

ORDINANCE NO. 30-2004

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 32, ARTICLE I AND V OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK; PROVIDING FOR THE AMENDMENT OF SECTION 32-2 ENTITLED "DEFINITIONS" TO ADD A DEFINITION OF "FREESTANDING CANOPY;" PROVIDING FOR THE CREATION OF SECTION 32-95 TO BE ENTITLED "FREESTANDING CANOPY" PROHIBITING THE ERECTION OF SUCH CANOPIES IN RESIDENTIAL ZONING DISTRICTS; DECLARING ALL EXISTING FREESTANDING CANOPIES TO BE NON-CONFORMING USES; PROVIDING FOR AN AMORTIZATION PERIOD REQUIRING THE REMOVAL OF ALL EXISTING FREESTANDING CANOPIES ON OR BEFORE MAY 31, 2005; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, the Town Commission has adopted general provisions pertaining to the zoning requirements of accessory structures, which have been codified in Chapter 32 of the Code of Ordinances; and

WHEREAS, some residents of the Town are now using freestanding canopies to shelter vehicles, boats, motorcycles, RV's, and other items of personal property; and

WHEREAS, due to the effects of Hurricanes Francis and Jeanne, it has been determined that these freestanding canopies pose a significant risk to the safety and general welfare of residents and can damage properties; and

WHEREAS, as a result, the Town staff has identified a need for a land development regulation to prohibit the erection and use of freestanding canopies within the Town; and

WHEREAS, the Town Commission has determined it to be in the best interests of the public safety and general welfare of the Town to prohibit freestanding canopies within the Town, and to provide for an amortization period to require the removal of all existing freestanding canopies in the Town on or before May 31, 2005, and the commencement of the 2005 hurricane season.

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

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

Section 2. Chapter 32, Articles I and V of the Code of Ordinances of the Town of Lake Park, Florida are hereby amended to read as follows:

Sec. 32-2. Definitions.

Accessory use or building shall mean a subordinate use or building customarily incident to and located on the lot occupied by the main use or building.

Antiques shall mean objects of an earlier period such as furniture, jewelry, stamps, coins, miniaturized replicas, works of art, or other decorative articles that are collected primarily because of their age, history, or expectation of increasing value.

Building shall mean each of the independent units into which a building is divided by party walls. "Building" shall also include "structure."

Community residential home as defined in F.S. Ch. 410, shall mean a dwelling unit licensed to serve clients of the department of health and rehabilitative services, which provides a living environment for unrelated residents who operate as the functional

equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical emotional and social needs of the residents.

Family shall mean one person or a group of two (2) or more persons living together and interrelated by bonds of legal adoption, blood, or a licit marriage, or a group of not more than three (3) people who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling. Any person under the age of eighteen (18) years whose legal custody has been awarded to the state Department of Children and Family Services or to a child-placing agency licensed by the department, or who is otherwise considered to be a foster child or child in emergency shelter care, and who is placed with a family, shall be deemed to be related to and a member of the family of the purposes of this chapter. Nothing herein shall be construed to include any roomer or boarder as a member of a family.

Freestanding canopy shall mean a non-habitable, self-supporting structure, typically used as a shelter for vehicles, boats, trailers, RV's, motorcycles, and other items of personal property which is constructed of non-rigid materials, except for the supporting framework which may include, but is not limited to, metal, wood, concrete, plastic, or PVC, and which is not attached to, or supported by, a building or another structure, and which supporting framework extends to the ground.

Lot shall mean a parcel of land occupied or designed to be occupied by one building, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required by the provisions of this chapter, and such open spaces as are arranged or designed to be used in connection with such buildings. "Lot" shall also include "plot."

Major recreational equipment shall mean Boats and boat trailers, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Off-street parking spaces shall mean a minimum net area of two hundred (200) square feet of appropriate dimensions for parking of an automobile, exclusive of access drives or aisles thereto.

Rear line shall mean the line parallel or practically parallel to the front line of a lot and at the furthest extremity thereof.

Side line shall mean the two (2) lines of a lot, not the front line or the rear line.

Special exception shall mean a use that would generally not be appropriate throughout the zoning district. However, special exception uses may be within a particular zoning district upon the applicant's compliance with the criteria established within this article and with such conditions as the commission may elect to impose.

Street line shall mean the dividing line between a lot and the adjoining street.

Section 3. Chapter 32, Article V of the Code of Ordinances of the Town of Lake Park, Florida is hereby created as follows:

Sec. 32-95. Freestanding canopies.

Freestanding canopies, as defined herein, are prohibited within the Town. Any freestanding canopy existing within the Town at the time of the adoption of this Ordinance shall be deemed to be a non-conforming use, and shall be removed no later than May 31, 2005. This amortization period was determined by the Town Commission based upon the commencement of the 2005 hurricane season on June 1, 2005; degree of nuisance, and other adverse effects that this non-conforming use creates; the relative ease and minor expense with which this non-conforming use may be eliminated; and a finding that this period of amortization will not be detrimental to, or endanger the public health, safety, morals, comfort, or general welfare, and will not substantially diminish or impair property values during the amortization period. The owner of real property on which any freestanding canopy is located, which has not been completely removed as of June 1, 2005, shall be subject to code enforcement action by the Town.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The sections of the Ordinance may be made a part of the Town Code of Laws and Ordinances and may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 7. Effective Date. This Ordinance shall take effect immediately upon adoption.

Upon First Reading this 5th day of January, 2005, the foregoing ORDINANCE was offered by Commissioner Garretson who moved its approval. The motion was seconded by Vice Mayor Balius, and being put to a vote, the result was as follows:

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

Upon Second Reading this 2nd day of FEB, 2005, the foregoing ORDINANCE was offered by Vice Mayor Balius who moved its adoption. The motion was seconded by Commissioner Carey, and being put to a vote, the result was as follows:

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

The Mayor thereupon declared Ordinance No. 30-2004 duly passed and adopted this 2nd day of February, 2005.

TOWN OF LAKE PARK, FLORIDA

BY: *Paul Castro*
Mayor Paul Castro

ATTEST:
Stephanie Thomas
Stephanie Thomas
Town Clerk

Approved as to form and legal sufficiency:
Thomas J. Baird
Thomas J. Baird, Town Attorney

