of a nuisance before the expiration of the date specified in the notice, shall constitute a waiver of the property owner's right to a hearing to appeal the Town's determination of a nuisance on the owner's lot or property; and

(c) Specify the corrective action that must be taken to abate the nuisance and the date by which the corrective action must be completed, any fine which may be assessed and if applicable, that the business tax receipt of any business operating on the property may be revoked; and

(d) State that a failure to abate the nuisance as required by the notice may result in the abatement of the nuisance by the Town or a contractor retained by the Town; and that the cost incurred by the Town in the abatement of the nuisance may be assessed against the property as an assessment lien, or in the case of a nuisance determined utilizing law enforcement statistical data, shall be scheduled for a Hearing with a recommendation that an irreparable and irreversible fine as per State Statute be assessed against the property. and/or, that the business tax receipt for any business operating on the property may be revoked; and

(e) The expenses incurred by the town for abating the nuisance may be recorded as an assessment lien against the property if the owner does not timely abate the nuisance;

(f) The assessment shall become delinquent if not timely paid and will be placed on the tax roll as a non-ad valorem assessment and in accordance with law shall be superior to all other rights, interests, liens, encumbrances, mortgages, titles and claims upon the lot and equal in rank and dignity with a lien for ad valorem taxes; and

(g) The failure to pay the assessment lien may result in the issuance of a tax certificate and conveyed by a tax deed, subject to the redemption of the non-ad valorem assessment in full, plus interest, as required by Florida law.

(6) Appeal of the administrative determination of a nuisance.

(a) If an appeal is filed, the town shall schedule a quasi-judicial hearing before the Town's Special Magistrate and provide the property owner with notice of the hearing in the manner provided in Section 9-42.

(b) If no appeal is filed the Department shall, upon the expiration of the compliance date, inspect the property to determine whether or not the nuisance has been abated. If the Department determines that the property still harbors a nuisance, and/or the property owner has not completed the required corrective action, the Town may immediately commence all reasonable actions necessary to abate the nuisance. The Department and/or its agents are authorized to enter upon the property and to take all steps reasonably necessary to abate the nuisance.



(c) If the Department is required to abate the nuisance, the Town shall determine its costs for the abatement of the nuisance on which shall be the basis for an assessment against the lot.

(d) The assessment shall contain a legal description of the property, the street or physical address, the cost of abatement, and specify any administrative fees to be charged by the town. The Department shall mail a notice of the assessment to the owner at its last known address by regular U.S. mail. Until full payment is received, assessments shall be legal, valid and binding as an assessment lien upon the property. The assessment shall become due and payable to the Town as of the date of the mailing of the notice of assessment, interest shall begin to accrue at the statutory rate per annum on any unpaid portion thereof.

(e) As soon as possible after the assessment has been made, a certified copy of the assessment shall be recorded in a claim of lien in the public records of Palm Beach County. The lien shall become effective on the date that a copy of the lien is recorded.

(f) An assessment lien, together with interest thereon, may be enforced by civil action in the appropriate court of competent jurisdiction. The lien created hereby shall be a first lien, equal to a lien for nonpayment of property taxes. The lien shall continue in full force until discharge by payment or otherwise, until settled and released.

(g) The Department shall mail a notice to the record property owner that an assessment has been recorded as a lien has been recorded against the lot or property. The notice shall be sent to the owner in the same manner as set forth in Section 10-34 (4), above, and shall include the following information:

Name and address of the owner;

Legal description of the lot or property where the nuisance has been abated;

A brief description of the nuisance;

Date that notice was originally sent to abate the nuisance;

A statement of the actual costs of abatement, and any administrative fees or interest on the assessment which is due;

Instructions regarding payment and removal of the lien; and

(h) Nothing in this part shall prevent the Town from pursuing enforcement of this article through other legal processes.



**Sec. 10-35. Examples of the abatement of specific Nuisances.**

Any nuisance which is maintained on a property within the Town shall be abated. The method for the abatement of nuisances which are typical and may be expected to occur on lots or properties in the town are as follows:

(1) If the nuisance consists solely of accumulations of waste, yard trash, or rubble and debris, it shall be abated in its entirety

(2) If the nuisance consists solely of uncultivated vegetation and the property is less than one-half (½) acre in size, the nuisance shall be abated in its entirety.

(3) If the nuisance consists of dead trees, only those standing dead trees located in an area that would not cause damage to adjacent developed properties, sidewalks, or rights-of-way.

(4) If the nuisance consists in part of uncultivated vegetation and in part of other nuisances declared by this article, the provisions of subsections (1), (2) and (3) shall each apply to its abatement.

