

ORDINANCE NO. 10-2010

A ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 54 "BUILDINGS AND BUILDING REGULATION", ARTICLE III, SECTION 54-131 TO ADD ADDITIONAL CONDITIONS OR ACTIVITIES WHICH MAY BE DECLARED TO BE A NUISANCE; PROVIDING FOR THE AMENDMENT OF SECTION 54-132 TO AUTHORIZE THE TOWN TO TAKE SUCH METHODS OR ACTIVITIES AS MAY BE NECESSARY TO ABATE A DECLARED NUISANCE; PROVIDING FOR SEVERABILITY, PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, §2(b) of the Constitution of the State of Florida and Chapter 166, Florida Statutes, the Town of Lake Park, Florida (the "Town") has the governmental and corporate powers of a duly constituted municipality; and

WHEREAS, the Town Commission has previously adopted provisions pertaining to property maintenance and nuisance abatement which have been codified in Chapter 54, Sections 54-81, 54-82, 54-131, 54-132, 54-133 and 54-134; and

WHEREAS, subsequent to the adoption of these provisions, it has become apparent that minor revisions need to be made to various portions of Code Sections 54-131 and 54-132 in order to provide the Town with more flexibility in property maintenance and abating certain nuisances in an expedient manner; and

WHEREAS, Town staff has recommended that the Town Commission amend Code Section 54-131 and 54-132 as provided herein; and

WHEREAS, the Town Commission, deems it to be in the interest of the public health, safety and general welfare to amend Chapter 54, Sections 54-131 and 54-132, pertaining to property maintenance and nuisance abatement as recommend by Town staff.

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

Section 1. The foregoing recitals are adopted herein as true and correct findings of fact and conclusions of law of the Town Commission.

Section 2. Chapter 54, Article III, Sections 54-131 and 54-132 are hereby amended to read as follows:

Sec. 54-131. - Nuisance declared.

It is hereby declared and determined by the town commission, that the following shall each individually, or in any combination, be considered nuisances when they exist upon a lot in the town:

- (1) Accumulations of waste, yard trash, or rubble and debris; and other abandoned materials, metals, lumber or other things;
- (2) Accumulations of waste, yard trash, or rubble and debris and other abandoned materials that may harbor rats or poisonous snakes or that may contain pools of water that may serve as breeding grounds for insects or other disease vectors;
- (3) Uncultivated vegetation greater when:
 - a. Greater than 12 inches in height located on nonresidential vacant lots; or
 - b. Greater than eight inches in height when located on developed or undeveloped residential or developed nonresidential lots.
- (4) *Schinus terebinthifolius* (commonly known as Brazilian Pepper) bushes or trees, if uncultivated;
- (5) Uncultivated vegetation that constitutes a fire hazard; or
- (6) Vegetation, whether or not cultivated, that impedes or obstructs adequate view of intersections, traffic signs, railroad crossings or traffic from any street, road, or highway.
- (7) Any standing dead trees in close proximity to developed lots or rights-of-way.
- (8) Any condition which provides harborage for rats, mice, and other vermin or for the breeding of mosquitoes;
- (9) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located;
- (10) All unnecessary or unauthorized noises and annoying vibrations, including animal noises;
- (11) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches;
- (12) The carcasses of animals or fowl not disposed of within a reasonable time after death;
- (13) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances;
- (14) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained;
- (15) Any accumulation of stagnant water on any lot or piece of ground;
- (16) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.
- (17) Swimming pools that have an accumulation of dirt, algae, scum or other materials and debris which would render a swimming pool generally unusable for recreational purposes.

Sec. 54-132. - Nuisance to be abated.

Any nuisance declared by this section, which is found, on any property within the town shall be abated in the following manner:

(1) If the nuisance consists solely of accumulations of waste, yard trash, or rubble and debris as provided in subsections 54-131(1) and (2), it shall be abated in its entirety, provided that the nuisance exists upon a lot which is adjacent to a property which is developed or has been used for residential, commercial or industrial purposes; or

(2) If the nuisance consists solely of uncultivated vegetation as provided in subsections 54-131(3), (4) and (5), and the parcel is less than one and one-half acres in size, the nuisance shall be abated in its entirety. If the parcel is greater than one and one-half acres in size, the nuisance shall be abated on the portion one hundred feet of the boundary of any adjacent property, which is developed or has been used for residential, commercial or industrial purposes.

(3) In cases involving areas declared by the town commission as blighted, pursuant to state statutes, or in any cases which there is evidence of vagrants using the overgrown property for habitation, or that crimes of a violent nature, or crimes involving the sale or possession of illegal substances are occurring on the premises, then the nuisance may be abated in its entirety, regardless of lot size. The evidence of such activities must be documented by the town code compliance division or other appropriate law enforcement agency. In abating such nuisances, property owners and the town are encouraged to preserve, and need not clear, trees and *Serenoa repens* (commonly known as Saw Palmetto). Property owners and the town are encouraged to clear *Melaleuca quinquenervia* (commonly known as Punk Tree, Cajeput, or Paper Bark Tree), *Casurina Spp.* (commonly known as Australian Pine); *Acacia Ariculaeformis* (commonly known as Earleaf Acacia); and property owners and the town shall be required to clear *Schinus terebinthifolius* (commonly known as Brazilian Pepper).

(4) If the nuisance consists of the obstruction of adequate view of intersections, crossings, or traffic signs, the nuisance shall be abated in accordance with the safe sight distance triangles provisions of the Code or other applicable regulations, and when not provided by law or ordinance, the nuisances shall be abated so as to afford a clear, unobstructed view.

(5) If the nuisance consists of dead trees, only those standing dead trees located in an area that, if they fell, would likely cause damage to adjacent developed lots, sidewalks, or rights-of-way, need be removed.

(6) If the nuisance consists in part of uncultivated vegetation and in part of other nuisances declared by this article, the provisions of subsections (1), (2) and (3) shall each apply to its abatement.

(7) In cases involving buildings or structures that are unfit for habitation the nuisance shall be abated by using any means available to secure the building or structure in such a manner as to prevent trespass or occupation of the premises.

(8) If the nuisance consists of a noxious swimming pool, the nuisance shall be abated either by draining the pool, chemically shocking the pool, or taking such other actions as may be necessary to eliminate the nuisance. If the property is a residential home and has been abandoned, the Town shall have the authority to secure the property to prevent trespassing or occupation of the premises.

(9) The Town is authorized to take such actions as may be necessary to abate other nuisances declared by this chapter in their entirety.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

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

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

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

Upon First Reading this 8 day of September, 2010, the foregoing Ordinance, was offered by Vice Mayor Osterman, who moved its approval. The motion was seconded by Commissioner Hockman and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 26 DAY OF September, 2010

Upon Second Reading this 6 day of October, 2010, the foregoing Ordinance, was offered by Commissioner Hockman, who moved its adoption. 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 PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No.** 10-2010 duly passed and adopted this 6 day of October, 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
SEAL

FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird