

ORDINANCE NO. 01-2013

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 9, ARTICLE II, SECTION 9-42 OF THE TOWN CODE, ENTITLED "NOTICES" PERTAINING TO NOTICES FOR CODE ENFORCEMENT VIOLATIONS; 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 the Town's Code Enforcement procedures which have been codified in Chapter 9 of the Town's Code of Ordinances; and

WHEREAS, the Town Staff has recommended to the Town Commission that Chapter 9, Article II, Section 9-42 of the Code of Ordinances be amended to comply with the updated Florida Statute §162.12; and

WHEREAS, Town Staff has also recommended an amendment to Section 9-42 to provide for notices for Code Enforcement violations and/or hearings by corporations by serving the registered agent of the corporation; and

WHEREAS, Town Staff has also recommended an amendment to Section 9-42 to provide for the property owner to submit an alternate mailing address in writing to the Town for certified mail notices for Code Enforcement violations and hearings; and

WHEREAS, the Town Commission has reviewed the recommendations of Town Staff, and has determined that amending Section 9-42 of Article II, Chapter 9 of the Town's Code of Ordinances is necessary to further the public's health, safety and welfare.

**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 9, Article II, Section 9-42 of the Town Code is hereby amended to read as follows:

Sec. 9-42. - Notices.

- (a) All notices required by this article shall be provided to the alleged violator by:
- (1) Certified mail, return receipt requested; provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, ~~and or~~ at any other address provided to the town by the property owner in writing for the purpose of receiving notices by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subsections (b)(1) and (2) of this section, and by first class mail directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing; For property owned by a corporation, notices may be provided by certified mail to the registered agent of the corporation.
 - (2) Hand delivery by a law enforcement officer, code compliance officer or other person designated by the town;
 - (3) Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age, and informing such person of the contents of the notice; or
 - (4) In case of commercial premises, leaving the notice with the manager or other person in charge.
- (b) In addition to providing notice as set forth in subsection (a)(1) of this section, at the option of the ~~code compliance board~~ Special Magistrate, notice may also be served by publication or posting as follows:
- (1) Publication. Such notice shall be published once during each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are

prescribed under F.S. ch. 50 for legal and official advertisements. Proof of publication shall be made as in F.S. §§ 50.041 and 50.051.

(2) Posting. In lieu of publication as described in subsection (b)(1) of this section, such notice may be posted for at least ten days prior to the hearing or prior to the expiration of any deadline contained in the notice in at least two locations, one of which shall be the property upon which the violation is alleged to exist and the other of which shall be at the town hall. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.

(c) Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail, as required under subsection (a) of this section.

(d) Evidence that an attempt has been made to hand deliver or mail notice as provided under subsection (a) of this section, together with proof of publication or posting as provided in subsection (b) of this section, ~~it~~ shall be sufficient to show that the notice requirements of this article have been met, without regard to whether or not the alleged violator actually received such notice.

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 re-lettered 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 16 day of January, 2013, the foregoing Ordinance was offered by Commissioner Stevens, who moved its approval. The motion was seconded by Vice-Mayor Rumsey and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>✓</u>	_____
VICE-MAYOR KENDALL RUMSEY	<u>✓</u>	_____
COMMISSIONER STEVEN HOCKMAN	_____	<u>✓</u>
COMMISSIONER JEANINE LONGTIN	_____	<u>✓</u>
COMMISSIONER TIM STEVENS	<u>✓</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 27 DAY OF January, 2013

Upon Second Reading this 6 day of February, 2013, the foregoing Ordinance, was offered by Commissioner Stevens, who moved its adoption. The motion was seconded by Commissioner Longtin and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR JAMES DUBOIS	<u>/</u>	_____
VICE-MAYOR KENDALL RUMSEY	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER TIM STEVENS	<u>/</u>	_____

The Mayor thereupon declared Ordinance No. 01-2013 duly passed and adopted this 6 day of February, 2013.

TOWN OF LAKE PARK, FLORIDA

BY: James DuBois
Mayor, James DuBois

ATTEST:

Vivian Mendez
Town Clerk, Vivian Mendez
(Town Seal)
SEAL
PARK
FLORIDA

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird