

ORDINANCE NO. 01-2014

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 78, ARTICLE VIII, SECTION 78-251 OF THE TOWN'S CODE OF ORDINANCES TO MODIFY LANDSCAPING STANDARDS PERTAINING TO NONCONFORMING PARCELS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Town Commission has adopted general provisions pertaining to land development, including landscaping, which have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, the Town's Community Development Department has recommended amendments to Sections 78-251 of the Code of Ordinances pertaining to the landscaping requirements for nonconforming parcels; and

WHEREAS, the Town Commission has determined that the recommended amendments would further the public's health, safety and general welfare.

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 true and correct and as the legislative findings of the Town Commission.

Section 2. Chapter 78, Article VIII, Sections 78-251(c) and (e) are hereby amended as follows:

Section 78-251. Landscaping generally

(c) *Applicability.*

(1) The standards contained in this section shall apply to all property within the town.

(2) Nonconforming parcels.

a. Any parcel of land, with the exception of nonconforming parcels on which single-family, two-family or three-family dwellings exist, must conform with the requirements and regulations of this article and chapter, regardless of the date of the erection of the structure.

b. Nonconforming parcels of real property on which single-family, two-family or three-family dwellings exist must comply with the landscape requirements of this article whenever a building permit is issued by the town for construction work on the property, where the estimated total value of the construction work and/or other improvements is \$5,000.00 or more. Provided however that, nonconforming parcels shall incorporate only those landscaping requirements determined by the Director of Community Development to be feasible based on existing site conditions. Financial hardships shall not be considered to be a site condition which would alleviate a property owner's compliance with landscaping requirements. The Community Development Department is authorized to approve waivers of the landscaping requirements of this section upon the review and approval of an application for same. The application shall include a landscape plan signed and sealed by a Florida registered landscape architect.

c. Nonconforming parcels of real property shall be subject to the landscape requirements of this article, should they seek any expansion, ~~or should they suffer damage in excess of 50 percent of their appraised value~~ modification, or where the property has been damaged based on the following criteria:

(1) Repair, rehabilitation, restoration, reconstruction, alteration, expansion, or similar improvement, in a calendar year, in excess of 50 percent of the value of the improvements of the property, as determined by the most recent certified tax roll prepared by the county tax collector; or

(2) Repair, rehabilitation, restoration, reconstruction, alteration, expansion, or similar improvement, over three calendar years, in excess of 50 percent of the value of the improvements of the property, as determined by the most recent certified tax roll prepared by the county tax collector.

d. If it is impossible to satisfy the landscape requirements of a nonconforming parcel, the town *may* designate the town manager or his/her designee to mitigate the nonconformity by donation to the town of cash equal to the costs of the required improvements, or by the owners contribution of a like amount (or combination thereof) of trees, shrubs, and groundcovers for the improvement of the town's public parks, ball fields or other parcels that might be designated to satisfy the extent of the nonconformity.

(...)

(e) *Application and permit required.*

(...)

(4) Except for single-family, ~~and~~ two-family and three-family dwellings, prior to the issuance of any permit for paving, a ~~development~~ landscape permit application shall be submitted to the community development department. The landscape application shall be subject to the Community Development Department's review and approval. Provided however, nonconforming parcels shall incorporate only those landscaping requirements that are feasible based on existing site conditions. Financial hardship shall not be considered to be a site condition which would alleviate the property owner from compliance with landscaping requirements. The Community Development Department is authorized to approve waivers of the landscaping requirements of this section upon the review and approval of an application for same. The application shall include a landscape plan signed and sealed by a Florida registered landscape architect. No permit shall be issued for paving unless the application complies with the provisions hereof, and no final certificate of occupancy or completion shall be issued until the landscaping is complete and passes a final inspection by the town. ~~It shall be unlawful to occupy the premises unless the landscaping is installed in accordance with the approved plans and the requirements hereof.~~

Section 3. 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 4. Repeal of Laws in Conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 15 day of January, 2014, the foregoing Ordinance was offered by Commissioner O'Rourke, who moved its approval. The motion was seconded by Commissioner Rapoza and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 19 DAY OF January, 2014

Upon Second Reading this 5 day of February, 2014, the foregoing Ordinance, was offered by Commissioner O'Rourke, who moved its adoption. The motion was seconded by Commissioner Flaherty and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KIMBERLY GLAS-CASTRO	<u>/</u>	_____
COMMISSIONER ERIN FLAHERTY	<u>/</u>	_____
COMMISSIONER MICHAEL O'ROURKE	<u>/</u>	_____
COMMISSIONER KATHLEEN RAPOZA	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 01-2014** duly passed and adopted this 5 day of February, 2014.

TOWN OF LAKE PARK, FLORIDA

BY: James DuBois
Mayor, James DuBois

ATTEST:

Vivian Mendez
TOWN OF LAKE PARK
Town Clerk, Vivian Mendez
(Town Clerk)

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

FLORIDA

RECEIPT

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**LEGAL NOTICE OF PROPOSED
ORDINANCE
TOWN OF LAKE PARK**

Please take notice that on Wednesday, February 5 2014 at 6:30 p.m. or soon thereafter the Town Commission, of the Town of Lake Park, Florida in a regular session to be held in the Commission Chambers, Town Hall, 535 Park Avenue, Lake Park, Florida will consider the following Ordinances on second reading and proposed adoption thereof:

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AN ORDINANCE OF THE TOWN
COMMISSION OF THE TOWN OF LAKE
PARK, FLORIDA, AMENDING CHAPTER
78, ARTICLE VIII, SECTION 78-251 OF
THE TOWN'S CODE OF ORDINANCES
TO MODIFY LANDSCAPING
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PROVIDING FOR THE REPEAL OF
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CODIFICATION; AND PROVIDING FOR
AN EFFECTIVE DATE.**

If a person decides to appeal any decision made by the Town Commission with respect to any hearing, they will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. For additional information, please contact Vivian Mendez, Town Clerk at 561-881-3311.

Vivian Mendez, CMC, Town Clerk
Town of Lake Park, Florida
PUB: The Palm Beach Post
1-19/2014 #187280

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