

ORDINANCE NO. 02-2010

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 34 ENTITLED "VEGETATION", ARTICLE I; SECTION 34-1 ENTITLED "INTENT"; SECTION 34-2 ENTITLED "DEFINITIONS"; SECTION 34-3 ENTITLED "PUBLIC TREE CARE"; SECTION 34-4 ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY – REPLACEMENT BY ANOTHER TREE OR BUSH"; SECTION 34-5 ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS"; SECTION 34-6 ENTITLED "TREE TOPPING"; SECTION 34-7 ENTITLED "PRUNING, CORNER CLEARANCE"; SECTION 34-8 ENTITLED "DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY"; SECTION 34-9 ENTITLED "TREE REMOVAL STANDARDS"; SECTION 34-10 ENTITLED "ARBORISTS LICENSE AND BOND"; SECTION 34-11 ENTITLED "REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES AND OTHER TOWN OWNED OR CONTROLLED PROPERTY OR RIGHTS OF WAY"; AMENDING CHAPTER 78, ARTICLE VIII, SECTION 78-252 ENTITLED "LANDSCAPING GENERALLY"; 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 ("Town") 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 vegetation and tree plantings and other improvements in swale areas within the Town which, among other provisions, have been codified in Chapter 34 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, Town staff has recommended to the Town Commission that certain Sections of Chapter 34 be amended to provide additional guidelines, controls, and standards for the planting, maintenance, removal and protection of trees within the Town; and

WHEREAS, the amendments to Town Code Chapter 34, would preserve and protect the Town's trees in general, and provide for clear standards for planting, maintaining, removing and preserving trees, and preserve and enhance property values within the Town; and

WHEREAS, the Town Commission has also adopted additional provisions pertaining to landscaping and vegetation protection which have been codified in the Town's Zoning Code as set forth in Chapter 78, Article VIII of the Code of Ordinances of the Town; and

WHEREAS, Town staff has recommended to the Town Commission that certain amendments be made to Chapter 78, Article VIII, Section 78-252 entitled "Landscaping generally" which provides for additional landscaping regulations within the Town's Zoning Code, and which may contain certain potential internal conflicts and inconsistencies relative to landscape requirements of the Town, particularly relating to parcels of real property which fail to conform to the existing minimum landscape requirements of the Town, and which should have come into compliance with the Town's current minimum landscape regulations by the present time based on prior legislation of the Town Commission; and

WHEREAS, the Town Commission, after due notice and public hearings deems it to be in the interest of the public health, safety and general welfare to amend the Town's Code as detailed herein above, to provide for these amendments.

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

Section 1. The whereas clauses are hereby incorporated as true and correct findings of fact of the Town Commission.

Section 2. Chapter 34, Article I, Sections 34-1, 34-2, 34-3, 34-4, 34-5, 34-6, 34-7, 34-8, 34-9, 34-10; and 34-11 of the Code of Ordinances of Town of Lake Park, Florida are hereby amended to read as follows:

Sec. 34-1. Intent.

It is the intent of these regulations contained herein to provide guidelines, controls, and standards for the planting, maintenance, removal and protection of trees and other permissible plant materials within the Town of Lake Park. The goals of these regulations are is to enhance and insure the continued continuance growth of the existing native indigenous tree canopies canopy within the town; ~~so as~~ to provide the community with the adequate green and open space; the health and safety benefits which can be derived from native plant life and the active use of a clean living environment; energy conservation through the use of natural resources, of energy, the eradication of invasive nonnative plants, weeds, and other non-indigenous plant species; land preservation; and the general psychological, aesthetic, and economic benefits that can be derived from a healthy environment and an abundance of naturally indigenous plant life, among other laudable tree preservation objectives, therefrom.

Sec. 34-2. Definitions.

The following words and phrases shall have the meanings ascribed to them in this section:

Public way. Includes all public streets, roads, boulevards, alleys and sidewalks, and other public rights-of-way as more specifically defined in Chapter 316, F.S., as amended from time to time.

Public areas. Includes all public ways, parks and other lands owned or leased by the town or another governmental entity.

Tree. Any self-supporting woody plant, usually having a single woody trunk; a potential caliper of two inches or more, and a more or less distinct and elevated head with many branches.

Plant and plant products. Means trees, shrubs, vines, forage, and cereal plants, and all other plants and plant parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all products made from them, unless specifically excluded by the Division of Plant Industry of the state of Florida Department of Agriculture and Consumer Services.

Protected tree. A tree with a minimum caliper of four inches in diameter, one foot above the ground of the species Live Oak, Laurel Oak, Gumbo Limbo, Royal Poinciana, Banyan, Black Olive, and Mahogany.

