

**ORDINANCE NO. 20-2007**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 9, ARTICLE III, OF THE CODE OF ORDINANCES OF THE TOWN OF LAKE PARK, FLORIDA BY AMENDING SECTION 9-71 ENTITLED “ENFORCEMENT PROCEDURES AND STANDARDS”; AND REPEALING SECTION 9-72 ENTITLED “NOTICE TO APPEAR”; 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 code enforcement, and an alternative code enforcement procedure using citations, which have been codified in Article III of Chapter 9 entitled “Alternate Code Enforcement” of the Code of Ordinances of the Town of Lake Park; and

**WHEREAS**, the Town Commission desires to commence using citations as an additional means to enforce certain provisions of the Town Code which are Code violations that are often a one-time occurrence and which do not require any additional time to be given to the violator for compliance, such as parking violations, violations of water restrictions, illegal dumpsters, illegal dumping, dogs running loose (leash law), noise violations, littering, and other similar violations; and

**WHEREAS**, it is the intent of the Town Commission that citations be used by the Town’s code compliance officers to enforce such provisions of the Town Code in lieu of the traditional

Notice of Violation and Notice of Hearing which is a labor intensive and costly method of code enforcement; and

**WHEREAS**, currently the Town Code, in Chapter 9, Article III, Section 9-71 authorizes the use of citations, and contains a schedule of violations and penalties for violations of specified provisions of the Town Code, but the use of citations has never been implemented; and

**WHEREAS**, in addition, the schedule of violations and penalties in Code Section 9-71 is not currently being used, is outdated, and an updated schedule of violations and penalties for citation use is more appropriately contained in a resolution; and

**WHEREAS**, Town staff has prepared such a Resolution containing a more appropriate schedule of violations and penalties, and has also created a form of citation to be used in enforcing the violations set forth in the Resolution; and

**WHEREAS**, Town staff is recommending that the form of the citation and the Resolution with the new schedule of violations and penalties be adopted upon second reading of this Ordinance; and

**WHEREAS**, Town staff has recommended that the Town Commission delete the fine provisions set forth Code Section 9-71, and to instead adopt the schedule of violations and fines by resolution of the Town Commission; and

**WHEREAS**, Town staff has also recommended repealing Code Section 9-72 which contains an antiquated “notice to appear” procedure that is not and has never been used by the Town; and

**WHEREAS**, upon the adoption of this Ordinance and the Resolution containing a new schedule of violations and penalties, the Town will begin the implementation of the use of citations as an additional means of enforcing the Town’s Code of Ordinances.

**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 III, Section 9-71 of the Code of Ordinances of the Town of Lake Park, Florida is hereby amended to read as follows, and Section 9-72 of the Code of Ordinances of the Town of Lake Park, Florida is hereby repealed as follows:

**ARTICLE III. ALTERNATE CODE ENFORCEMENT**

**Sec. 9-71. Enforcement procedures and standards.**

(a) Issuance of citations. ~~A code compliance officer is an employee of the town who is duly authorized by the town manager and responsible for the enforcement of this Code.~~ A code compliance officer, Palm Beach County Sheriff's Office deputies, and certified citizen's patrol officers, may issue a citation to a person when, based on personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance, and that the town's special magistrate county court will hold a hearing on the violation if the citation is either contested or if the fine is not paid within the time specified in the citation. charge.

~~(b) Notice. Prior to issuing a citation, a code compliance officer shall provide notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a code compliance officer finds that the person has not corrected the violation within the time period, the code compliance officer may issue a citation to the person who has committed the violation. If the code compliance officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if a repeat violation is found, the code compliance officer is not obligated to provide the person with a reasonable time period within which to correct the violation prior to the issuance of the citation.~~

~~(b) (e) Form and contents of citation. The citation issued by the code compliance officer shall be in a form prescribed by the town, and shall contain among other things, the following:~~

- ~~(1) The date and time of issuance.~~
- ~~(2) The name and address of the person to whom this citation is issued.~~
- ~~(3) The date and time the civil infraction was committed.~~
- ~~(4) The facts constituting reasonable cause.~~
- ~~(5) The number of section of the code or ordinance violated.~~
- ~~(6) The name and authority of the code compliance officer.~~
- ~~(7) The procedure for the person to follow in order to pay the civil penalty or contest the citation.~~
- ~~(8) The applicable civil penalty if the person elects to contest the citation.~~

(9) The applicable civil penalty if the person elects not to contest the citation.

