

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF WEST PALM BEACH, FLORIDA, AT CHAPTER 94 (ZONING AND LAND DEVELOPMENT REGULATIONS), ARTICLE II (ORGANIZATION, ADMINISTRATION AND ENFORCEMENT), SECTION 94-39 (PUBLIC HEARING) AND SECTION 94-48 (DESIGNATION OF HISTORIC PROPERTIES AND DISTRICTS) TO AMEND THE DISTANCE REQUIREMENT FOR WRITTEN NOTICE OF PUBLIC HEARING TO INDIVIDUAL PROPERTY OWNERS FROM 400 FEET TO 500 FEET ON A PROPOSED ACTION; PROVIDING A CONFLICTS CLAUSE, A CODIFICATION CLAUSE, AND A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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WHEREAS, the City Commission directed Staff to investigate the City's distance requirement for written notice of public hearing to individual property owners on a proposed action to determine if the current distance requirement was adequate or if the distance requirement necessitated change in order to encourage greater participation in the public hearing process; and

WHEREAS, the City's current distance requirement for notifying individual property owners of a proposed action is 400 feet; and

WHEREAS, Staff's analysis of the public notice requirements of various municipalities in South Florida (population >50,000 people) found that larger municipalities generally require written notices to be sent to all individual property owners within 500 feet of a proposed action; and

WHEREAS, the purpose of amending the distance requirement for written notice of public hearing to individual property owners on a proposed action from 400 feet to 500 feet is to be more consistent with the public hearing notice requirements of larger municipalities in South Florida; and

WHEREAS, Staff believes that increasing the distance requirement to 500 feet will also encourage greater participation in the public hearing process; and

WHEREAS, the amendment will affect the public notice requirement to individual property owners for all boards and committees in the City, including: the City Commission, Planning Board, Downtown Action Committee, Zoning Board of Appeals and the Historic Preservation Board; and

WHEREAS, the Planning Board recommended approval (7-0) of this request to the City Commission after a Public Hearing on March 30, 2016; and

WHEREAS, the public hearings were advertised in the Palm Beach Post, and proof of publication is housed in the Development Services Department - Planning and Zoning Division records.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:

SECTION 1: The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article II (Organization, Administration and Enforcement), Section 94-39 (Public Hearing) is hereby amended at subsection (j)(1) through (4) to read as follows. The remainder of Section 94-39 shall be unchanged:

Sec. 94-39. - Public hearing.

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- (j) *General procedures for notice of public hearings.*
- (1) *Planning board.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing. Written notice shall be provided by mail at least 14 days in advance of the public hearing to all affected property owners, all affected neighborhood and business organizations whose addresses are kept on file with the planning and zoning department and all persons who own real property within ~~400~~ 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.
 - (2) *City commission.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing for adoption of the action, except for the items listed in subsection 94-39(k), which shall follow the specific requirements of Florida Statutes. Written notice shall be provided by mail at least 30 days in advance of the public hearing to all affected property owners, all affected neighborhood organizations whose addresses are kept on file with the planning and zoning department and to all persons who own real property within ~~400~~ 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.
 - (3) *Zoning board of appeals.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing. Written notice shall be provided by mail at least 14 days in advance of the public hearing to all affected property owners, all affected neighborhood organizations whose addresses are kept on file with the planning and zoning department and all persons who own real property within ~~400~~ 500

feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.

- (4) *Downtown action committee.* Public notice shall be advertised in a newspaper of general circulation in the city at least ten days in advance of the public hearing. Written notice shall be provided by mail at least 14 days in advance of the public hearing to all affected property owners, all affected neighborhood and business organizations whose addresses are kept on file with the planning and zoning department and all persons who own real property within ~~400~~ 500 feet of the property to be affected by the proposed action and whose addresses are known by reference to the latest approved ad valorem tax roll.

SECTION 2: The Code of Ordinances of the City of West Palm Beach at Chapter 94 (Zoning and Land Development Regulations); Article II (Organization, Administration and Enforcement), Section 94-48 (Designation of Historic Properties and Districts) is hereby amended at subsection (b)(4) to read as follows. The remainder of Section 94-48 shall be unchanged:

Sec. 94-48. - Designation of historic properties and districts.

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- (b) *Procedures.*

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- (4) *Board public hearing notice.* The board shall advertise and hold a public hearing in accordance with F.S. § 166.041. Notice of the time, place and subject matter of the hearing shall be published in a newspaper of general circulation in the city, mailed to the applicant and mailed to any owner of real property within ~~400~~ 500 feet of the property or district subject to potential designation, at least 30 calendar days prior to the date set for the public hearing.

SECTION 3: The City Commission of the City of West Palm Beach hereby finds and determines that the amendment described in this Ordinance are consistent with the Comprehensive Plan of the City adopted pursuant to Sections 163.3161, et seq., Florida Statutes.

SECTION 4: The City Commission of the City of West Palm Beach hereby finds and determines that the amendment described in this Ordinance are consistent with the standards set forth in Section 94-32 of the Zoning and Land Development Regulations.

SECTION 5: All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 6: Should any section or provision of this Ordinance or any portion, paragraph, sentence or word thereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 7: Authority is hereby granted to codify the amendments set forth in this Ordinance.

SECTION 8: This Ordinance shall take effect in accordance with law.

FIRST READING THIS 9TH DAY OF MAY 2016.

SECOND READING AND PASSAGE THIS 23RD DAY OF MAY 2016.



ATTEST:

X

Hazeline F. Carson

CITY CLERK

Signed by: Hazeline Carson

**CITY OF WEST PALM BEACH BY
ITS CITY COMMISSION:**

X

Geraldine Muio

PRESIDING OFFICER

Signed by: Geraldine Muio

APPROVED AS TO FORM AND LEGALITY:

5/16/2016

X

Nancy Urcheck

CITY ATTORNEY

Signed by: NUrcheck