Maintenance and protection. Includes activities all-operations consisting of, but not limited to,

~~of: pruning, trimming, spraying, injecting, watering, fertilizing, treating, bracing, performing tree surgery work, cutting above or below the ground, removal and disposal, stump grinding, and mulching.~~

Pruning. Pruning is the cutting or removing branches or parts of trees or for improving the shape or growth of trees, and is the most common tree maintenance procedure. Trees supposed to be pruned in a careful and systematic manner as a preventative or corrective measure to remove dead branches, dead or living plant parts, crowded or rubbing limbs, eliminate hazards, and increase light and air penetration, without damaging other parts of the tree. ~~The removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage other parts of the plant.~~

Specimen tree. A tree with any individual trunk, which has a caliper larger than 12 inches. All nuisance trees listed in subsection 34-9(2)(e) are ~~specifically determined to not~~ considered to be specimen trees.

Tree service/arborist. Any person or entity, company, corporation or service, which is the business, for compensation or a fee, performs tree maintenance and protection. An arborist is a trained professional that is knowledgeable and equipped to provide proper tree care, and who is specially trained to provide a variety to services to maintain trees. ISA Certified Arborists are individuals who have achieved a level of knowledge in the art and science of tree care with a minimum of three years experience and who have passed a comprehensive examination.

Developed property. Property containing a structure, which has a valid certificate of occupancy.

Equivalent replacement. A tree or trees, which due to condition, size and value, is determined by the ~~public works~~ community development department to be equivalent to the tree to be removed.

Equivalent value. An amount of money, which reflects the replacement cost of a tree, (including transportation, planting and initial maintenance to insure survival) based on its size, condition and location, following the international society of arbors tree evaluation formula and the market value.

Topping. Topping is the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role and a process to flat-cut the top of a tree or to remove more than one-third of the tree crown. Effects of topping include but are not limited to, the removal of the normal tree canopy, disfiguration of the tree and rendering the tree susceptible to disease, pest invasion, broken or weakened branches and limbs. ; ~~hatracking.~~ Other names for topping including "heading," "tipping," "hat-racking," and "rounding over."

Public nuisance. Any tree or shrub or part thereof growing upon private or public property, which is determined to endanger the health, safety and general welfare of the town.

Large tree. A tree with a mature height of 40 feet or more in height, a mature canopy wider than 22 feet, and a mature root system wider than 15 feet.

Medium tree. A tree with a mature height of between 26 feet and 39 feet, a mature canopy between 15 feet and 22 feet, and a mature root system between ten feet and 15 feet.

Small tree. A tree with a mature height of 25 feet or smaller, a mature canopy smaller than 15 feet, and a mature root system smaller than ten feet.

Invasive plant. Means a naturalized plant that disrupts naturally occurring native plant communities.

Drop-crotch pruning. A specific type of pruning designed to properly reduce the size of trees within the current national arborist association standards, or any subsequent amendments thereto.

Branch collar. Trunk tissue that forms around the base of a branch.

Shade tree. Any tree with a mature crown width that is at least two-thirds of the tree's mature height.

Swale or swale areas. A broad manmade depression, running parallel from a property line to a public the street, roadway, or other form of right-of-way, and which may be used for among other things, between the pavement and the sidewalks for containing storm water runoff. from streets.—

Crown. Main part of the branching of a tree.

Crown width. The width of the crown at its widest point measured on a plane parallel to the ground.

Caliper. A tree measurement that takes the diameter of the tree at 12 inches above the rootball.

Root ball. A group of roots extending from the base of a tree trunk that must be intact when relocating a tree in order to promote survival of the tree.

Nonviable. Not capable of existing and continuing to provide the biological or aesthetic qualities associated with a healthy functioning tree resource.

Effectively destroyed. The cutting, trimming, or damaging of a tree's trunk, branch or root system to the extent that the tree is no longer viable.

Tree removal. Directly or indirectly cutting down, destroying, removing or relocating or effectively destroying (through damaging, trimming, authorizing or allowing the cutting down, destroying, removing, moving or damaging of) any tree.

Sec. 34-3. ~~Public tree care.~~ Care of trees on public property.

The town shall have the right, but not the obligation, to plant, prune, maintain, and remove trees, plants, vegetation, and shrubs within ~~the lines of~~ all public streets, roadways,

alleys, avenues, lanes, squares and other public rights-of-way and public grounds, which the town's community development director in the exercise of his/her sole discretion reasonably deems to ~~may~~ be necessary to ensure public safety, and/or to preserve or enhance the symmetry and beauty of such public property grounds. The community development director may obtain the removal of any tree or other form of vegetation (or part thereof), which is located on town-owned property if the town's community development director in the exercise of his/her sole discretion reasonably determines that the tree or vegetation (or any part thereof) cause or order to be removed, any tree or part thereof which has created a dangerous or in an unsafe condition, and/or presents a serious threat to the public health, safety, or welfare, and/or is in irreparable or irreversible condition, including but not limited to actual or potential hazards or threats caused by diseases, fungus, pests, insects, vermin or which conditions present an actual or potential threat of injury to, or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees in the swale by adjacent property owners providing that the selection and location of such trees is in accordance with this section.

Sec. 34-4. Removal of trees on town property Replacement by another tree or bush. Replacement of removed trees and/or vegetation from town property with appropriate trees and permitted vegetation in the same or a suitable alternative location.

Whenever ~~Wherever~~ a tree or other form of vegetation has been removed from on town property ~~has been removed under~~ pursuant to section 34-3, another tree or other form of permitted vegetation ~~bush~~ shall be planted in its place whenever possible, or alternatively in another suitable location on town property, wherever possible.

Sec. 34-5. Planting on certain drainage easements. Advance town approval required for proposed landscaped and related improvements for lots located over pre-existing drainage easements.

Those property owners of record and authorized agents of the property owners who persons whose own homes and/or vacant lots which directly abut the pre-existing public drainage easement, which transverses running through the approximate center of those lots located in Blocks 61, 65, 69, 73, and 39, and 115, of the town are authorized to ~~may~~ landscape and beautify only that portion of the drainage easement which directly abuts the entire length of the property line owned to a depth of not more than 25 feet from the rear property line, with only permitted landscape materials, in such blocks. All proposed landscaping and related improvements must first be beautification shall be first presented to the community development director for either written approval, approval with conditions, or denial. In considering any such request, the community development director shall take into consideration, among other relevant factors, whether the proposed who shall approve or modify same upon determination that any landscaping and/or related improvements beautification will not interfere with the use, maintenance, alterations, modification, relocation, repair, replacement of the drainage easement, for drainage purposes or the use of the easement to maintain existing and/or any planned, contemplated, or anticipated future drainage facilities. All landscaping and related improvements by a property owner or his/her authorized agents, beautification which are placed in, over, under,

upon, or across any on the public drainage easement, shall automatically become the property of the town; however, and the town shall have assume no obligation to maintain the landscaping and/or related improvements unless it so chooses and has received advance written authority to do so. Furthermore, the town shall have no liability for any damage caused to the landscaping or related improvements beautification material if any work on such improvements was undertaken by town employees or under town auspices. ; provided, however, that the The town manager shall use reasonable efforts is directed to make every effort to provide the affected abutting property owners who have landscaped and beautified the subject drainage easement referred to above with advance sufficient notice of any intended alterations to the drainage easement area by the town or its agents, which might result in potential damage or destruction to the beautification of landscape materials. If permitted by the town manager, the affected so that said property owners may be allowed to retain possession of any landscape materials and related improvements that the property owners installed once the property owners have had an opportunity to may remove the landscape materials and related improvements, materials, whereupon such materials shall belong to the abutting property owner, as set forth herein.

Sec. 34-6. Tree topping prohibited.

It shall be unlawful as a normal practice for any person, ~~or entity, firm~~ or town department to top any street tree, ~~park tree or other tree~~ on public property or ~~on~~ private property, when the where such trees are required a condition of an approved development order or permit. The term "topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this section at the determination of the community development director.

Sec. 34-7. Pruning, corner clearance.

(1) A property owner who has ~~Every owner of any tree or plant material, or portion thereof, that overhangs overhanging~~ any street, sidewalk, or right-of-way within the town, shall have the duty to properly prune the branches and overgrowth so that such branches and/or overgrowth ~~do shall not obstruct pedestrian or vehicular traffic,~~ do not obstruct the light from any street lamp, ~~or do not obstruct visibility sight triangles~~ or the view of any street intersection and so that there ~~is shall be~~ a clear space above the surface of the street or sidewalk. ~~in compliance with the town's visibility triangle standards. Such Property owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs from their property to prevent the creation of a nuisance. , which constitute a menace to the safety of the public. The town shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign.~~

(2) The following standards shall be applicable to the pruning of trees within the town:

(a) The pruning practices established by the current National Arborist Association standards, or any subsequent amendments thereto, which are specifically incorporated

herein.

(b) All branches too large to be supported by one hand shall be precut to avoid splitting or tearing of the bark. Where necessary, proper equipment should be used to lower large branches or stubs to the ground.

(c) All cuts shall be made as close as possible to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub. Drop-crotch pruning for overhead utility lines shall be followed.

(d) All cut limbs shall be removed from the crown upon completion of the pruning.

(e) Not more than one-third of the total crown area should be removed at a single operation. A cutting exceeding this standard will be considered to have rendered the tree nonviable, and shall be presumed, subject to rebuttable evidence to the contrary, to be effective destruction of the tree.