(10) A conspicuous statement if the person fails to pay the civil penalty within the time allowed or fails to appear before the town's special magistrate or code enforcement board

~~in court~~ to contest the citation, the person shall be deemed to have waived such person's right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(c) ~~(d)~~ Disposition by the special magistrate county court. After issuing a citation to an alleged violator, a code compliance officer shall provide deposit the original citation and one copy of the citation to with the town's code enforcement division county court for further processing.  
~~disposition.~~

~~(d)~~ ~~(e)~~ Sections of code which may to be enforced by citation. Certain code sections and ordinances lend themselves to be enforced by means of a citation method and as such, the town commission has established by resolution, a schedule of code sections to be enforced by citation and a schedule of penalties for the violation of the respective code sections, which resolution and schedule of violations and penalties may be amended from time to time at the pleasure of the town commission, and the town has deemed the following sections of the Code as those to be enforced through the citation method and has provided a schedule of violations and penalties to be assessed as follows:

Fine amount

~~Class I offense . . . \$50.00~~

~~Section 10-154, Noise disturbance.~~

~~Section 10-156, Noise sensitive zones.~~

~~Section 10-157, Noise violations.~~

~~Section 16-3, Unlawful to trespass or lodge on public lands.~~

~~Section 18-61, Domesticated animals prohibited in parks.~~

~~Section 18-63, Hours of operation for town parks.~~

~~Section 18-65, Restricted vehicular traffic in town parks (marina excluded).~~

~~Section 18-85, Conditions of issuance.~~

~~Section 20-32, Permit required (garage sales).~~

~~Section 22-31, Prohibition--Charitable solicitations.~~

~~Section 24-39, Placement of refuse container, and yard trash.~~

~~Section 24-78(a), Overloading refuse containers.~~

~~Section 34-64, Irrigation restrictions.~~

~~Section 70-103(i), Temporary political signs pertaining to specific elections.~~

~~Section 78-152, Motor vehicle/boat repairs prohibited.~~

~~Section 78-254, Grass area on improved lot.~~

Fine amount

~~Class II offense . . . \$75.00~~

~~Section 70-32, Sign, no permit.~~

Fine amount

~~Class III offense . . . \$125.00~~

~~Section 68-3, Outdoor storage residential.~~

~~Section 68-5, Outdoor storage commercial.~~

~~Section 70-102, Prohibited sign.~~

~~Section 78-254, Grass area on unimproved lot.~~

Fine amount

Class IV offense . . . \$250.00

~~Section 10-101, Junked/abandoned vehicle on public property.~~

~~Section 10-121, Junked/abandoned vehicle on private property.~~

~~Section 24-143, Mandatory disposal of garbage, trash and recyclables.~~

~~Section 28-33, No local business tax receipt: The statutory penalty, pursuant to F.S. § 205.053, as amended, plus a fine of up to \$250.00.~~

Upon receipt of a citation, the person alleged to have violated the town Code may request a hearing before the town's special magistrate ~~a court appearance~~. The special magistrate ~~county court judge~~ may assess a maximum civil penalty not to exceed \$500.00, plus the town's administrative costs if the violation is contested. ~~If the citation is not contested, the amount of fine is the face value of the citation plus costs.~~

~~(e)~~ ~~(f)~~ Code violations; civil infraction. All violations of this code shall be considered as civil infractions with a maximum civil penalty not to exceed \$500.00.

