

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-004

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, PROVIDING FOR AN EXTENSION OF THE MORATORIUM ENACTED PURSUANT TO THE TOWN OF LOXAHATCHEE GROVES ORDINANCE NO. 2007-07, 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 COMPREHENSIVE PLAN; AMENDING EXEMPTIONS TO THE MORATORIUM; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the requirements of Chapter 2006-328, Laws of Florida, (the "Town Charter") 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 (the "TOWN"); 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 it own Comprehensive Plan; and,

WHEREAS, on November 20, 2007, the Town Council of the Town of Loxahatchee Groves adopted Ordinance No. 2007-07 which imposed a Moratorium on the processing of certain applications for development orders and development permits as specified in the Ordinance, as well as applications for amendments to the Town's Comprehensive Plan within the Town (the "Moratorium"), in order to provide the Town a period of time to transmit and develop its own Comprehensive Plan and Land Development Regulations; and

WHEREAS, on November 18, 2008, the Town Council of the Town of Loxahatchee Groves adopted Ordinance No. 2008-008 which extended the Moratorium up to and including

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-004

May 30, 2009, in order to provide additional time for the Town to adopt its Comprehensive Plan and its Land Development Regulations; and

WHEREAS, on May 19, 2009, the Town Council adopted ordinance 2009-002, which extended the moratorium to February 28, 2010; and,

WHEREAS, on February 2, 2010, the Town Council adopted ordinance 2010-001, which extended the moratorium until July 1, 2010, and added exemptions that permitted applications to proceed so long as the applicant agrees to comply with the Town's final, approved Comprehensive Plan and final Land Development Regulations, but specifically provided that comprehensive plan amendments would not be transmitted until the Town's comprehensive plan has been approved with finality and is legally effective; and,

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

WHEREAS, portions of the Town's Comprehensive Plan differ from the County Comprehensive Plan, and 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 Florida Department of Community Affairs issued a Notice of Intent to find the Town's Comprehensive Plan "in compliance," but a challenge to such determination has been filed and the matter remains pending before the Florida Department of Administrative Hearings; and,

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-004

WHEREAS, the Town Council is currently working with a consulting firm to prepare and adopt the Town's Land Development Regulations; and

WHEREAS, the Town requires additional time to resolve the administrative challenge to its Comprehensive Plan, and to adopt its Land Development Regulations; and,

WHEREAS, given that the administrative challenge to the City's comprehensive plan continues, and the Land Development Regulations are still being developed, the Town Council believes it is necessary and in the best interest of the Town to extend the moratorium, and that it is fair and reasonable to provide applicants for comprehensive plan amendments an opportunity to have their applications transmitted under certain conditions; and,

WHEREAS, it is anticipated, at this time, that the Town will conclude the administrative challenge to the Town's Comprehensive Plan and adopt its Land Development Regulations on or before January 1, 2011; 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 extend the Moratorium on the processing of certain applications for development orders and development permits, as specified in the earlier moratorium ordinances, as well as applications for amendments to the Town's Comprehensive Plan as set forth in previous moratorium ordinances and subject to the exception set forth herein, to provide time for the Town to conclude its administrative challenge to its own municipal Comprehensive Plan to govern new development within the Town, and adopt its own land development regulations; and

WHEREAS, the Town Council recognizes that the final approval of its Comprehensive Plan, and adoption of its Land Development Regulations, has taken longer than originally

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-004

anticipated, and that there are property owners and development applicants that are desirous to have the Town commence review of their development applications, and who understand that any final approval will have to be consistent with the requirements of the Town's Comprehensive Plan when approved with finality and the Town's Land Development Regulations when adopted by the Town Council, and therefore the Town Council finds it reasonable and in the best interest of the Town to provide certain exceptions to the moratorium to permit the acceptance and review of certain applications under the condition that the applicant agrees to be bound by the Town's Comprehensive Plan, or in the case of a Comprehensive Plan Amendment that it be consistent with the Town's vision as set forth within the Comprehensive Plan when finally approved, and to the Town's Land Development Regulations when adopted by the Town Council.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, 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. Extension of Moratorium. Section Five of Ordinance No. 2007-07 of the Town of Loxahatchee Groves, Section 2 of Ordinance 2009-02, and Section 2 of Ordinance 2010-001 of the Town of Loxahatchee Groves are hereby amended to provide for an extension of the Moratorium up to, and including, January 1, 2011. In the event that the Town concludes the administrative challenge to its Comprehensive Plan and adopts its Land Development Regulations prior to such date, the Town Council may terminate the moratorium prior to January 1, 2011, by adoption of a resolution specifically finding that both conditions have been satisfied.

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-004

Section 3. Exemptions to Moratorium. All current exemptions to the moratorium shall remain in effect, and Exemption 22 as set forth in Ordinance 2010-001 is amended to provide as follows:

22. Applications for Amendments to the Town's Comprehensive Plan may be filed by an applicant for review by the Town provided that the applicant certify, in writing at the time of filing, that notwithstanding the date of filing of the application with the Town, the final approval of the Comprehensive Plan Amendment must be consistent with the Town vision as set forth within the Town's Comprehensive Plan once approved with finality and the Town's Land Development Regulations once adopted by the Town Council, and that the applicant agrees to this condition which may result in amendments or revisions to the application or changes to the project at the applicant's expense. The Town will transmit comprehensive plan amendments provided that the applicant certify, in writing prior to the date of the initial transmittal public hearing, that it agrees to satisfy the review requirements of the State Department of Community Affairs relating to consistency with both the Town's interim comprehensive plan and the Town's final approved comprehensive plan, and that the applicant acknowledges that in the event of a challenge to the proposed comprehensive plan amendment, the applicant as the party in interest in the application will be solely responsible for defending the challenge and for all costs associated with any such challenge, including any costs and attorney's fees incurred by the Town as a result of the challenge. The Town shall not transmit any Comprehensive Plan Amendments until such time as the Town's Comprehensive Plan has been approved with finality and is legally effective.

Section 4. Repeal of Laws in Conflict. All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

Section 5. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

TOWN OF LOXAHATCHEE GROVES

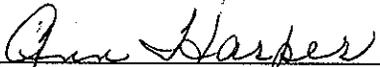
ORDINANCE NO. 2010-004

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 6th DAY OF July, 2010.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 20th DAY OF July, 2010.

TOWN OF LOXAHATCHEE GROVES,
FLORIDA

ATTEST:

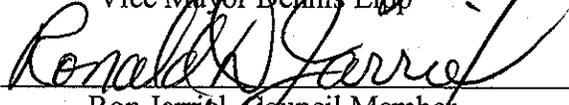

Ann Harper, Town Clerk

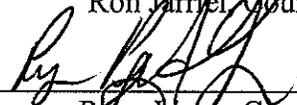
APPROVED AS TO LEGAL FORM:

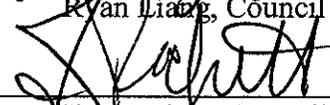

Michael Cirullo, Town Attorney

ABSENT
Mayor David Browning


Vice Mayor Dennis Lipp


Ron Jarriel, Council Member


Ryan Liang, Council Member


Jim Rockett, Council Member

MDC

HA2007\070240.LOX\ORD 2010\2010-004 (Moratorium 2).doc