(f) All trees located on property which extend over any town roadway, alley or other vehicular right-of-way shall have their branches pruned to a clearance height of between 12 and 16 feet, so that no branches shall interfere with the vehicular use of said areas.

Sec. 34-8. Dead or diseased tree and plant removal from ~~on~~ private property.

~~The town shall have the right to cause the removal of any dead and/or diseased trees and other forms of vegetation and plant materials, and/or when it interferes with the proper spread of light along the street from a streetlight, or interferes with visibility of any traffic control device or sign on private property, in the event a violation of this Code is found pursuant to the code enforcement provisions of Section 162.06, F.S., Section 162.09, F.S., and 162.10, F.S., as amended from time to time, and Chapter 9 of this Code, and the condition(s) of the tree(s), vegetation, or other plant material(s), which presents the violation of this Code, presents a serious threat to the public health, safety and general welfare, or the condition causing the violation is irreparable or irreversible in nature. The violator shall be responsible for all costs of the tree or plant removal, together with any fines imposed, and the legal fees and administrative costs incurred by the town in connection therewith. If the violation is found to be irreversible or irreparable in nature in the code enforcement proceeding, a fine not to exceed \$5000.00 per violation may be assessed against the violator. Examples of violations which warrant tree or plant removal, include but are not limited to, conditions where the trees, vegetation, and/or plant materials when such trees constitute a serious hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees and plant life within the town. The property owner shall be responsible for removal of such trees. The code compliance board shall be responsible for enforcement of this requirement after consultation with the town tree board and the community development director. In the event of failure of owners to comply with such provisions or when such trees present an imminent hazard, the town shall have the authority to remove such trees and place a lien on the property of the owner for the cost of removal.~~

Sec. 34-9. Tree removal standards.

The following standards shall be applicable to the removal of trees within the town:

(1) [*Permit required.*] It shall be unlawful for any person, business or entity, intentionally or unintentionally, knowingly or unknowingly, directly or by direction, to cut down, destroy, remove or move, or to effectively remove or destroy, through the infliction of damage, any tree within the town, without first obtaining a permit from the community development department.

(2) [*Exemptions.*] The following tree removal activities are specifically exempted from the permit, relocation, replacement and mitigation requirements of this chapter:

(a) Removal of trees within the property boundaries of developed property, which are not specimen, or protected trees.

(b) Removal of any dead tree.

(c) Removal of trees in emergency situations.

(d) Removal of any of the following nuisance tree species:

TABLE INSET:

	Species	Common Name
(a)	Acacia Auriculiformis	Earleaf Acacia
(b)	Albizia lebbeck	Woman's Tongue
(c)	Araucaria heterophylla	Norfolk Island Pine
(d)	Bambusa Vulgaris	Tree Bamboo
(e)	Bischofia javanica	Bischofia
(f)	Brassaia actinophylla	Schefflera
(g)	Casuarina spp	Australian Pine
(h)	Cupaniopsis anacardiodes	Carrotwood
(i)	Enterolobium cyclocarpum	Ear Tree
(j)	Eucalyptus spp	Eucalyptus
(k)	Ficus spp	Ficus
(l)	Grevillea robusta	Silk Oak
(m)	Hibiscus tiliaceus	Mahoe
(n)	Melaleuca quinquenervia	Melaleuca
(o)	Metopium toxiferum	Poison Wood
(p)	Psidium quajava/littorale	Guava
(q)	Ricinus communis	Castorbean
(r)	Sapium sebiferum	Chinese Tallow Tree
(s)	Schinus terebinthifolius	Brazilian Pepper
(t)	Syzygium cumini	Java Plum
(u)	Thespesia populnea	Mahoe —Portia Tree

(e) ~~(f)~~ Removal of any tree which has been destroyed or effectively destroyed by an act of God, or by acts outside the control of the legal, beneficial or equitable owner of the real property in which the tree is located, and which acts could not have been prevented by the exercise of reasonable care.

(f) ~~(g)~~ Removal of any tree by the town in accordance with the authority and administrative discretion provided in section 34-14 of this chapter.

(g) Removal of noxious weeds, noxious plants, noxious aquatic plants, invasive plants, non-native plants, non-native aquatic plants, and plants infested with plant pests, as such terms are defined in chapter 581, F.S., as amended from time to time.

Sec. 34-10. Arborists license and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the town unless they ~~without first applying for and procuring a business tax receipt and~~ possess a current contractors registration with the Town of Lake Park. No license shall be required of any public service company or town employee doing such work in the pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000.00 for bodily injury and \$20,000.00 for property damage, indemnifying the town or any person injured or damaged resulting from the pursuit of such endeavors as herein described.

Sec. 34-11. Regulations for tree plantings and improvements in swales and on other town-owned or controlled property or rights-of-way.

(1) *Sole risk property owner.* Liability for any injuries or damages which result from any work performed and/or improvements constructed, installed or placed in the swale area by the property owner(s), their successors or assigns shall be at the property owner's sole risk; and without recourse to the town, even if improvements and other materials placed in the swale area required to be removed by the town or other entity with jurisdiction. ~~The area from the property line to the edge of the street or roadway shall be considered the swale area for purposes of this section.~~

(2) Newly planted trees on Town owned property or controlled rights of way or within 5 feet of sidewalks or parking areas shall have installed (at the time of planting) an approved root barrier.

Section 3. Chapter 78, Article VIII, Section 78-251 of the Code of Ordinances of Town of Lake Park, Florida is hereby amended to read as follows:

Sec. 78-251. Landscaping generally.

(a) *Purpose and intent.* The purpose and intent of this article ~~chapter~~ is to protect, preserve, and enhance the natural environment and beauty of the town by creating minimum standards for

landscaping and vegetation protection. The purpose and intent as expressed in section 34-1 of this code is also applicable to this section. Landscaping that meets these standards will:

- (1) Improve and sustain the aesthetic appearance of the town.
- (2) Improve air and water quality by such natural processes as transpiration and the maintenance of permeable land areas for aquifer recharge and surface water filtration.
- (3) Buffer noise and reduce pollution through the filtering capacity of living trees and vegetation.
- (4) Promote energy conservation through:
 - a. The creation of shade which reduces heat gain in or on buildings and paved areas; and
 - b. The channeling and control of breezes to facilitate the natural cooling of buildings.
- (5) Reduce erosion by stabilizing the soil.
- (6) Provide habitat for urban wildlife and a planned transition of the town's green space and open space to the town's conservation areas.
- (7) Conserve freshwater resources through the use of drought-tolerant plants and mulch, promoting the planting of less sod and water efficient irrigation systems.
- (8) Provide a visual and/or structural buffer between otherwise incompatible types of land uses.
- (9) Increase the economic value of land by serving as a capital asset when properly incorporated into site design.
- (10) Provide for the public health, safety and welfare.

(b) *Procedures established.* In order to fulfill these goals, this article ~~chapter~~ establishes the following:

- (1) Procedures to evaluate new landscape plans and existing vegetation protection plans using:
 - a. Minimum standards for new landscape installations;
 - b. Minimum standards for the preservation of existing vegetation; and
 - c. Adequate standards for maintenance and arboriculture.

(2) Procedures for administration and enforcement of these standards.

(c) *Applicability.*

(1) The standards contained in this section shall apply to all property within the town. ~~While existing development and approvals, granted prior to July 1, 1998, are not required to comply with the standards, any amendments to previous approvals, redevelopment, or development approvals which have been granted time extensions for a previously approved development plan or the continuation of a partially developed development plan shall conform with these regulations.~~

(2) Nonconforming parcels ~~buildings, structures, uses or landscape areas.~~

a. Any parcel of land, with the exception of nonconforming parcels on which single-family, two-family or three-family dwellings exist, ~~which is the subject of a current valid development order or upon which a structure has been erected prior to July 1, 1998, shall be required to~~ must conform with ~~to~~ the requirements and regulations of this article and chapter, regardless of the date of the erection of the structure, within two years of July 1, 1998.

b. Nonconforming ~~P~~parcels of real property on which single-family, two-family or three-family dwellings exist must ~~shall be required to~~ comply with the landscape requirements of this article whenever at such time that 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 has a value of \$5,000.00 or more.

c. Nonconforming parcels of real property ~~buildings, lots or uses~~ shall be subject to the ~~provisions of the~~ landscape requirements of this article. should they seek any expansion or modification, or should they suffer damage in excess of 50 percent of their appraised value.

d. If it is impossible to satisfy the landscape requirements on a non-conforming parcel, the Town may designate the Town Manager or her designee to mitigate the non conformity 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 ground covers for the improvement of the Town's public parks, ball fields or other parcels that might be designated to satisfy the extent of the non conformity.

~~d. If an amendment to an approved site plan is proposed or any change is proposed to a site for which there is no site plan, then the town shall require the noneonforming landscaping and open space to comply with this chapter. The following types of amendments to a site plan or change to a site without a site plan shall require the submittal and formal review of a landscape plan:~~

- ~~1. The total square footage of any building or open space by more than five percent;~~
 - ~~2. The number of structures;~~
 - ~~3. The number of residential dwelling units;~~
 - ~~4. The building height of any building;~~
 - ~~5. The traffic impact, required parking, or change in traffic circulation;~~
 - ~~6. Modifications to the facade of an existing building; or~~
 - ~~7. Modifications to on site signage (not including replacement of sign face).~~
- ~~e. The variance procedure for standards of this section shall be the same as outlined in section 78-75.~~

(3) To the extent that any conflicts occur between the standards of this section and any corridor plans or other landscaping requirements specified for properties within the Community Redevelopment Agency Area (CRA), the provisions of the CRA requirements shall prevail. Additionally, where provisions of the CRA are not in conflict with other regulations contained herein, those provisions that which are is more strict shall prevail.