~~(f)~~ ~~(g)~~ Citation contested; special magistrate ~~county court~~. Should any person receiving a citation desire to contest the citation ~~same~~, the such person who is issued the citation shall have the right to appear before the town's special magistrate ~~in county court in order to present their such person's case and have the case decided~~ ~~determined disposition made by the town's special magistrate~~ ~~court~~.

~~(g)~~ ~~(h)~~ Failure to accept citation; misdemeanor. Any person who willfully refuses to sign and accept a citation issued by a code compliance officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083.

~~(h)~~ ~~(i)~~ Provisions additional and supplemental. The provisions of this section are additional and supplemental means of enforcing the code sections referred to in subsection ~~(d)~~ ~~(e)~~ of this section. Nothing contained in this section shall prohibit the town from enforcing its codes or ordinances by other means.

#### **Sec. 9-72. Notice to appear.**

~~(a) Generally. Notwithstanding F.S. § 34.07, a code compliance officer, designated pursuant to section 9-71(a) and (b), may issue a notice to appear at any hearing conducted by a county court if the officer, based upon personal investigation, has reasonable cause to believe that the person has violated a code or ordinance. A notice to appear means a written order issued by a code compliance officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. If a person issued a notice to appear under this section refuses to sign such notice, the code compliance officer has no authority to arrest such person.~~

~~(b) Time period to correct violation. Prior to issuing a notice to appear, a code compliance officer shall provide written notice to the person that the person has committed a violation of a code or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no fewer than five days and no more than 30 days. If, upon personal investigation, a code compliance officer finds that the person has not corrected the violation within the prescribed time period, a code compliance officer may issue a notice to appear to the person who has committed the violation. A code compliance officer is not required to provide the person with a reasonable time period to correct the violation prior to issuing a notice to appear and may immediately issue a notice to appear if a repeat violation is found, or if the code compliance officer has reason to believe that the violation presents a serious threat to the public health, safety or welfare, that the violation is engaged in violations of an itinerant or transient nature, as defined by~~

~~local code of ordinances within jurisdiction, or if the violation is irreparable or irreversible.~~

**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.

**TOWN OF LAKE PARK, FLORIDA  
CITATION NUMBER \_\_\_\_\_**

DAY OF WEEK	MONTH	DAY	YEAR	TIME	AM
FIRST NAME (Print)		MIDDLE	LAST NAME (VIOLATOR)		
STREET ADDRESS					
CITY		STATE	ZIP CODE		
TEL. NO.	DATE OF BIRTH	RACE	SEX	HGT	
VEHICLE TAG NO OR VEHICLE ID NO.		MAKE/MODEL:	COLOR		
LOCATION OF VIOLATION: (if different from above)					
CODE SECTION VIOLATED:					
DESCRIPTION:					
<input type="checkbox"/> REPEAT VIOLATION: \$500.00					
<p>This Citation is issued pursuant to Chap. 162 F.S., Chap. 316, F.S., Chap. 9, Sec. 9-17. The violation(s) charged is a civil infraction with a maximum civil penalty of up to \$250.00 per violation per day and up to \$500.00 per day for a repeat violation, plus administrative costs. You may avoid having to appear at a quasi-judicial hearing before the Town's Special Magistrate on the violations charged herein by paying the civil penalty in the amount of \$_____ by either cash or a check made payable to the "Town of Lake Park" within ten (10) days of the of the date of this Citation. Payments may be mailed or hand delivered to the Town of Lake Park, Finance Department, 535 Park Avenue, Lake Park, FL 33403. DO NOT MAIL CASH.</p> <p>In the event you fail to pay the penalty and/or wish to contest the Citation, you are hereby commanded and summoned to appear before the Special Magistrate for a hearing on the violation(s) on _____, 200_ at 10:00 a.m. in the Town Commission Chambers at Town Hall, located at 535 Park Avenue, Lake Park, Florida 33403.</p> <p><b>IF YOU FAIL TO EITHER PAY THE FINE IN THE AMOUNT STATED ON THIS CITATION, OR YOU FAIL TO APPEAR AT THE HEARING TO CONTEST THE CITATION, YOU SHALL BE DEEMED TO HAVE WAIVED YOUR RIGHT TO CONTEST THE CITATION, AND A FINAL JUDGMENT MAY BE ENTERED AGAINST YOU FOR AN AMOUNT UP TO THE MAXIMUM CIVIL PENALTY, TOGETHER WITH ADMINISTRATIVE COSTS. Any person who willfully refuses to sign and accept a Citation issued by a Code Enforcement Officer shall be guilty of a misdemeanor of the second degree, punishable as provided in Sec. 775.082 F.S. or Sec. 775.083 F.S. (60 days in jail or \$500.00 or both).</b></p>					
SIGNATURE OF VIOLATOR			PRINTED NAME OF VIOLATOR		
SIGNATURE OF CODE ENFORCEMENT OFFICER					

