

**TOWN OF LOXAHATCHEE GROVES**

**RESOLUTION NO. 2009-003**

**A RESOLUTION OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA EXPRESSING ITS SUPPORT FOR THE FLORIDA LEGISLATURE TO REPEAL SECTION 10(5) OF CHAPTER 2007-67, LAWS OF FLORIDA WHICH ENACTED A MORATORIUM ON THE ABILITY OF A MUNICIPALITY, COUNTY, OR OTHER UNIT OF LOCAL GOVERNMENT'S RIGHT TO ADOPT REGULATIONS GOVERNING THE RIGHT TO PURCHASE, SELL, USE, OR POSSESS CONSUMER FIREWORKS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in 2007, the Florida Legislature passed Chapter 2007-67, Laws of Florida, which, in part, established the Consumer Fireworks Task Force ("Task Force") to study issues relating to the use of fireworks; and

**WHEREAS**, in addition to the establishment of the Task Force, Section 10(5) of Chapter 2007-67, Laws of Florida, specifically prohibited a municipality, county, or other unit of local government from adopting ". . . an ordinance, rule, or regulation, or other law after May 8, 2007, which directly prohibits or directly interferes with safety standards established by state law or the right to purchase, sell, use, or possess consumer fireworks in this state." (the "Moratorium"); and

**WHEREAS**, pursuant to Chapter 2007-67, Laws of Florida, if the Legislature had enacted legislation to provide for the comprehensive regulation of fire prevention and safety standards for the use of consumer fireworks on or before July 1, 2008, a municipality would have been permitted to adopt an ordinance regulating the right to purchase, sell, use or possess consumer fireworks; and

**WHEREAS**, on January 15, 2008, the Task Force submitted its final report; however, the Florida Legislature has not passed legislation to repeal the Moratorium, and as a result municipalities, counties, and other units of local government are unable to properly regulate the purchase, use, sale, and possession of consumer fireworks within their respective jurisdiction; and

**WHEREAS**, the Town of Loxahatchee Groves (the "Town"), like other local governments within the State of Florida has the authority under its home rule power to adopt regulations that are not inconsistent with the Florida Constitution or Florida Statutes; and

**WHEREAS**, the Town is a rural municipality, with many of its residents raising birds, horses, and other animals which are adversely affected by the use of fireworks; and

**WHEREAS**, the residents of the Town also seek peace and quiet, and would like to limit

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the unauthorized use of consumer fireworks within the Town; and

**WHEREAS**, the Town Council finds that it would be in the best interest of the citizens and residents of the Town to have the legislature repeal the Moratorium which is currently in place with respect to a local government's ability to enact an ordinance which would regulate an individual's right to purchase, sell, use, or possess consumer fireworks; and

**WHEREAS**, the Town Council of the Town of Loxahatchee groves desires to communicate its findings to the Governor, the Senate President, and the Speaker of the House of the State of Florida, in an effort to have the Legislature repeal the Moratorium.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA AS FOLLOWS:**

**Section 1.** The foregoing "WHEREAS" clauses are confirmed and ratified as being true and correct and are hereby incorporated herein.

**Section 2.** The Town Council of the Town of Loxahatchee Groves, Florida hereby expresses its support for the repeal of the moratorium contained in Section 10(5) of Chapter 2007-67, Laws of Florida, in order to provide municipalities, counties, and other units of local government to adopt ordinances or other regulations governing the purchase, sale, use, or possession of consumer fireworks in the State of Florida, and respectfully requests that the Florida Legislature consider the adoption of such legislation during the 2009 legislative session.

**Section 3.** The Town Clerk is directed to forward a copy of this Resolution to Governor Charlie Crist, the President of the Florida Senate, the Speaker of the House of the Florida State House of Representatives, the Chair and Members of the Palm Beach County Legislative Delegation, the Executive Director of the Palm Beach County Legislative Delegation, the Chair of the Palm Beach County Board of County Commissioners, each County Commissioner, the County Administrator, and the President of the Florida League of Cities.

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**Section 4.** All Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

**Section 5.** If any clause, section, or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and will in no way affect the validity of the remaining portions or applications remaining in full force and effect.

**Section 6.** This Resolution shall become effective immediately upon its passage and adoption.

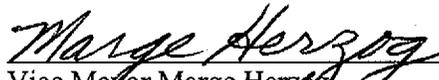
**ADOPTED** by the Town Council of the TOWN OF LOXAHATCHEE GROVES, Florida this 3<sup>rd</sup> day of February 2009.

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

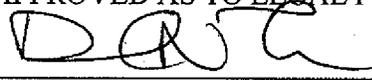
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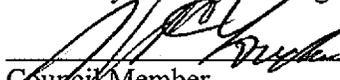
  
TOWN CLERK

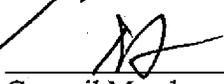
  
Mayor David Browning

  
Vice Mayor Marge Herzog

APPROVED AS TO LEGAL FORM:

  
Office of the Town Attorney

  
Council Member

  
Council Member

  
Council Member

SSG:DNT:dnt

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