(d) *Approval required.* Unless otherwise provided within this chapter, no parcel within the town which is in violation of the landscape requirements of this article, or any parcel which requires site plan approval and shall be landscaped, cleared or grubbed within the town unless a landscape permit is issued by the community development department for the parcel which is in violation of the requirements of this article. After review and administrative approval of the landscape permit application and the payment of the applicable permit fee by the applicant. In the case of property which is the subject of an approved site plan, the property shall not be landscaped, cleared or grubbed until an amended site plan together with a separate landscape plan is submitted by the applicant along with the applicable site plan amendment application fee, and the site plan amendment and landscape plan are approved by the town. new site written permission is first obtained by site plan approval and a permit as outlined in this chapter. Furthermore, the standards for tree removal and abuse as set forth in articles 1 and 2 of chapter 34 entitled "Vegetation" shall be strictly complied with, and are incorporated by reference herein. no tree, except as provided for in this chapter, shall be cut down, destroyed, removed, hat racked or effectively destroyed as a result of damaging the tree or changing the natural grade within the drip line of a tree, without first obtaining site plan approval and a permit. The town grants permission to remove, add to, relocate, or plant vegetation on land within the limits of the town through a procedure that requires an application and permit as described in subsection (e) of this section. Approved landscape and tree protection plans ~~may~~ shall not be altered in any way, unless otherwise provided for by this chapter.

(e) *Application and permit required.*

(1) Any person or entity seeking ~~who wants~~ site plan approval and as a part thereof, desires to landscape or clear existing vegetation, grub, or remove or destroy ~~(destroy)~~ a tree, or in any way, or alter existing plant communities, or alter previously cleared land, shall submit a technically complete development application to the community development director for review and approval or denial, ~~town manager or designee~~. Applications are available at the community development department.

(2) If an application for a site plan amendment is submitted, a separate landscape plan shall be submitted as part of the application, ~~a change to an approved landscape plan is needed by the landowner or agent, an amendment to the development application, specifically the landscape plan, shall be filed with the town and approved by the town.~~

~~(3) Each development application and amendments, including changes to the landscape plan, shall be accompanied by a fee imposed by the town commission.~~

~~(4) Each permit for the clearing of property shall be accompanied by a fee imposed by the town commission.~~

~~(3) (5) Prior to the submission of any application for site plan approval or a landscape permit, the community development department shall use its best efforts to schedule a pre-application conference and inspection of the property work or permit, the town community development department shall make its services available for review or inspection of the site, provided there is at least seven working days notice thereof. The intent of the preapplication inspection is to identify specific areas of concern and protection in order to plan for tree protection, relocation, grading, drainage, building location, and road alignment. prior to preparation of site plan submission.~~

~~(4) (6) Except for single-family and two-family dwellings, prior to the issuance of any permit for paving, a development application shall be submitted to and approved by the community development department. No permit shall be issued for buildings or paving unless the such application complies with the provisions hereof, and no certificate of use and occupancy or completion shall be issued until the landscaping is complete and passes a final inspection by the town. , and it It shall be unlawful to occupy the premises unless the landscaping is installed in accordance with the approved plans and the requirements hereof.~~

(f) *Development application.*

(1) Any person who does not have a site plan or landscape plan approval as required by this section, ~~pursuant to subsection (g)(3)e of this section~~ and who desires to clear vegetation, plant vegetation, grub, ~~or remove~~, or destroy ~~(destroy)~~ a tree, or in any way alter a plant community or previously cleared land, must first submit a written development application for the proposed landscape work to the community development

department, together with the applicable permit fee, and obtain a landscape permit from the town. shall make a written development application to the town manager or designee.

(2) The following actions require approval from the town commission and will only be reviewed upon submittal of a technically complete development application and other information deemed necessary by the community development director and/or town commission information:

a. Installation of new landscaping, land clearing, site vegetation grubbing, or removal of trees or other vegetation that is as proposed by either a proposed landscape plan or drawing, site plan, a site plan amendment, a development review site plan, or other form of development order (s). PUD.

b. Clearing, grubbing, or removing trees or plants for the expansion of a permitted use within a particular land use or zoning district.

c. Performing Making major changes (~~those changes that have been deemed not minor by the town manager~~) to the landscaping or preserve area which is the subject of a previously approved site plan or PUD approval, within a previously approved site development plan to the extent that plant quantities or design are is affected.

d. Changing the landscape area or preserve area which is the subject of a previously approved site plan or PUD approval of an approved site plan due to restraints, conflicts or conditions put on the property owner, applicant or agent by the state department of transportation, a utility company or a governmental agency with multi-jurisdictional authority prior to starting work.