**Exhibit A**

<b>Code Section</b>	<b>VIOLATION DESCRIPTION</b>	<b>FINE</b>
10 -33	Prohibited parking on sidewalk	\$50
10 -33	Nuisance (general)	\$100
10 -154	Noise disturbance	\$250
16 -3	Unlawful trespass on public land	\$125
18 -61	Domestic animals prohibited in public park	\$50
18 -85	Violation of permit terms for use of park	\$50
18 -121	No permit for special event	\$250
20 -32	No permit for garage sale	\$50
24 -6	Illegal roll-off (residential)	\$250
24 -7	Illegal roll-off (commercial)	\$250
24 -8	Illegal dumping / littering	\$250
24 -78	Overloaded sanitation container	\$50
30 -2	Prohibited parking	\$100
30 -2	Prohibited parking in roadway	\$125
30 -33	Commercial loading and unloading	\$250
30 -35	Parking commercial vehicle in residential are	\$125
34 -6	Hatracking; tree topping	\$250
34 -64	Illegal watering 1 <sup>st</sup> offense	\$75
34 -64	Illegal watering 2 <sup>nd</sup> or more offense	\$250
70 -32	Sign code violation	\$125



Upon First Reading this 22 day of August, 2007, the foregoing Ordinance 20-2007, was offered by Commissioner Osterman who moved its approval. The motion was seconded by Commissioner Balius, and being put to a vote, the result was as follows:

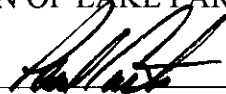
	AYE	NAY
MAYOR PAUL CASTRO	<u>X</u>	_____
VICE MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

Upon Second Reading this 12 day of September, 2007, the foregoing Ordinance 20-2007, was offered by Commissioner Osterman who moved its adoption. The motion was seconded by Vice-Mayor Daly, and being put to a vote, the result was as follows:

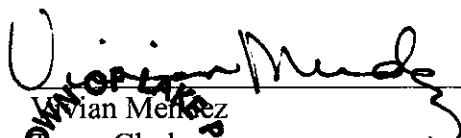
	AYE	NAY
MAYOR PAUL CASTRO	<u>X</u>	_____
VICE MAYOR ED DALY	<u>X</u>	_____
COMMISSIONER CHUCK BALIUS	<u>X</u>	_____
COMMISSIONER JEFF CAREY	<u>X</u>	_____
COMMISSIONER PATRICIA OSTERMAN	<u>X</u>	_____

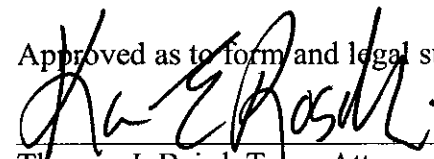
The Mayor thereupon declared Ordinance No. 20-2007 duly passed and adopted this 12 day of September, 2007.

TOWN OF LAKE PARK, FLORIDA

BY:   
Mayor Paul Castro

ATTEST:

  
Marian Meritez  
Town Clerk  
SEAL  
LAKE PARK  
FLORIDA

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