

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2007-07**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR A MORATORIUM CONSISTENT WITH THE TOWN CHARTER ON THE PROCESSING AND REVIEW OF APPLICATIONS FOR DEVELOPMENT ORDERS AND DEVELOPMENT PERMITS, AND APPLICATIONS FOR AMENDMENTS TO THE TOWN'S COMPREHENSIVE PLAN, WITHIN THE CORPORATE BOUNDARIES OF THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the requirements of Chapter 2006-328, Laws of Florida, (the "Town Charter") the Town of Loxahatchee Groves (the "Town") on October 10, 2006, the voters within the area of unincorporated Palm Beach County known as Loxahatchee Groves voted to incorporate as the Town of Loxahatchee Groves; and,

**WHEREAS**, as provided in the Town Charter, the Palm Beach County Comprehensive Plan is the Town's interim Comprehensive Plan while the Town prepares its own Comprehensive Plan; and,

**WHEREAS**, the Town has historically been viewed as primarily a rural area, and currently has a population of approximately 3,300 persons;

**WHEREAS**, over the past several years the area within the Town has experienced pressures to develop higher density residential, commercial, and industrial uses; and,

**WHEREAS**, large areas of the Town remain either undeveloped or designated in the current future land use map as agricultural; and,

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**WHEREAS**, the Town expects the unprecedented growth to continue for several years, with expected pressures to develop higher density residential, commercial, and industrial uses within the Town which threaten the Town's historical rural character and lifestyle; and,

**WHEREAS**, the development pressures within the Town has and will continue to create significant development-related problems related to schools, parks, traffic and roadways, and the delivery of municipal services; and,

**WHEREAS**, the Town is developing a Comprehensive Plan that will provide appropriate goals and objectives designed to address the expected continuing record development within the Town; and,

**WHEREAS**, it is anticipated that portions of the Town's future Comprehensive Plan will differ from the County Comprehensive Plan and that the continued processing of applications for certain development orders and permits under the County Comprehensive Plan, and amendments to the current Comprehensive Plan, may result in development inconsistent with the Town's ultimately adopted Town Comprehensive Plan; and,

**WHEREAS**, the adoption of the moratorium on the processing of applications for certain development orders and permits and amendments to the current Comprehensive Plan will provide the Town time to prepare and adopt its own Comprehensive Plan and avoid continuing development that may be inconsistent with the ultimately adopted Town Comprehensive Plan; and,

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**WHEREAS**, the Town expects to transmit its Comprehensive Plan to the Florida Department of Community Affairs, pursuant to the procedures set forth in Chapter 163, Florida Statutes, in the fall of 2008; and,

**WHEREAS**, upon the Comprehensive Plan being effective, the Town will enact land development regulations to implement the Comprehensive Plan; and,

**WHEREAS**, the Town requires time to complete the Comprehensive Plan, transmit it to the Department of Community Affairs, and thereafter to have it become effective within the Town, as well as to develop and implement the land development regulations necessary to implement the Town's Comprehensive Plan and to govern development within the Town; and,

**WHEREAS**, given the volume of development currently underway within the Town, the Town Council believes that it is necessary to prevent any additional development that may be inconsistent with the Town's ultimately adopted Comprehensive Plan until such time as the Town's Comprehensive Plan is transmitted; and,

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has determined that it is in the best interests of the citizens of the Town of Loxahatchee Groves to enact a moratorium on the processing of certain applications for development orders and development permits, as specified herein, as well as applications for amendments to the Town's current Comprehensive Plan within the Town, as set forth hereinafter, to provide time for the Town to transmit and develop its own

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municipal Comprehensive Plan to govern new development within the Town, subject to certain exemptions specified herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, THAT:**

**Section 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2.** Moratorium Imposed.

1. The Town Council of the Town of Loxahatchee Groves hereby declares a moratorium for the time period specified in Section 5, subject to certain exceptions delineated in Sections 3 and 4, on the processing of the following Development Permit applications:

- a. Proposed Developments of Regional Impact
- b. Notices of Proposed Change to Existing Developments of Regional Impact which serve to change permitted uses and/or increase previously approved density or intensity of development of a parcel;
- c. Comprehensive Land Use Plan Amendments filed with the Town of Loxahatchee Groves after October 1, 2007;
- d. Comprehensive Plan Text Amendments filed with the Town of Loxahatchee

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Groves after October 1, 2007;

- e. Rezoning, including, but not limited to, changes to zoning district boundaries, and zoning district designations;
- f. Type IA and IB Variances which increase previously approved density, or intensity of development of a parcel. For purposes of this provision, and by way of example, the density or intensity of development of a parcel means the amount of square footage of building area to be constructed on a parcel, or the number of dwelling units on a parcel, and;
- g. Type II Variances which increase approved density, or intensity of development of a parcel. For purposes of this provision, and by way of example, the density or intensity of development of a parcel means the amount of square footage of building area to be constructed on a parcel, or the number of dwelling units on a parcel, and;
- h. Modifications to Development Orders, including, but not limited to, conditional uses, requested uses, Planned Development District, that result in a change in density or intensity of uses, and/or result in an increase in trips for the Development Plan previously approved. For purposes of this provision, and by way of example, the density or intensity of development of

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a parcel means the amount of square footage of building area to be constructed on a parcel, or the number of dwelling units on a parcel;

- i. Requests for Requested Use (Planned Development District), Conditional Use.
- j. Applications for a Special Permits, other than applications for special events, mobile home dwellings, and accessory dwellings.
- k. Requests to establish a use which serves to change previously approved uses and/or increase previously approved density or intensity of development of a parcel. For purposes of this provision, and by way of example, the density or intensity of development of a parcel means the amount of square footage of building area to be constructed on a parcel, or the number of dwelling units on a parcel;
- l. Amendments to any of the applications listed in this Section, unless exempted under Section 3 of this Ordinance;
- m. Applications for administrative extensions of time that would extend the original project buildout date or compliance date in excess of twelve (12) months beyond the original project buildout date or compliance date;
- n. Any application for a development order or permit not specifically listed

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which the Town Manager, or his authorized designee, determines will increase either the previously approved density or intensity of the development, or results in a change or addition to the permitted uses on a parcel.

2. For purposes of this Ordinance, the term Development Permit means any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

**Section 3.** The Town Council hereby determines that the following shall be exempt from the moratorium:

- a. All applications for Development Permits exempt from the Town's regulatory authority as provided by applicable Federal, State, or Local Law;
- b. Applications for Development Permits, as determined by the Town Manager, or his designee, and confirmed in writing prior to first reading of this Ordinance to be sufficient pursuant to the requirements of the Town's Uniform Land Development Code;
- c. The following Development Permit applications:
  1. Development Orders approved by the Town Council, the Board of County

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Commissioners for Palm Beach County, or the Palm Beach County Planning, Building, and Zoning Department and which have not expired;

2. Development Orders for Excavations approved as: conditional use, final development review officer, and building permits for excavations, pursuant to previously approved site plans;
3. Additional parking spaces for requested or conditional uses that do not result in an increase in the density or intensity (square footage of non-residential building area) of use, and which are ancillary to, the primary uses on the Property;
4. Amendments to the Land Use Atlas, initiated by the Town, to provide for a change from one dwelling unit per ten acres to one dwelling unit per five acres;
5. Development Review Officer Approvals that are associated with conditional uses approved by the Town Council subsequent to October 1, 2007;
6. Extensions of Time that would extend the project buildout date or compliance date twelve (12) months beyond the original project buildout date or compliance date, subject to the approval of the Town Council;
7. Landscape Plan Review for previously approved Development Orders;

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8. Vegetation Protection Permits;
9. Vegetation Removal Permits;
10. Building Permits, including building, plumbing, mechanical, and electrical permits for new construction of a single family dwelling or barn or for the construction of an addition to a single family dwelling or barn, and their accessory structures, or for construction of improvements that are consistent with site plans associated with Development Permits that were approved prior to first reading of this Ordinance;
11. Building Permits, including building, plumbing, mechanical, and electrical permits for the repair of existing building elements, and the renewal thereof for new construction;
12. Issuance of Business Tax Receipts for the annual renewal of a specific occupancy or use legally existing and previously licensed at the location to which a Business Tax Receipt of use will be applicable, or the issuance of a new Business Tax Receipt for a specific occupancy or use that meets the requirements of the Uniform Land Development Code.
13. Applications for Plat Approval previously approved by the Town Council, or the Board of County Commissioners for Palm Beach County;

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14. Release of Final Plat for recordation;
15. The following applications, so long as they do not result in an increase in previously approved density or intensity of use as determined by the Town Manager, or his authorized designee:
  - i. Amendment to a recorded Plat;
  - ii. Amendment to an approved Plat;
16. A development order amendment, site plan amendment, variance and/or plat approval for a project previously approved in unincorporated Palm Beach County which has not been processed to date as the result of a portion of the approved project being incorporated into the Town and a portion of the approved project remaining in unincorporated Palm Beach County where platting is required by the conditions of approval for the project and such platting has not yet occurred.
17. Site Plan approval for a project for which a rezoning or conditional use application was already submitted prior to the Town's incorporation, subject to the site plan being consistent with the plan presented at the time of rezoning or conditional use approval, the Rural Vista Guidelines, and the right of the Town Council to review, provide comments, and approve the

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site plan prior to DRO approval.