(3) Evaluation of the development application will be based upon the application package prepared by the applicant, property owner or designee. A pre-application field inspection by the town community development director shall be conducted. is available. The submitted development application package shall include, but shall not be limited to, the following information:

a. The technically complete development application submitted; on a form, which is available in the community development department, together with the applicable application fee. and fee if applicable.

b. Location map, including but not limited to, the location of the site within the town, including but not limited to, the nearest major roadways, landmarks, road, and water bodies.

c. Vegetation and habitat map. A drawing to scale or aerial photo with scale of the site that shows the existing terrestrial and aquatic vegetation and significant wildlife habitat, including exotic invasive species and native plant communities at the same scale as the site plan:

1. Within the plant communities, the location of all three-inch caliper trees or greater.
 2. Location of large groups of trees in close proximity can be designated as clusters within predominant communities if approximate tree count and the largest and average caliper in the cluster is indicated on the map; using plot samples to acquire this information is acceptable.
 3. A description of each plant community, including species within the canopy, understory and ground cover and a written statement to indicate the proposed removal, relocation or preservation of all or part of such community.
 4. Soil types and conditions.
 5. A drawing to scale or aerial photo with scale that maps the species, location or possible location of any federal- or state-listed endangered, threatened or species of special concern (plant or animal), and a written statement to indicate the proposed removal, relocation, or preservation of all or part of the habitat at the same scale as the site plan.
 6. Archaeologically, historically, and/or geologically important features found on site.
 7. Areas of previous alteration or degradation including present and past human use should be indicated on a map or aerial photo at the same scale as the site plan.
 8. Surrounding landscaping or plant communities within 50 feet of the property line.
 9. Protected trees, as designated by the town commission, must ~~will~~ be located on a survey map which map is not older than 90 days from the date of submission of the application and is signed and sealed by a registered state of Florida surveyor. This survey will be used in the project design to ~~help~~ protect the trees through the planning stages of development.
 10. Data table with specific values for acreage of each plant community, including total upland and wetland areas before and after land alteration.
- d. Project design plan.
1. Site plan showing proposed buildings, roadways, parking areas, utility easements, dumpster enclosures, water features, flood control structures, backflow preventers, well field locations, stormwater systems, landscaped areas, buffer areas, preserve areas and other open space areas at the same scale

as an overlay of the vegetation map.

2. Elevation (contour) or grade maps for the existing grades and proposed grades at the same scale as the vegetation map.
3. Mitigation proposals as they relate to loss of wetlands or actual occupied habitat of endangered, threatened species or species of special concern for plants and wildlife.
4. Detailed landscape plan. All landscape plans except individual single-family, duplex and triplex lots, or areas of one acre or less which are required by this chapter shall bear the seal of a landscape architect licensed to practice in the state of Florida, or be prepared by another licensed professional authorized to prepare landscape plans by F.S. § 481.301 et seq. and be at a scale no smaller than one inch equals twenty feet. Detailed landscape plans shall include but not be limited to:
 - i. Clearly delineated and keyed landscape areas, square footage of open space and impervious areas, landscape materials with specifications, such as caliper, height, species name (common and botanical), size and the like, and quantities to be used.
 - ii. Existing trees on the property that are proposed or required to be preserved and the methods to protect these trees during construction. The protection methods will be consistent with the Florida Division of Forestry, Tree Protection Manual for Builders and Developers, most current edition, 1979.
 - iii. Specifications of hardscapes (nonliving landscape materials) including heights, widths, types, and locations of all barriers.
 - iv. Landscape plans may be required to have typical aerial view drawings and/or cross section details of any proposed perimeter buffer area, road right-of-way, or lot landscaping.
 - v. Landscaping shall be shown as an overlay of the site plan including all new trees, shrubs, grass, open areas, preservation areas and hardscapes. For the purpose of public hearings, landscape plans submitted for Planning and Zoning or Town Council review shall be rendered with plan (color) graphics and present elevations of all sides of a property or building. Presentations may be in the form of a digital PowerPoint or equivalent format. The town encourages the proper choice of plants for water conservation in landscaping as set forth in the South Florida Water Management Xeriscape Plant Guide.

- vi. A plan (narrative) to eradicate and prevent the reestablishment of prohibited plant species listed in section 78-253(f).
- vii. Landscape plans may be required to have typical aerial view drawings and/or cross section details of any proposed littoral planting zones as referenced in section 78-254(f).
- vii. Conceptual irrigation system plan, including main lines, backflow preventer, and water source, which indicates 100 percent coverage of all pervious areas and which meets the current standards of the Florida Irrigation Society. Also refer to section 78-254(e)(3) for more information.
- viii. All landscape plans shall be coordinated with civil engineering plans to avoid conflicts with proposed underground utilities. The civil engineer of record shall certify in writing that the landscape and civil engineering drawings have been reviewed for their coordination and that no conflicts exist.

e. Project operations.

- 1. Description of construction methodology to be performed on site, including use, storage, handling or production of substances known to be harmful to plants and/or wildlife.
- 2. Description of any anticipated soil, water, or air pollution produced or generated by the project and known to be harmful to plants and/or wildlife.
- 3. Description of the project phasing. Any project that will require multiple building permits due to the methodology or construction sequence caused by off-site improvements, staging building-by-building, increasing square footage, restructuring finances or changing market strategies will be considered phased. There shall be a narrative and/or map depicting the projected phasing submitted that describes when areas will be cleared and landscaped.

f. Prior to approval, revised site plans shall be accompanied by a written description of all changes made since the last site plan review.

g. After approval and prior to the issuance of any town permit, the site plan shall have all conditions of approval located on the site plan, and this information will be available on the site during construction. A reduced copy shall be provided to the town clerk's office for attachment to the respective ordinance or resolution documents.

(g) *Administrative approval.*

(1) The following actions may be approved by the community development director ~~town manager or designee~~ upon request for a permit:

- a. Landscape plans for single-family and two-family dwellings.
- b. Clearing, grubbing, or removal of trees or other vegetation pursuant to an approved site plan. No vegetation clearing will be permitted until a written permit is issued or as otherwise permitted in this chapter.
- c. Removing and replacing dead, diseased, damaged, or insect-infested vegetation, including trees, if such determination is made and approved by the town community development director.
- d. Removing or relocating vegetation, including trees, that are a hazard to existing buildings or within existing utility easements or rights-of-way, if such determination is made and approved by the community development department.
- e. Removing and replacing trees due to a hardship regarding health or safety, if such determination is made and approved by the town community development director.
- f. Minor alterations or changes to approved landscape plans within all districts to improve or remove existing landscape as determined by the town manager. Minor alterations shall be defined, in most cases, as a change of type, quantity, or location that affects up to 25 percent of required shrubs or 25 percent of required trees on a site.
- g. Installations of fences, if no expansion of an existing or proposed use is intended.
- h. Temporary landscaping (landscaping other than what was originally approved), if it does not result in the removal of native vegetation.

(2) Evaluation of the permit to amend a landscape plan administratively shall be based upon the information prepared and submitted to the town by the property owner or the property owner's designee. A field inspection by the town community development director shall be conducted, ~~is available~~. The submittal shall include, but not be limited to, the following information:

- a. Location map of the property (a current legible aerial photograph or a drawing to scale).
- b. Existing vegetation inventory map and landscape plan for all changes.
- c. Location and description of all proposed changes.

- d. Reasons/rationale for the proposed changes.
- e. Replacement schedule, if applicable.
- f. Site plan data revision, if applicable.

(3) Administrative approval will be granted, granted with conditions, or denied within 15 working days from the time a technically complete application is submitted to the community development director, unless circumstances warrant additional review time by the town. The cost recovery provisions of section 51-6 shall apply to the review and processing of all such applications by the town and must be paid in advance prior to the issuance of any approval or permit by the town, town manager or designee.

Section 4. Severability. If any section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held by a Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this Ordinance.

Section 5. Repeal of Laws in Conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 6. Codification. The provision of this Ordinance shall become and be made a part of the Code of Ordinances for the Town of Lake Park. The Sections of the Ordinance maybe renumbered or re-lettered to accomplish such.

Section 7. Effective date. This Ordinance shall take effect immediately upon passage.

Upon First Reading this 3 day of February, 2010, the foregoing Ordinance, was offered by Vice-Mayor Carey, who moved its approval. The motion was seconded by Commissioner Rumsey and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR JEFF CAREY	<u>/</u>	_____
COMMISSIONER ED DALY	<u>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 7 DAY OF Feb, 2010

Upon Second Reading this 17 day of February, 2010, the foregoing Ordinance, was offered by Vice-Mayor Carey, who moved its adoption. The motion was seconded by Commissioner Daly and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR JEFF CAREY	<u>/</u>	_____
COMMISSIONER ED DALY	<u>/</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>Absent</u>	_____

The Mayor thereupon declared **Ordinance No. 02-2010** duly passed and adopted this 17 day of February, 2010.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian M. Lemley
Town Clerk, Vivian M. Lemley
(Town Seal)
TOWN OF LAKE PARK
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird