

ORDINANCE NO. 16-2006

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE TOWN ZONING CODE, CHAPTER 78, ARTICLE III, TO CREATE NEW CODE SECTION 78-81 TO BE ENTITLED "DISTRIBUTION ELECTRIC SUBSTATION;" IN ORDER TO REGULATE THE DEVELOPMENT OF DISTRIBUTION ELECTRIC SUBSTATIONS; 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 a Zoning Code of Ordinances which have been codified in Chapter 78 of the Code of Ordinances of the Town of Lake Park; and

WHEREAS, it is essential that electric substations be constructed and maintained in various locations in order to ensure the efficient and reliable delivery of electric service; and

WHEREAS, the Florida legislature has determined that electric infrastructure should be constructed, to the maximum extent practicable. To achieve compatibility with adjacent and surrounding land uses in order to balance the need for electricity with land use compatibility; and

WHEREAS, Town staff has recommended to the Town Commission that Town Code Section 78, Article III be amended, and new Code Section 78-81 be created, to provide for additional regulations pertaining to the development, redevelopment,

construction, setbacks, and landscaping of distribution electric substations; 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 to provide for such additional regulations and procedures;

WHEREAS, the amendment of Section 78, Article III, to create new Code Section 78-81, would further the public's health, safety and general welfare; and would preserve and enhance property values within the Town, generally; and

WHEREAS, the purpose and intent of the amendment of this Code Section is to regulate the development, redevelopment, construction, setbacks, and landscaping of distribution electric substations within the Town.

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 78, Article III, Section 78-81 of the Code of Ordinances of the Town of Lake Park, Florida is hereby created to read as follows:

Section 78-81 Distribution Electric Substation.

Purpose and Intent. It is the intent of this section to ensure that the new construction or expansion of electric substations is regulated as to setbacks, landscaping, buffering, screening, lighting and other aesthetic compatibility issues.

(a) Definitions.

(1) Distribution electric substation means an electric substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

(b) Applicability.

(1) New distribution electric substations shall be a permitted use in all zoning districts except those designated as preservation, conservation, or historic preservation on the future land use map or duly adopted ordinance.

(c) Review

(1) Electric substations may be reviewed only for setback, landscaping, buffering, screening, lighting, and other aesthetic compatibility-based standards.

(2) Submission Procedures:

a. The utility ("applicant") shall submit a development plan, together with an application fee as required by Chapter 67, Article II, Sections 37 through 41, inclusive to the Community Development Department.

b. Within thirty (30) calendar days of receipt of the proposed development plan, the Director of the Community Development Department shall either:

(1) determine that the development plan is complete and proceed with the procedures below. A determination that an application is complete shall not be deemed an approval of the application. or

(2) determine that the development plan is incomplete and provide the applicant with written notice of the deficiencies. The applicant may submit an amended development plan within fifteen (15) calendar days of the issuance of Town's notice of deficiency, without payment of a reapplication fee. If more than thirty (30) calendar days have elapsed since the issuance of Town's notice of deficiency, the applicant must reinitiate the application and review process and pay an additional application fee.

c. The Town Commission shall grant or deny a properly completed electric substation development plan application within ninety (90) days after the date the application is declared complete by the Community Development Department Director. In determining whether to grant or deny the permit, the Town Commission shall review the plan and the comments of the Community Development Department and determine whether the proposed development plan is complete and complies with the requirements of these regulations. The issuance of a permit to locate a new distribution electric substation does not relieve the applicant from

complying with applicable federal or state laws or regulations and other applicable local land development or building regulations.

d. The time schedule set forth in this section may be modified as agreed to in writing between the applicant and the Town Manager.

(d) Minimum Setbacks.

(1) In residential zoning districts, any building or structure must be setback 100 feet from all property lines.

(2) In commercial zoning districts, the setback must comply with the applicable criteria for similar uses in that district.

(e) Landscape and buffering standards.

(1) As regulated in the Town of Lake Park Code Sections 78-251, 252, 253, 254.

(2) In addition to the above standards:

a. No more than 30% of the open space (including driveways) may consist of sod.

b. A buffer wall that is a minimum of 8 feet high to a maximum of 14 feet and within 15 feet of the substation equipment, with native landscaping as required by the Town, shall be maintained around the perimeter of the substation equipment.

c. The buffer wall façade (exterior) shall be designed with proper use of scale, proportions, form, materials, texture and color to blend into the neighborhood or surrounding area in which it is located.

d. Additional landscaping along the façade wall with a mixture of shade trees, Palm trees and bushes is also required as a buffer. The purpose of this landscaping is to provide screening for the façade wall.

(f) Proposed placement or construction of a new distribution electric substation within a residential area.

(1) Prior to submitting an application for the location of a new distribution electric substation in a residential area, the applicant shall consult with the Town Community Development Department regarding the selection of a site. The applicant shall provide information regarding the applicant's preferred site and as many as three alternative available sites, including sites within nonresidential

areas, that are technically and electrically reasonable for the load to be served, if the Town's Community Development Director deems that the siting of a new distribution electric substation warrants this additional review and consideration. The final determination on the site application as to the preferred and alternative sites shall be made solely by the Town's Community Development Director within 90 days of the applicant's presentation of all the necessary and required information on the preferred site and on the alternative sites. In the event the applicant and the Town are unable to reach agreement on an appropriate location, the substation site selection shall be submitted to mediation to be conducted pursuant to Sections 44.401-44.406 F.S., unless otherwise agreed to in writing by the parties, and the mediation shall be concluded within 30 days unless extended by written agreement of the parties. The 90-day time period for the Town to render a final decision on the site application is tolled from the date a notice of intent to mediate the site selection issue is served on the applicant or the Town, until the mediation is concluded, terminated, or an impasse is declared. The Town and the applicant may agree to waive or extend this 90-day time period. Upon rendition of a final decision by the Town, the utility may pursue available legal remedies in accordance with law, and the matter shall be considered on an expedited basis.

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 may be renumbered or relettered to accomplish such.

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

Upon First Reading this 6 day of December, 2006, the foregoing Ordinance 16-2006, was offered by Commissioner Osterman who moved its approval. The motion was seconded by Commissioner Carey, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>absent</u>	<u> </u>
VICE MAYOR ED DALY	<u>X</u>	<u> </u>
COMMISSIONER CHUCK BALIUS	<u>X</u>	<u> </u>
COMMISSIONER JEFF CAREY	<u>X</u>	<u> </u>
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	<u> </u>

Upon Second Reading this 20 day of December, 2006, the foregoing Ordinance 16-2006, was offered by Commissioner Carey who moved its adoption. The motion was seconded by Vice-Mayor Daly, and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR PAUL CASTRO	<u>X</u>	<u> </u>
VICE MAYOR ED DALY	<u>X</u>	<u> </u>
COMMISSIONER CHUCK BALIUS	<u>X</u>	<u> </u>
COMMISSIONER JEFF CAREY	<u>X</u>	<u> </u>
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	<u> </u>

The Mayor thereupon declared Ordinance No. 16-2006 duly passed and adopted this 20 day of December, 2006.

TOWN OF LAKE PARK, FLORIDA

BY: Ed Daly
Mayor Paul Castro

ATTEST:

Vivian Mendez
Vivian Mendez
Town Clerk
TOWN OF LAKE PARK
SEAL
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Thomas J. Baird, Town Attorney