(5) If the nuisance consists of an infestation of vermin or insects then the nuisance shall be abated in its entirety.

(6) If the nuisance consists of a swimming pool without an adequate safety barrier and/or proper water clarity, the nuisance shall be abated in its entirety.

(7) All other nuisances resulting from a violation of the Florida Building Code, or Housing Code, shall be abated so as to eliminate the immediate threat to the public's health, safety and general welfare. In the event the nuisance is declared pursuant to law enforcement statistical data, a recommendation will be made by Staff and PBSO on how to best eliminate the threat to the public's health, safety and general enjoyment of property. In all cases, an irreparable and irreversible fine as governed by State Statute will apply and as applicable, the local business tax receipt will be revoked.

**Section 10-36. Appeal procedures.**

At any time before the expiration of the time specified in the notice to abate the nuisance, the property owner may appeal the Town's determination of the existence of a nuisance by submitting an appeal on form prepared by the Department together with a certified check or money order in the amount of \$200.00 made payable to the Town of Lake Park, which amount shall constitute a fee necessary to defray the costs to the Town for the processing and hearing of the appeal. Failure to file an appeal within the proscribed time

shall be deemed a waiver of the property owner's rights to appeal the administrative action. The Special Magistrate shall conduct a hearing in accordance with the procedure set forth in Section 9-37 of the Code. The Special Magistrate is authorized to assess fines and costs as provided in Section 9-39 of the Code. The decision of the Special Magistrate shall constitute a final order finding a nuisance and imposing a fine and costs. The final order may be recorded by the Town and thereafter shall constitute an assessment lien against the lot or property.

**Sec. 10-37. Assessment lien.**

Assessment liens levied pursuant to this section may be certified to the tax collector for collection pursuant to the uniform method provided in § 197.3632, Fla. Stat.

**Section 5.**

The Commission hereby repeals existing Chapter 54, Article \_\_, Sections 54-131 through 54-134 in their entirety.

**Section 6. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 7. Codification.**

The Sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "Ordinance" may be changed to "Section", "Article", or any other appropriate word.

**Section 8. Repeal of Laws in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 9. Effective Date.**

This Ordinance shall take effect immediately upon adoption by the Town Commission.

Upon First Reading this 4 day of September, 2019, the foregoing Ordinance was offered by Vice-Mayor Glas-Castro, who moved its approval. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

|                                 | AYE      | NAY   |
|---------------------------------|----------|-------|
| MAYOR MICHAEL O'ROURKE          | <u>/</u> | _____ |
| VICE-MAYOR KIMBERLY GLAS-CASTRO | <u>/</u> | _____ |
| COMMISSIONER ERIN FLAHERTY      | <u>/</u> | _____ |
| COMMISSIONER JOHN LINDEN        | <u>/</u> | _____ |
| COMMISSIONER ROGER MICHAUD      | <u>/</u> | _____ |

**PUBLISHED IN THE PALM BEACH POST THIS 8 DAY OF September, 2019**

Upon Second Reading this 18 day of September, 2019, the foregoing Ordinance, was offered by Commissioner Flaherty who moved its adoption. The motion was seconded by Commissioner Linden and being put to a vote, the result was as follows:

|                                 | AYE           | NAY   |
|---------------------------------|---------------|-------|
| MAYOR MICHAEL O'ROURKE          | <u>Absent</u> | _____ |
| VICE-MAYOR KIMBERLY GLAS-CASTRO | <u>/</u>      | _____ |
| COMMISSIONER ERIN FLAHERTY      | <u>/</u>      | _____ |
| COMMISSIONER JOHN LINDEN        | <u>/</u>      | _____ |
| COMMISSIONER ROGER MICHAUD      | <u>Absent</u> | _____ |

The Mayor thereupon declared **Ordinance No.** 07-2019 duly passed and adopted this 18 day of September, 2019.

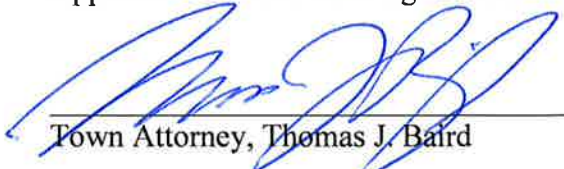
TOWN OF LAKE PARK, FLORIDA

BY:   
Mayor, Michael O'Rourke

ATTEST:

Approved as to form and legal sufficiency:

  
Town Clerk, Vivian Mendez

  
Town Attorney, Thomas J. Baird

