

ORDINANCE NO.: 04-2009

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, DELETING SECTION 2-187 THROUGH SECTION 2-190 PERTAINING TO STREET TREE SPECIFICATIONS; AMENDING CHAPTER 34 ENTITLED "VEGETATION", ARTICLE I; AMENDING SECTIONS 3-1 PREVIOUSLY ENTITLED "PUBLIC TREE CARE" NOW ENTITLED "INTENT"; AMENDING SECTION 34-2 PREVIOUSLY ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY—REPLACEMENT BY ANOTHER" NOW ENTITLED "DEFINITIONS"; AMENDING SECTION 34-3 PREVIOUSLY ENTITLED "SAME—PLANTING" NOW ENTITLED "PUBLIC TREE CARE"; AMENDING 34-4 PREVIOUSLY ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS" NOW ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY – REPLACEMENT BY ANOTHER TREE OR BUSH"; AMENDING SECTION 35-5 PREVIOUSLY ENTITLED "PLANTS PROHIBITED ON TOWN PROPERTY" NOW ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS"; AMENDING SECTION 34-6 ENTITLED TREE TOPPING"; AMENDING SECTION 34-7 ENTITLED "PRUNING, CORNER CLEARANCE"; AMENDING SECTION 34-8 ENTITLED "DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY"; AMENDING SECTION 34-9 PREVIOUSLY ENTITLED "ARBORISTS LICENSE AND BOND" NOW ENTITLED "TREE REMOVAL STANDARDS"; AMENDING SECTION 34-10 PREVIOUSLY ENTITLED "REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES" NOW ENTITLED "ARBORISTS LICENSE AND BOND"; AMENDING SECTION 34-11 PREVIOUSLY ENTITLED "MAINTENANCE OF TOWN SWALE AREAS" NOW ENTITLED REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES AND OTHER TOWN OWNED OR CONTROLLED PROPERTY OR RIGHTS OF WAY"; CREATING SECTION 34-12 ENTITLED "MAINTENANCE OF TOWN SWALE AREAS"; CREATING SECTION 34-13 ENTITLED "TREE ABUSE PROHIBITED"; CREATING SECTION 34-14 ENTITLED "PUBLIC PROPERTY PLANTING AND MAINTENANCE STANDARDS"; CREATING SECTION 34-15 ENTITLED "EMERGENCY PROVISIONS"; 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

43 **WHEREAS**, the Town Commission has adopted general provisions pertaining to vegetation
44 and tree plantings and other improvements in swale areas within the Town which have been codified
45 in Chapter 34 of the Code of Ordinances of the Town of Lake Park; and

46 **WHEREAS**, Town staff has recommended to the Town Commission to amend Chapter 34,
47 to provide for guidelines, controls, and standards for the planting, maintenance, removal and
48 protection of trees within the Town of Lake Park; and

49 **WHEREAS**, Town staff has recommended to the Town Commission to delete in Chapter 2
50 redundant sections 2-187, 2-188, 2-189, and 2-190 which are properly included in Chapter 34; and

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

54 **WHEREAS**, the Town Commission, after due notice and public hearings, deems it to be in
55 the interest of the public health, safety and general welfare to amend the Town's Code to provide for
56 such additional regulations and procedures; and

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

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

61 **Section 2.** Chapter 2 Article IV, Section 2-187; 2-188; 2-189; 2-190 of the Code of
62 Ordinances of Town of Lake Park, Florida is hereby created to read as follows:

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64 **Chapter 2 ADMINISTRATION**

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66 **ARTICLE IV. BOARDS, COMMISSIONS AND COMMITTEES**

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DIVISION 3. TREE BOARD

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~~Sec. 2-187. Street tree species to be planted.~~

~~The official list of street tree species for the town shall be adopted by resolution of the town commission, after receipt and consideration of the recommendations of the board. Such list may be amended periodically by resolution of the town commission.~~

~~(Ord. No. 3-1991, § 6, 2-6-1991; Ord. No. 7-1991, § 1, 4-3-1991; Ord. No. 18-1991, § 4, 11-20-1991; Code 1978, § 31-31)~~

~~Sec. 2-188. Spacing.~~

~~The spacing of street trees will be in accordance with the three species classes listed in section 2-187, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by a landscape architect.~~

~~(Ord. No. 3-1991, § 6, 2-6-1991; Code 1978, § 31-32)~~

~~Sec. 2-189. Distance from curb and sidewalk.~~

~~The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 2-187, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.~~

~~(Ord. No. 3-1991, § 6, 2-6-1991; Code 1978, § 31-33)~~

~~Sec. 2-190. Distance from street corners and fireplugs.~~

~~No street tree shall be planted closer than 20 feet of any street corner, point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.~~

~~(Ord. No. 3-1991, § 6, 2-6-1991; Code 1978, § 31-34)~~

~~Secs. 2-191-2-220. Reserved.~~

Section 3. Chapter 34, Article I, Section 34-1; 34-2;34-3; 34-4; 34-5; 34-6; 34-7; 34-8; 34-9; 34-10; 34-11; 34-12; 34-13; 34-14; 34-15 of the Code of Ordinances of Town of Lake

Park, Florida is hereby created to read as follows:

Chapter 34 VEGETATION

ARTICLE I. IN GENERAL

Sec. 34-1 Intent

109 It is the intent of the regulations contained herein to provide guidelines, controls, and standards
110 for the planting, maintenance, removal and protection of trees within the Town of Lake Park. The
111 goal of these regulations is to enhance and insure the continuance of the existing tree canopy
112 within the town so as to provide the community with the health, safety, conservation of energy,
113 general psychological, aesthetic and economic benefits that can be derived there from.
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116 **Sec. 34-2. Definitions.**
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118 The following words and phrases shall have the meanings ascribed to them in this section:

119 Public way. Includes all public streets, roads, boulevards, alleys and sidewalks.

120 Public area. Includes all public ways, parks and other lands owned or leased by the Town.

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

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

125 Maintenance and protection. Includes all operations of: pruning, spraying, injecting, fertilizing,
126 treating, bracing, doing surgery work, cutting above or below the ground.

127 Pruning. The removal of plant parts, dead or alive, in a careful and systematic manner so as not
128 to damage other parts of the plant.

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

132 Tree service/arborist. Any person, company, corporation or service which, for compensation or
133 a fee, performs tree maintenance and protection.

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

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

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

141 Topping. A process to flat-cut the top of a tree or to remove more than one-third of the tree
142 crown; hatracking.

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

145 Large tree. A tree with a mature height of 40 feet or more in height, a mature canopy wider than
146 22 feet, and a mature root system wider than 15 feet.

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

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

151 Drop-crotch pruning. A specific type of pruning designed to properly reduce the size of trees
152 within the current national arborist association standards, or any subsequent amendments thereto.
153

154 Branch collar. Trunk tissue that forms around the base of a branch.
155 Shade tree. Any tree with a mature crown width that is at least two-thirds of the tree's mature
156 height.
157 Swale. A broad man-made depression, running parallel to the right-of-way, between the
158 pavement and the sidewalks for containing stormwater runoff from streets.
159 Crown. Main part of the branching of a tree.
160 Crown width. The width of the crown at its widest point measured on a plane parallel to the
161 ground.
162 Caliper. A tree measurement that takes the diameter of the tree at 12 inches above the rootball.
163 Root ball. A group of roots extending from the base of a tree trunk that must be intact when
164 relocating a tree in order to promote survival of the tree.
165 Nonviable. Not capable of existing and continuing to provide the biological or aesthetic qualities
166 associated with a healthy functioning tree resource.
167 Effectively destroyed. The cutting, trimming, or damaging of a tree's trunk, branch or root system
168 to the extent that the tree is no longer viable.
169 Tree removal. Directly or indirectly cutting down, destroying, removing or relocating or
170 effectively destroying (through damaging, trimming, authorizing or allowing the cutting down,
171 destroying, removing, moving or damaging of) any tree.

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174 **Sec. 34-1. 34-3 Public tree care.**

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176 The town shall have the right to plant, prune, maintain and remove trees, plants and shrubs
177 within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be
178 necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such
179 public grounds. ~~The town tree board and~~ The Community Development Director may ~~remove, or~~
180 ~~cause or order to be removed,~~ any tree or part thereof which is in an unsafe condition or which by
181 reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other
182 public improvements, or is affected with any injurious fungus, insect or other pest. This section
183 does not prohibit the planting of street trees in the swale by adjacent property owners providing
184 that the selection and location of such trees is in accordance with this section. ~~and sections 2-187~~
185 ~~through 2-190.~~

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187 (Code 1966, § 41-1; Ord. No. 3-1991, § 1, 2-6-1991; Code 1978, § 31-1)

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190 **Sec. 34-2 4. Removal of trees on town property--Replacement by another tree or bush.**

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192 Wherever a tree on town property has been removed under section 34-1 2, another tree or bush
193 shall be planted in its place, wherever possible.

194 (Code 1966, § 41-2; Code 1978, § 31-2)

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197 **Sec. 34-3. Same--Replanting.**

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(a) ~~All trees removed under section 34-1 shall be replanted elsewhere on town property.~~

199 (b) ~~If it is impossible or impractical to replant such trees, the town manager may either sell~~
200 ~~the tree or destroy it, whichever will best benefit the town.~~

201 ~~(Code 1966, § 41-3; Code 1978, § 31-3)~~

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206 **Sec. 34-4 5. Planting on certain drainage easements.**

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208 Those persons whose homes or lots abut the drainage easement running through the center of
209 Blocks 61, 65, 69, 73, 39 and 115 of the town may landscape and beautify that portion of the
210 drainage easement which directly abuts the entire length of the property owned to a depth of 25
211 feet from the rear property line in such blocks. All landscaping and beautification shall be first
212 presented to the ~~town manager~~ Community Development Director who shall approve or modify
213 same upon determination that any landscaping and beautification will not interfere with the use
214 of the easement for drainage purposes or the use of the easement to maintain existing or
215 anticipated future drainage facilities. All landscaping and beautification placed on the drainage
216 easement shall become the property of the town and the town shall assume no liability for any
217 damage to the landscaping or beautification material by town employees or under town auspices;
218 provided, however, that the town manager is directed to make every effort to provide the abutting
219 property owners who have landscaped and beautified the drainage easement referred to above
220 with sufficient notice of any intended damage or destruction to beautification of landscape
221 material so that said property owners may remove these materials, whereupon such materials
222 shall belong to the abutting property owner, as set forth herein.

