

ORDINANCE NO. 2007-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE TOWN OF LOXAHATCHEE GROVES BY ENACTING A NEW SECTION "SOLID WASTE COLLECTION FEES; BILLING PAYMENT AND ENFORCEMENT"; TO PROVIDE FOR THE AUTHORIZATION FOR THE BILLING AND COLLECTION OF FEES FOR SOLID WASTE COLLECTION AND RECYCLING SERVICES TO BE PROVIDED BY THE TOWN, INCLUDING ANY COSTS ASSOCIATED WITH THE COLLECTION OF SUCH FEES; PROVIDING FOR NOTICE, IMPOSITION OF LIENS, AND ENFORCEMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on August 7, 2007, the Town Council for the Town of Loxahatchee Groves approved an Interlocal Agreement with the Solid Waste Authority of Palm Beach County for the provision of Solid Waste and Recycling Collection Services within the Town of Loxahatchee Groves ("Town") for the 2007-2008 Fiscal Year; and

WHEREAS, the Town must provide for a mechanism to bill its residents for the Solid Waste and Recycling Collection Services to be provided by the Solid Waste Authority; and

WHEREAS, the Town Council intends to contract with another entity to provide the billing and collection services so that the Town may bill the residents for the services to be provided by the Solid Waste Authority; and

WHEREAS, this Town Council finds that it is necessary to provide for a mechanism to bill the Town's residents for the charges incurred in association with the collection of solid waste and recyclables within the Town, as well as the administration of the billing program; and

WHEREAS, the Town Council of the Town of Loxahatchee Groves finds that the process for billing and collection of the charges incurred pursuant to the Interlocal Agreement with the Solid Waste Authority of Palm Beach County is in the best interests of the health, safety, and welfare of the citizens and residents of the Town of Loxahatchee Groves.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Loxahatchee Groves, Florida, as follows:

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. That the Town of Loxahatchee Groves Code of Ordinances, shall be amended by enacting a new section entitled "Solid Waste Collection Fees; Billing; Payment; Enforcement," to read as follows:

SOLID WASTE COLLECTION FEES; BILLING; PAYMENT; ENFORCEMENT:

- (a) The Town shall have the power to create, install, improve, maintain and fund any and all costs associated with establishing and operating a system of providing a solid waste collection services program (solid waste collection program) for residential and/or commercial service to the property owners, residents and citizens of the Town. The recipients of the Town's solid waste collection program will enjoy protection and enhancement of public health and safety by the provision of reliable and effective service to persons who own or use such property, and enrichment of property value and minimization of potential liability attendant with the use of the assessed property.
- (b) Fees for trash service, including costs for collection, and administration fees necessary to provide the solid waste collection services program, as established by the Town Council, shall be collected by the Town for the trash collection service within the Town. The Town may also provide, by agreement, for the billing and collection of the Town's fee for trash service by another governmental entity. The Town may provide for the inclusion of such administrative fees to fund the billing and collection of the charges for solid waste collection service in any bill sent to property owners within the Town. Any residential owner or lessee, apartment owner or owner-operator of a commercial establishment who shall fail to make appropriate payment for trash collection service shall have his/her trash collection service terminated. Any residential owner or lessee, apartment owner or owner-operator of a commercial establishment whose trash collection service shall be so terminated shall be deemed in violation of this chapter and upon conviction of such violation shall be punished as provided by in the Town Code of Ordinances.

- (c) If a property owner fails to pay for garbage collection services, or to adequately provide for garbage collection services in accordance with this article, the Town shall have the right to enter upon the premises, remove garbage, trash or construction waste and charge the owner the cost to the city for such services. Billing for collection shall be on a per pickup basis. The Town shall forward to the owner at his/her last known address a copy of the charges for such collection, including any delinquency charges, and, if same is not paid within thirty (30) days after such notice is mailed, the same shall be and constitutes a lien upon the property in question.
- (d) The Town Attorney may institute foreclosure proceedings to foreclose any lien imposed pursuant to section (b) above. The owner of the property against which the lien exists shall be liable to the Town for a reasonable attorney's fee to compensate its attorney for services in collecting the amounts due on said lien, together with all costs occasioned in foreclosing said lien, and the same shall be decreed to be a lien upon the lands described and shall be collected at the time and in the manner provided for the collection of the amount evidenced by said lien. The decree rendered in such case for the enforcement and collection and the amount due thereunder shall determine the principal, interest, costs, and attorney's fee to be chargeable against each property so encumbered, which amounts shall constitute a lien against the property described. In foreclosing such liens, the Town may pursue and follow any recognized process to enforce liens and any number of assessment liens against the same owner or occupant may be foreclosed in one proceeding.
- (e) The lien in favor of the Town upon the property for all unpaid services, interest, attorney's fees, and court costs shall have priority over all other liens and encumbrances, except state, county, and municipal taxes, and shall be on parity with the lien of such state, county, and municipal taxes.

SECTION 3. Codification. It is the intention of the Town Council of the Town of Loxahatchee Groves, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or other word or phrase in order to accomplish such intention.

SECTION 4. Severability. Should any section, provision, paragraph, sentence, clause or word of this Ordinance or portion hereof be held or declared by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall be

considered as eliminated and shall not affect the validity of the remaining portions or applications of this Ordinance.

SECTION 5. Conflicts. That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon passage.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 4th DAY OF September 2007.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 18th DAY OF September 2007.


DAVID BROWNING, MAYOR

ATTEST:


MATTHEW LIPPMAN, INTERIM TOWN CLERK

APPROVED AS TO FORM:


OFFICE OF THE TOWN ATTORNEY

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