18. Applications, including, but not limited to, variances, site plan, and building permits required for a project presented by a quasi-public corporation for development of property which the quasi-public corporation leases from Palm Beach County, pursuant to a lease that was in existence as of the date of incorporation, subject to the project and site plan being consistent with the Rural Vista Guidelines, and the right of the Town Council to review, provide comments, and approve the site plan prior to any DRO approval..

**Section 4. Applications for Exemptions from Moratorium.**

1. In the event a property owner does not meet any of the exemptions provided in Section 3 of this Ordinance, the property owner may apply for an exemption from the moratorium imposed pursuant to this Ordinance if the property owner meets one of the following two criteria:

- a. The property owner submitted an application for the issuance of a Development Permit prior to the first reading of this Ordinance.
- b. The property owner previously obtained approval for a Development Permit for the property, and the Development Permit is subject to monitoring as provided in Article 2.E. of the Uniform Land Development Code.

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2. Any application filed pursuant to this Section must be filed with the Town Clerk no later than thirty (30) days from the Effective Date of this Ordinance.
3. The application filed pursuant to this Section shall contain the following information:
  - a. The name of the property owner(s);
  - b. A legal description of the property and the structures located thereon;
  - c. A certified copy of a survey of the property;
  - d. A copy of the application which had been filed as of the date that this Ordinance was considered on first reading;
  - e. If the application relates to an application filed prior to the first reading of this Ordinance, a detailed written statement as to the status of the application, including any actions the property owner had taken with respect to the application prior to first reading of this Ordinance;
  - f. Any additional information the property owner may want to submit that may demonstrate justification for the granting the application.
4. In conjunction with filing the application, the property owner shall submit a filing fee of \$500.00 to cover the administrative costs associated with reviewing and processing the application, and notice for the public hearing.

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5. Following receipt of the application and the application fee, the Town Clerk shall review the application, and no later than 30 days after receipt of the application shall advise the applicant, in writing, as to whether the application is complete. If the application is complete, the Town Clerk shall certify the application. If the application is not complete, the Town Clerk shall advise the applicant of the deficiencies, in writing, and provide the applicant 14 days to submit a revised application. The property owner does not have to pay an additional filing fee when submitting a revised application. If the applicant fails to timely submit the revised application, the application shall be deemed denied, and no further application may be filed.

6. If the Town Clerk certifies the application as complete, the Town Clerk shall schedule a public hearing on the application before the Town Council no later than 45 days after the date the Town Clerk certified the application as being complete. The Town Council shall consider the application at a public hearing held at a regularly scheduled Town Council meeting.

7. At the public hearing the property owner shall present oral and written documentation to support its application for an exemption from the moratorium to the Town Council. Members of the public shall be permitted an opportunity to present oral and written documentation related to the application being considered. Following the

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presentation of all statements and documentation at the public hearing, the Town Council shall consider the statements and documents, and either approve or deny the application and enter an Order consistent with the Town Council's action. The Town Council's decision to grant or deny the application for an exemption from the moratorium shall be based upon substantial, competent evidence presented at the hearing on the application.

8. The Town Council's Order shall be reduced to writing, contain findings of fact and conclusions based upon the statements and documentation presented at the public hearing.

9. The Town Council's Order shall be filed with the Town Clerk.

**Section 5.** The Town Council of the Town of Loxahatchee Groves hereby declares that the moratorium shall be effective through November 30, 2008, unless otherwise modified by the Town Council.

**Section 6.** All Ordinances or parts of Ordinances in conflict herewith are and the same are repealed to the extent of such conflict.

**Section 7.** If any Section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 8.** This Ordinance shall become effective immediately upon its passage and adoption.

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PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN  
LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS  
20<sup>th</sup> DAY OF November, 2007.

David Browning  
DAVID BROWNING, MAYOR

ATTEST:

Matthew Lippman  
MATTHEW LIPPMAN, INTERIM TOWN CLERK

APPROVED AS TO FORM:

DNT  
OFFICE OF THE TOWN ATTORNEY

DNT:dnt

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STATE OF FLORIDA  
COUNTY OF Palm Beach

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of:  
Ordinance 2007-07  
as recorded in the Office of the Town Clerk.

WITNESS my hand and official seal this 21<sup>st</sup> day of November A.D. 20 07.

TOWN OF Loxahatchee Groves  
BY: Matthew Lippman