223
224 (Code 1966, § 41-11; Ord. No. 15-1973, § I, 7-5-1973; Code 1978, § 31-4)

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227 **~~Sec. 34-5. Plants prohibited on town property.~~**

228 ~~(a) *Adoption of prohibited plant species.* The town commission shall adopt, by resolution, a~~
229 ~~list of plant species which shall not be planted on property owned by the town. Such resolution shall~~
230 ~~be adopted after receipt and consideration of the recommendations of the town tree board. Such list~~
231 ~~may be amended periodically by resolution of the town commission.~~

232 ~~(b) *Removal from town property.* The town manager is authorized to cause the removal of~~
233 ~~prohibited plant species on property owned by the town.~~

234 ~~(Ord. No. 17-1977, § 1, 12-21-1977; Ord. No. 15-1994, § I, 10-5-1994; Code 1978, § 31-5)~~

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237 **Sec. 34-6. Tree topping.**

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239 It shall be unlawful as a normal practice for any person, firm or town department to top any street
240 tree, park tree or other tree on public property or on private property where such trees are a
241 condition of an approved development order or permit. The term "topping" is defined as the
242 severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown
243 to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely

244 damaged by storms or other causes, or certain trees under utility wires or other obstructions
245 where other pruning practices are impractical may be exempt from this section at the
246 determination of the ~~town tree board~~ Community Development Director.

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248 (Ord. No. 3-1991, § 2, 2-6-1991; Code 1978, § 31-6)

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251 **Sec. 34-7. Pruning, corner clearance.**

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253 (1) Every owner of any tree overhanging any street or right-of-way within the town shall prune
254 the branches so that such branches shall not obstruct the light from any street lamp or obstruct the
255 view of any street intersection and so that there shall be a clear space above the surface of the
256 street or sidewalk in compliance with the town's visibility triangle standards ~~section 70-61(d)~~.
257 Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs,
258 which constitute a menace to the safety of the public. The town shall have the right to prune any
259 tree or shrub on private property when it interferes with the proper spread of light along the street
260 from a streetlight, or interferes with visibility of any traffic control device or sign.

261
262 (2) The following standards shall be applicable to the pruning of trees within the town:

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

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

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

275
276 (d) All cut limbs shall be removed from the crown upon completion of the pruning.

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

282
283 (f) All trees located on property which ~~are adjacent to~~ extend over any town roadway,
284 alley or other vehicular right-of-way shall have their branches pruned to a clearance
285 height of between 12 and 16 feet, so that no branches shall interfere with the vehicular
286 use of said areas.

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288 (Ord. No. 3-1991, § 3, 2-6-1991; Code 1978, § 31-7)

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Sec. 34-8. Dead or diseased tree removal on private property.

The town shall have the right to cause the removal of any dead or diseased trees on private property within the town, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees 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.

(Ord. No. 3-1991, § 4, 2-6-1991; Code 1978, § 31-8)

Sec. 34-9 Tree Removal Standards

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

(1) It shall be unlawful for any person, 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) 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:

| <u> </u> | <u>SPECIES</u> | <u>COMMON NAME</u> |
|------------|-------------------------------|----------------------------|
| <u>(a)</u> | <u>Acacia Auriculiformis</u> | <u>Earleaf Acacia</u> |
| <u>(b)</u> | <u>Albizzia lebbeck</u> | <u>Woman's Tongue</u> |
| <u>(c)</u> | <u>Araucaria heterophylla</u> | <u>Norfolk Island Pine</u> |
| <u>(d)</u> | <u>Bambusa Vulgaris</u> | <u>Tree Bamboo</u> |

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|-----|----------------------------------|----------------------------|
| (e) | <u>Bischofia javanica</u> | <u>Bischofia</u> |
| (f) | <u>Brassaia actinophylla</u> | <u>Schefflera</u> |
| (g) | <u>Casuarina spp</u> | <u>Australian Pine</u> |
| (h) | <u>Cupaniopsis anacardiodes</u> | <u>Carrotwood</u> |
| (i) | <u>Enterolobium cyclocarpum</u> | <u>Ear Tree</u> |
| (j) | <u>Eucalyptus spp</u> | <u>Eucalyptus</u> |
| (k) | <u>Ficus spp</u> | <u>Ficus</u> |
| (l) | <u>Grevillea robusta</u> | <u>Silk Oak</u> |
| (m) | <u>Hibiscus tiliaceus</u> | <u>Mahoe</u> |
| (n) | <u>Melaleuca quinquenervia</u> | <u>Melaleuca</u> |
| (o) | <u>Metopium toxiferum</u> | <u>Poison Wood</u> |
| (p) | <u>Psidium quajava/littorale</u> | <u>Guava</u> |
| (q) | <u>Ricinus communis</u> | <u>Castorbean</u> |
| (r) | <u>Sapium sebiferum</u> | <u>Chinese Tallow Tree</u> |
| (s) | <u>Schinus terebinthifolius</u> | <u>Brazilian Pepper</u> |
| (t) | <u>Syzygium cumini</u> | <u>Java Plum</u> |
| (u) | <u>Thespesia populnea</u> | <u>Mahoe</u> |

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(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.

(g) Removal of any tree by the Town in accordance with the authority and administrative discretion provided in § 34-14 of this chapter.

(3) All of the aforesaid trees listed in division (2) of this section which are dead or effectively destroyed, shall be removed by the property owner, without any permit, relocation, replacement or mitigation requirement, so as to protect adjacent properties from damage that may be caused by the dead or effectively destroyed trees.

(4) Application for removal permits. Tree removal permits are required for the removal of any specimen or protected tree not specifically exempted under this section. The Town shall provide permit application forms which shall be used by permit applicants. An owner, agent of the owner, or lessee of a property may apply for a tree removal permit. If the permit applicant is a lessee, or agent of the owner, a statement from the owner of the property, indicating that the owner has no objection to the proposed tree removal, shall be submitted with the application. The permit applicant shall submit to the Town a completed application form which shall include the reasons for the requested removal, the tree size and tree caliper, and the common name of the tree to be removed. Permit application forms shall be accompanied by two diagrams showing the

351 location of the tree to be removed which are subject to review and approval by the Community
352 Development Department. The diagrams shall include the locations of all existing tree resources
353 and all proposed structures or utilities which may require removal or relocation of trees. If the
354 submitted diagrams do not provide sufficient information to determine which trees will be
355 affected by proposed development, the department may require that a tree survey of the site be
356 prepared and submitted to the department for review.

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358 (5) Permit fees. The Town shall, by resolution, establish a fee schedule for all matters relating
359 to tree removal, relocation, replacement, monetary contribution, and all administrative reviews
360 necessitated thereby.

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362 (6) Review and evaluations of removal permit applications. A review of each completed tree
363 removal permit application shall be conducted by the Community Development Department.
364 This review and all actions taken by the department shall be conducted under a standard of
365 reasonableness using the best available practices from biology, botany, forestry, landscape
366 architecture and other relevant fields.

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368 (7) Specimen and protected trees standards.

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370 (a) Specimen and protected trees application. Specimen and protected trees shall be
371 preserved whenever reasonably possible. Upon receipt of an application to remove a
372 specimen or protected tree, the department shall consider the following factors in
373 evaluating said application.

- 374
375 1. Size and configuration of the property.
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377 2. Size and configuration of any proposed development.
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379 3. Location of the tree relative to any proposed development.
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381 4. Whether or not the tree can be preserved under the proposed plan or any
382 alternative plan.
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384 5. Health, condition and aesthetic qualities of the tree.
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386 6. Whether the tree poses a threat to persons or property.

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388 (b) Alternate plans. If, upon review of the aforesaid factors, the department determines
389 that a specimen tree cannot reasonably be preserved under the proposed plan, then the
390 applicant shall provide an alternate plan which shall include preservation of the specimen
391 tree and design alterations consistent with the scope and intent of the initially proposed
392 plan. Alterations consistent with the scope and intent of the initially proposed plan may
393 include, but shall not be limited to:

- 394
395 1. An adjustment of building orientation on a site.

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397 2. An adjustment of lot lines within a site proposal for more than one lot when
398 said adjustment will not cause an unreasonable loss of usable space. An applicant
399 shall have the burden of proof in the determination of what constitutes an
400 unreasonable loss of usable space.
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402 (c) Specimen and protected tree relocation. If preservation of the specimen and protected
403 tree and any alternate design consistent with the scope and intent of the initial plan are
404 mutually exclusive, then the department may issue a permit to relocate the specimen or
405 protected tree. If the tree removal permit requires relocation, then the applicant shall be
406 required to relocate the tree in a manner that will maintain the canopy within the general
407 vicinity of the removal on the same property or to relocate the tree to a location within the
408 Town designated by the Community Development Department.
409

410 (d) Removal of specimen or protected trees. If relocation of the specimen or protected
411 tree is not feasible, due to the size, health, location, species or any other factor, then a
412 permit may be issued for removal, and tree replacement shall be required. The
413 Community Development Department shall designate an equivalent replacement tree or
414 trees and a location within the town for its planting.
415

416 (e) Replacement requirements for specimen or protected trees. In the event that
417 replacement is not feasible on-site, then alternative off-site replacement shall be required,
418 or, as a last alternative, there shall be a contribution made to the Town tree trust fund for
419 the full equivalent value of the replacement tree or trees.
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422 **Sec. 34-9 10. Arborists license and bond.**
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424 It shall be unlawful for any person or firm to engage in the business or occupation of pruning,
425 treating, or removing street or park trees within the town without first applying for and procuring
426 a license business tax receipt and possess a current contractors registration with the Town of
427 Lake Park. No license shall be required of any public service company or town employee doing
428 such work in the pursuit of their public service endeavors. Before any license shall be issued,
429 each applicant shall first file evidence of possession of liability insurance in the minimum
430 amounts of \$50,000.00 for bodily injury and \$20,000.00 for property damage, indemnifying the
431 town or any person injured or damaged resulting from the pursuit of such endeavors as herein
432 described.
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434 (Ord. No. 3-1991, § 5, 2-6-1991; Code 1978, § 31-9)
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436
437 **Sec. 34-10 11. Regulations for tree plantings and improvements in swales and other town**
438 **owned or controlled property or rights-of-way.**
439

440 (1) *Sole risk property owner.* Liability for any injuries or damages which result from any work

441 performed and/or improvements constructed, installed or placed in the swale area by the property
442 owner(s), their successors or assigns shall be at the property owner's sole risk; and without recourse
443 to the town, even if improvements and other materials placed in the swale area required to be
444 removed by the town or other entity with jurisdiction. The area from the property line to the edge of
445 the street or roadway shall be considered the swale area for purposes of this section.
446

447 (2) *Permitted improvement in swales.* The installation of trees or other improvements, objects, and
448 structures, and the uses permitted within street swale areas within the town are limited to the
449 following:

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451 (a) Traffic control devices such as signal lights, stop signs and yield signs;

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453 (b) Utility systems and appurtenant structures;

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455 (c) Drainage systems and appurtenant structures;

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457 (d) Sod or herbaceous ground cover installed according to the requirements of the rights-of-
458 way use and maintenance standards and maintained in such a manner as not to exceed six
459 inches in height. Grass sodding or grass seeding of the swale area is required and shall be
460 maintained by the property owner(s);

461

462 (e) The planting of town-approved ~~single-trunk~~ trees shall be permitted in swale areas,
463 provided that the property owner or the owner's authorized agent, applies for and obtains a
464 swale-area planting permit for the proposed plantings from the town as provided herein;

465

466 (f) All trees to be planted shall have symmetric crown form, good crown color, no insect
467 damage, well spaced branches, healthy new leaves, healthy well attached bark, strong
468 crotches, adequate root space, and be of at least Florida No. 1 quality.

469

470 (g) Low-profile, dome-shaped decorative button stones, blocks or markers not to exceed six
471 inches in diameter and four inches in height, placed no closer than four feet apart, shall not
472 constitute items which interfere with the drainage of the swale areas and may be permitted by
473 the town's director of public works along street rights-of-way, drives, and public walks in the
474 town. These dome-shaped decorative blocks or markers shall have rounded surface areas and
475 no corners which make a right-angle projection corner interface. In the event that dome-
476 shaped decorative blocks or markers are placed in the swale area, they shall be painted white
477 or with a white reflective material;

478

479 (h) Underground sprinkler systems with flush or pop-up heads;

480

481 (i) Mailboxes installed according to the requirements of the rights-of-way use and
482 maintenance standards.

483

484 (3) *Swale-area planting permit required.*

485

486 (a) A town swale-~~area~~ planting permit is required before any trees or decorative markers or
487 underground sprinkler systems may be installed in a swale. The property owner or owner's
488 authorized agent may apply for the swale-~~area~~ planting permit using the form established by
489 the town public works department, and must pay the permit fee which is established by
490 resolution of the town commission. Proof of property ownership or owner's agent
491 authorization must be provided to the town at the time the permit application is submitted,
492 together with a site sketch identifying the location, species, size and the number of trees
493 and/or decorative markers to be installed in the swale area, and such other information as is
494 required by the application form or as may be required by the public works director.
495

496 (b) Approval of the permit may be granted if the proposed plantings and/or improvements
497 do not create infrastructure maintenance problems, encroach into the roadside recovery area,
498 create a hazard, or otherwise adversely affect citizens of the town, or if the proposed
499 improvement otherwise comports with the public interest. As a condition precedent to
500 issuance of the swale-area permit, the property owner shall execute an indemnification and
501 hold harmless agreement in favor of the town, and in a form acceptable to the town attorney,
502 which agreement shall be recorded against the property of the town. The acceptance of a
503 swale-~~area~~ planting permit by the person requesting a permit shall constitute acceptance of all
504 obligations pertaining thereto, and the permit holder shall be held responsible for fulfilling all
505 of the requirements thereof. The duties and obligations of the ~~swale-area~~ permit, specifically
506 including the indemnification and hold harmless agreement, shall constitute covenants
507 running with the land, and shall be binding on the permit holder, the property owner(s), and
508 their respective heirs, successors, and assigns.
509

510 (c) Trees, vegetation and/or decorative markers, or other improvements, landscaping,
511 structures or objects which are planted, installed, constructed or placed in the swale without a
512 permit, shall be subject to immediate removal. When trees or decorative markers are placed
513 in a swale without the required swale-~~area~~ planting permit, the permit fee for the swale-area
514 permit shall be tripled; however, the payment of the triple fee shall not relieve any person
515 from fully complying with the requirements of this section. Furthermore, if a ~~swale-area~~
516 permit is not applied for and obtained, the property owner and/or the tenant may be subject to
517 code enforcement proceedings and the imposition of a fine, together with related
518 administrative fees and costs through code enforcement proceedings. The town may remove
519 and dispose of the nonpermitted plantings and/or markers, structures and other nonpermitted
520 objects from the swale and charge the property owner and/or tenant, the responsible costs for
521 removal and disposal, and the costs for restoration of the swale, in any, in addition to the fine
522 and related administrative costs.
523

524 (4) *Variety and location of trees.* The following regulations shall govern the variety and location of
525 trees planted in swale areas:
526

527 (a) ~~Trees listed in subsection (5) below and other tree species~~ not considered nuisance trees
528 which are determined to be of the same character and which are deemed suitable and
529 appropriate trees for swale areas as determined by ~~the director of public works~~ Community
530 Development Director, may be planted in a swale upon the issuance of a swale-~~area~~ planting

531 permit. ~~Casuarina trees (Australian pine trees), Melaleuca trees, Brazilian oak, rubber trees,~~
532 ~~figs trees, fruit trees and shrubs, and any other Nonnative species and exotic, pest and~~
533 ~~invasive plants as listed by the Florida Exotic Pest Plant Council are specifically prohibited.~~

534
535 (b) Trees shall be planted not closer to the street pavement than one-half the distance
536 between the property line and the street pavement and within three feet of a sidewalk.

537
538 (c) All large trees and palm trees to be planted in the swale will be not less than a three inch
539 caliper and 12 feet tall with one main trunk free of branches between five and six feet above
540 ground. All small trees to be planted will be not less than two inches in diameter measured
541 six inches above the ground, and six feet tall.

542
543 (d) All trees shall be planted in line or in an aesthetically ordered manner, except as may be
544 delineated on a landscape plan authorized and approved by the Town Commission. Large
545 trees shall be planted at a spacing of between 25 and 35 feet from each other; small trees and
546 palm trees shall be planted at a spacing of between ten and 20 feet from each other.

547
548 ~~(e) Trees shall not be planted closer together than 16 linear feet, and on corner lots, trees~~
549 ~~shall be planted not less than 20 feet from the intersection of any street lines or street lines~~
550 ~~proposed.~~

551
552 ~~(d) No trees shall be less than four feet clear trunk at the time of planting.~~

553
554 ~~(e) Trees shall be maintained by the property owner and shall have a clearance of at least~~
555 ~~eight feet above the sidewalk and 14 feet, six inches above the street level so as to permit~~
556 ~~pedestrian and vehicular traffic beneath them without interference. The failure to maintain~~
557 ~~permitted trees shall be cause for the removal of any tree at the sole expense of the property~~
558 ~~owner.~~

559
560 (e) If roots and branches of any trees, hedges, or other plant growth on private property
561 cause damage or destruction to any sidewalk, curb, gutter, street pavement, utility line or
562 other town-owned or publicly-owned property, code enforcement action and/or other legal
563 action may be commenced by the town. In addition, the town may take action to bring the
564 property into compliance with this section, including, but not limited to, the trimming or
565 removal of the trees and plant materials. In such event, the town shall charge the property
566 owner the reasonable costs of the work, together with any fines and other fees and costs
567 which may be imposed as provided in this Code and Chapter 162, Florida Statutes.

568
569 (f) Trees shall be planted so as not to impede the flow and storage of stormwater. Trees
570 shall be planted and maintained to provide safe sight triangle distances in accordance with
571 ~~the Florida Department of Transportation~~ this Code. Trees shall be planted in accordance
572 with Florida Power and Light Company guidelines so as to avoid interference with overhead
573 and underground utility lines. Trees shall be planted in accordance with Seacoast Utility
574 Authority's guidelines so that no roots from any vegetation located upon private property or
575 adjacent rights-of-way shall be permitted to grow in such a manner that causes damage to

576 paved rights-of-way, water, or sewer lines, or other elements of the town's or utility's
 577 infrastructure.

578
 579 (g) The tree species, exact location and the permissible number of trees shall be determined
 580 by the Community Development Director in the permitting process.
 581

582
 583 ~~(5) List of permissible trees. The following is a nonexclusive list of trees that may be permitted by~~
 584 ~~the town for planting in swale areas:-~~

585 ~~Small Palms-~~
 586 TABLE INSET:
 587

| -Common- | Botanical Name- |
|--------------------------|--------------------------------------|
| Silver Palm- | Coccothrinax argentata- |
| Bottle Palm- | Hyophorbe lageneaulis- |
| Spindle Palm- | Hyophorbe verschaffeltii- |
| Majesty Palm- | Ravenea glauca- |
| Needle Palm- | Rhapidophyllum hystrix- |
| Thatch Palm- | Veitchii merrillii- |

588 ~~Large Palms-~~
 589 TABLE INSET:
 590

| -Common- | Botanical Name- |
|-------------------------------------|----------------------------------------|
| Paurotis/Everglade Palm- | Aeolorrhaphe wrightii- |
| Alexandra Palm- | Archontophoenix alexandrae- |
| Blue Lantania- | Lantania loddigesii- |
| Bismark Palm- | Bismarkia nobilis- |
| Cabbage/Sabal Palm- | Sabal palmetto- |
| Chinese Fan Palm- | Livistonia chinensis- |
| Hurricane Palm- | Dietyosperma album- |
| Royal Palm- | Roystonea regia- |
| Triangle Palm- | Neodypsis decaryi- |
| Queen Palm- | Arecastrum romanzoffianum- |
| Fox Tail- | Wodyetia bifurcate- |
| Royal Palm- | Roystonea spp.- |

591
 592 (6) *Applicability.* The standards and regulations of this section shall apply to all swales within the
 593 town.
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639

(a) Existing plantings as of August 16, 2006:

- ~~i. Existing shade/canopy trees and palm trees which are a minimum of ten feet above grade as of the effective date of this section which meet the requirements of this Article shall be allowed to remain until they are removed, die, or are destroyed as long as they receive the appropriate permits as required below in paragraph iv.~~
- ~~ii. All other plantings shall be removed from the swale within one year from the effective date of this section.~~
- iii. ii. Existing plantings that pose a safety or maintenance hazard as determined by the public works director shall be removed immediately.
- ~~iv. Property owners with existing trees in a swale must obtain a swale area permit for the existing trees within one year of the effective date of this section. The town may waive the permit fee for applicants that have existing trees in a swale provided the property owner applies for the swale area permit within 12 months of the effective date of this section.~~

(7) *Reconstruction or repair by the town.* In the event it is necessary for the town to reconstruct or repair its water and sewer lines or other infrastructure, the town shall restore the swale areas, including approved trees, disturbed by the reconstruction or repair. Approved replacement trees must meet minimum planting standards of this article and be of a like nature to the tree being replaced. The town shall not be responsible for restoration of any nonstandard or nonconforming surfaces or plantings in a rights-of-way, whether public or private, including, but not limited to, surfaces such as bomanite, concrete block, slate, vegetation other than sod, or nonconforming pavement or other surfaces.

(8) Existing commercial properties and multifamily dwellings that are unable to meet minimum landscape requirements for street tree planting due to inadequate set backs or other unique physical impairments may meet the frontage planting requirements by planting approved trees in the swale at the sole expense of the property owner.

(Ord. No. 07-2006, § 2, 9-6-2006)

Sec. 34-11 12. Maintenance of town swale areas.

It shall be the duty and obligation of all owners and occupants of real property within the town, to maintain all swale areas abutting, adjacent, or contiguous to their property, in a good and proper, neat and clean condition. This maintenance duty and obligation for owners and occupants of real property shall include, but not be limited to, sodding, grass cutting, proper landscape maintenance, tree pruning and maintenance, removal of debris, plant waste, garbage, or trash, and the elimination of any dangerous conditions or safety hazards in all swale areas. Tree removal from the swales will be the responsibility of the Town.

640
641 (Ord. No. 29-2007, § 2, 10-17-2007)

642
643

644 **Sec. 34-13. Tree abuse prohibited.**

645

646 It shall be unlawful to abuse any protected or specimen trees located within the Town of Lake
647 Park or any other trees located on Town owned or controlled property or right-of-way.

648

649 (1) The following acts shall constitute tree abuse:

650

651 (a) Damage inflicted upon any part of a tree, including its root system, by machinery,
652 mechanical devices, soil compaction, excavation, vehicle accidents, chemical
653 applications, changes to the natural grade, fire, storage or disposal of toxic or hazardous
654 substances, acts of animals.

655

656 (b) Damage inflicted to or cutting upon a tree which permits infection or pest
657 infestation.

658

659 (c) Cutting upon any tree which destroys its natural shape.

660

661 (d) Topping; hatracking.

662

663 (e) Bark removal of more than one-third of the tree caliper.

664

665 (f) Tearing and splitting of limb ends or peeling and stripping of bark.

666

667 (g) Use of climbing spikes.

668

669 (h) Fastening any sign, rope, wire or object by nail, staple, chemical substance, or other
670 adhesive means to, through or around any tree.

671

672 (i) Any pruning in violation of the practices established by the national arborist
673 association.

674

675 (k) Any act that would cause a tree to become nonviable.

676

677 (l) Any act of tree abuse that renders a protected or specimen tree to be nonviable or
678 effectively destroyed shall constitute "effective removal" and require full compliance with

679

680 **Sec. 34-14. Public property planting and maintenance standards.**

681

682 Notwithstanding anything contained in this section to the contrary, the Town shall have the sole
683 and exclusive right to plant, prune, maintain and remove trees, plants and shrubs within the lines
684 of all streets, alleys, avenues, lanes, squares and public areas, as may be necessary to insure

685 public safety or to preserve or enhance the symmetry and beauty of all public grounds. The Town
686 may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or
687 which by reason of its nature constitutes a public nuisance or is injurious to sewers, electric lines,
688 gas lines, water lines or other public improvements, or is afflicted with any injurious fungus,
689 insect or pest. This section does not prohibit the planting of trees adjacent to any public ways by
690 adjacent property owners or in a swale area provided that the trees are properly placed and
691 maintained in accordance with the tree planting and maintenance standards contained herein.
692

693 **Sec. 34-15. Emergency provisions.**
694

695 In the event that it is believed that any tree in the Town is in such a hazardous condition so as to
696 endanger the public health, safety and general welfare unless it is immediately removed, the
697 Town Manager, or designee, may verbally authorize the removal of such tree following a
698 personal inspection of the subject tree without the securing of a removal permit as required by
699 this chapter. In addition, the provisions and requirements of this chapter may be temporarily
700 stayed by a majority vote of the Town Commission following the occurrence of a hurricane,
701 tornado, flood, or other natural disaster.
702

703
704 Secs. 34-12 16--34-30. Reserved.
705

706

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

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

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

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

Upon First Reading this 4 day of February, 2009, the foregoing Ordinance, was offered by Commissioner Carey who moved its approval. The motion was seconded by Commissioner Osterman, and being put to a vote, the result was as follows:

| | AYE | NAY |
|--------------------------------|----------|-------|
| MAYOR DESCA DUBOIS | <u>/</u> | _____ |
| VICE MAYOR ED DALY | <u>/</u> | _____ |
| COMMISSIONER CHUCK BALIUS | <u>/</u> | _____ |
| COMMISSIONER JEFF CAREY | <u>/</u> | _____ |
| COMMISSIONER PATRICIA OSTERMAN | <u>/</u> | _____ |

PUBLISHED IN THE PALM BEACH POST THIS 8 DAY OF February, 2009

Upon Second Reading this 18 day of February, 2009, the foregoing Ordinance, was offered by Commissioner Osterman who moved its adoption. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

| | AYE | NAY |
|--------------------------------|----------|-------|
| MAYOR DESCA DUBOIS | <u>/</u> | _____ |
| VICE MAYOR ED DALY | <u>/</u> | _____ |
| COMMISSIONER CHUCK BALIUS | <u>/</u> | _____ |
| COMMISSIONER JEFF CAREY | <u>/</u> | _____ |
| COMMISSIONER PATRICIA OSTERMAN | <u>/</u> | _____ |

The Mayor thereupon declared **Ordinance No. 04-2009** duly passed and adopted this 18 day of February, 2009.

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
SEAL

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

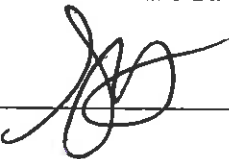
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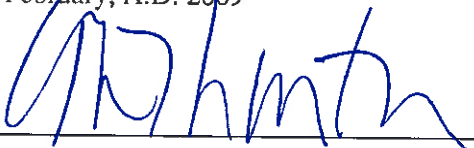
PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH


Before the undersigned authority personally appeared **Janet Taylor Fisher**, who on oath says that she is **Classified Call Center Manager** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Ordinance 04-2009** was published in said newspaper in the issues of **February 12, 2009**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. Also published in Martin and St. Lucie Counties.



Sworn to and subscribed before 12th day of February, A.D. 2009



Personally known XX or Produced Identification _____
Type of Identification Produced _____

NOTARY PUBLIC-STATE OF FLORIDA

Karen M. McLinton
Commission #DD832672
Expires: **NOV. 15, 2012**
BONDED THRU ATLANTIC BONDING CO., INC.

LEGAL NOTICE OF PROPOSED ORDINANCE ADOPTION
TOWN OF LAKE PARK
Please take notice that on Wednesday, February 18, 2009 at 7:30 p.m. 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 Resolution on second reading and proposed adoption thereof.

ORDINANCE NO.: 04-2009
AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, DELETING SECTION 2-187 THROUGH SECTION 2-190 PERTAINING TO STREET TREE SPECIFICATIONS; AMENDING CHAPTER 34 ENTITLED "VEGETATION" ARTICLE 1; AMENDING SECTIONS 3-1 PREVIOUSLY ENTITLED "PUBLIC TREE CARE" NOW ENTITLED "INTENT"; AMENDING SECTION 34-2 PREVIOUSLY ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY - REPLACEMENT BY ANOTHER" NOW ENTITLED "DEFINITIONS"; AMENDING SECTION 34-3 PREVIOUSLY ENTITLED "SAME-PLANTING" NOW ENTITLED "PUBLIC TREE CARE"; AMENDING 34-4 PREVIOUSLY ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS" NOW ENTITLED "REMOVAL OF TREES ON TOWN PROPERTY - REPLACEMENT BY ANOTHER TREE OR BUSH"; AMENDING SECTION 34-5 PREVIOUSLY ENTITLED "PLANTS PROHIBITED ON TOWN PROPERTY" NOW ENTITLED "PLANTING ON CERTAIN DRAINAGE EASEMENTS"; AMENDING SECTION 34-6 ENTITLED "TREE TOPPING"; AMENDING SECTION 34-7 ENTITLED "PRUNING, CORNER CLEARANCE"; AMENDING SECTION 34-8 ENTITLED "DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY"; AMENDING SECTION 34-9 PREVIOUSLY ENTITLED "ARBORISTS LICENSE AND BOND" NOW ENTITLED "TREE REMOVAL STANDARDS"; AMENDING SECTION 34-10 PREVIOUSLY ENTITLED "REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES" NOW ENTITLED "ARBORISTS LICENSE AND BOND"; AMENDING SECTION 34-11 PREVIOUSLY ENTITLED "MAINTENANCE OF TOWN SWALE AREAS" NOW ENTITLED "REGULATIONS FOR TREE PLANTINGS AND IMPROVEMENTS IN SWALES AND OTHER TOWN OWNED OR CONTROLLED PROPERTY OR RIGHTS OF WAY"; CREATING SECTION 34-12 ENTITLED "MAINTENANCE OF TOWN SWALE AREAS"; CREATING SECTION 34-13 ENTITLED "TREE ABUSE PROHIBITED"; CREATING SECTION 34-14 ENTITLED "PUBLIC PROPERTY PLANTING AND MAINTENANCE STANDARDS"; CREATING SECTION 34-15 ENTITLED "EMERGENCY PROVISIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR 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 Lemley, Town Clerk at 561-281-3311.
Jessica Shepherd,
Deputy Town Clerk
Town of Lake Park, Florida
PUB. The Palm Beach Post
February 12, 2009