

ORDINANCE NO. 2020-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 30 "NUISANCES", ARTICLE I "IN GENERAL"; AMENDING CHAPTER 38 "SOLID WASTE", ARTICLE III "COLLECTION OF WASTE; FRANCHISES AND REGISTRATION OF CONTRACTORS AUTHORIZED", SECTION 38.59 "COLLECTION OF WASTE; FRANCHISES AND REGISTRATION OF CONTRACTORS AUTHORIZED" TO MODIFY AND CLARIFY THE REGULATIONS REGARDING NUISANCES RELATED TO IMMIMENT PUBLIC HEALTH THREATS AND THE OBSTRUCTION OF ROADWAYS; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Town Council believes it is necessary to modify and clarify its regulations regarding nuisances; and,

WHEREAS, this proposed ordinance modifies and clarifies the current code more specifically as it relates to imminent public health threats and obstructing of the roadways as the Town has received increased complaints regarding these issues; and

WHEREAS, the Town Council has determined that the enactment of this ordinance is for a proper municipal purpose and in the best interests of the residents of the Town.

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 incorporated herein by this reference.

Section 2. The Town of Loxahatchee Groves hereby amends Chapter 30 "Nuisances", Article I "In General" to read as follows:

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Sec. 30-2. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Imminent public-health threat means the condition of a lot, tract, or parcel of land and the adjacent unpaved and ungraded portion of the right-of-way or roadways, whether such lot or tract or parcel is improved or unimproved that, because of the accumulation of trash, junk, garbage, living or non-living plant material, or debris, such as broken glass, rusted metal, automotive and appliance parts, some of

which may contain chemicals, such as Freon, oils, fluids, or the like, may cause injury or disease to humans or contaminate the environment, or the condition of a lot, tract, or parcel or adjacent right-of-way or roadway that, because of the excessive growth or accumulation of grass, weeds, or brush, can harbor criminal activity, vermin, or disease or obstruct the use of right-of-way/roadway.

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Property means a lot or tract or parcel of land and the adjacent unpaved and ungraded portion of the right-of-way or roadways, whether such lot or tract or parcel is improved or unimproved.

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Sec. 30-3. - Declaration of nuisance and menace.

The accumulation of trash, junk, or debris, living and nonliving plant material upon property, the excessive growth of grass, weeds, brush, branches, and other overgrowth, the keeping of fill in an unsafe and unsanitary manner, and the permitting vegetation to grow over public roadways are declared to be nuisances and menaces to the public health, safety, and welfare of the citizens of the town for the following reasons:

- (1) The aesthetic appearance of property preserves the value of other properties within the town.
- (2) The accumulation of trash, junk, or debris, living and nonliving plant material, the excessive growth of grass, weeds, brush, branches, and other overgrowth, the keeping of fill in an unsafe and unsanitary manner, and the permitting vegetation to grow over public roadways in violation of section 50-035 of the town ULDC, is dangerous, unhygienic, unhealthy, visually unpleasant to the reasonable person of average sensibilities, and a visual nuisance because it depreciates, or potentially can depreciate, the value of neighboring property, or could cause hazards to the use of public roadways, that, unless addressed properly in this Code, town taxpayers could be and would be required to pay the cost of remedying, and such clean-ups would have to be undertaken by the town several times a year, in some cases for the same properties.
- (3) The obstruction of or encroachment into any public right-of-way/roadway by permitting any living or non-living plant material to encroach upon the public right-of-way/roadway so as to hinder safe and convenient vehicular or pedestrian movement in the public right-of-way/roadway, or by the placement of, maintenance of or causing any other encroachment in or to such right-of-way/roadway, or any part thereof, is declared to be a public nuisance and may be abated as provided by law.

Except as provided in this article or as otherwise authorized by the town, the town shall have the right to remove any obstruction or encroachment from any right-of-way/roadway and to prohibit any use in a right-of-way/roadway.

Sec. 30-4. - Accumulation of trash, junk, or debris, living and nonliving plant material.

Ordinance No. 2020-08

- (a) Every owner and, if applicable, every agent, custodian, lessee, or occupant of property shall reasonably regulate and effectively control accumulations of trash, junk, or debris, living and nonliving plant material:
 - (1) On the property; and
 - (2) On that portion of the adjoining public right-of-way roadway between the property and the paved or graded street.
- (b) The following uses are permissible:
 - (1) Storage of trash, junk, debris, and living and nonliving plant material in garbage cans that comply with applicable ordinances relating to solid waste collection.
 - (2) The storage of nonliving plant material in compost bins.

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Sec. 30-7. - Imminent public-health threat.

- (a) The accumulation of trash, junk, debris, living and nonliving plant material, the excessive growth of grass, weeds, brush, or other overgrowth, the keeping of fill on property that presents an imminent public health threat, or the permitting vegetation to grow over public right-of-way/roadways, may be remedied by the town immediately without notice to the owner or, if applicable, the agent, custodian, lessee, or occupant. The town manager, or his/her designee shall determine whether, under the provisions of this article, an imminent public health threat exists.
- (b) After-the-fact notice will be provided by the town to the owner and, if applicable, the agent, custodian, lessee, or occupant within a reasonable time after the abatement. After-the-fact notice shall be sent as set forth in section 30-8(d), and the owner and, if applicable, the agent, custodian, lessee, or occupant shall have 15 days from the date notice is received to:
 - (1) Reimburse the town; or
 - (2) Appeal the town manager's determination to the town council that an imminent public-health threat existed on the property.

Sec. 30-8. - Enforcement.

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- (b) *Notice of violation.*
 - (1) Whenever the town manager or his designee determines there is a violation of this article, the town manager shall serve, or cause to be served, a notice of violation on the owner and, if applicable, the agent, custodian, lessee, or occupant of the property. The notice of violation shall direct the owner and, if applicable, the agent, custodian, lessee, or occupant to terminate and abate the violation within ~~20~~ 10 calendar days of the date the notice is received. If the "notice of violation" pertains to an imminent public health threat abated by the town, the notice shall direct the owner and, if applicable, the agent, custodian, lessee, or occupant to pay to the town the cost of such abatement.

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Section 3. The Town of Loxahatchee Groves hereby amends Chapter 38 "Solid Waste", Article III "Collection of Waste; Franchises and Registration of Contractors Authorized", Section 38.59 "Pre-collection procedures generally" to read as follows:

Sec. 38-59. – Pre-collection procedures generally.

- (a) The placement of garbage in a loose and uncontained manner on the roadside, swale, other locations adjacent to the roadway, or in dumpster enclosures shall be strictly prohibited.
- (b) No person shall place for curbside collection any garbage, bulk waste, vegetative waste, or recyclable materials upon any property other than in the swale or area adjacent to and directly in front of the same property from which the garbage, bulk waste, vegetative waste, or recyclable materials was generated or accumulated, unless a predetermined location has been approved by the Town and the Town's Contractor.
- (c) All garbage containers, when placed for curbside collection, shall be at ground level, not within the roadway, and immediately accessible to collection crews.
- (d) No person shall place any garbage containers, or any accumulation of garbage, bulk waste or vegetative waste in any portion of a roadway, right-of-way or upon private property in any part of a front yard or a side yard abutting a right-of-way except during the day scheduled for collection or during the day immediately preceding the day scheduled for collection, as provided herein. No person shall place any garbage containers, or any accumulation of garbage, bulk waste or vegetative waste in any portion of a roadway or right-of-way. No person in possession of real property shall allow any garbage containers or roll-out cart, or any accumulation of garbage, bulk waste or vegetative waste to remain in any portion of a roadway or right-of-way abutting his/her property to the centerline of the roadway or right-of-way, or in any part of the front yard or side yard abutting the roadway or right-of-way, except during the day scheduled for collection or during the day immediately preceding the day scheduled for collection.
- (e) Private roads shall be fully accessible to the Town's contractor and equipment in order for collections to be made by the Town's Contractor without delay.
- (f) Unacceptable materials shall be stored and properly disposed of by the person responsible for their generation or accumulation.
- (g) Hazardous wastes shall be stored and properly disposed of by the person responsible for their generation or accumulation.

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

Section 5. – Severability. If any clause, section, or other part or application of this Ordinance 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 so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Ordinance No. 2020-08

Section 6. Codification. It is the intention of the Town Council of the Town of Loxahatchee Groves that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, that the Sections of this ordinance may be renumbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

Section 7. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

Council Member Herzog offered the foregoing ordinance. Council Member Maniglia seconded the motion, and upon being put to a vote, the vote was as follows:

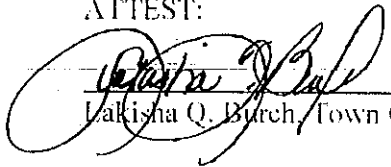
PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 0th DAY OF September 2020.

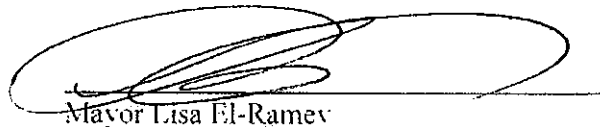
Council Member _____ offered the foregoing ordinance. Council Member _____ seconded the motion, and upon being put to a vote, the vote was as follows:

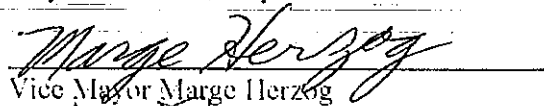
	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
LISA EL-RAMEY, MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGE HERZOG, VICE MAYOR	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAURA DANOWSKI, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCIL MEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, COUNCILMEMBER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

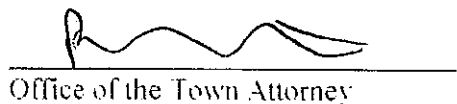
ATTEST:

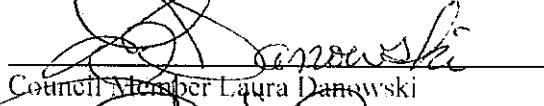

Lakisha Q. Burch, Town Clerk



Mayor Lisa El-Ramey

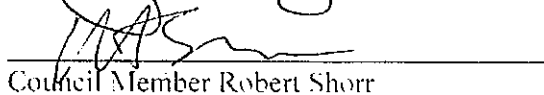

Vice Mayor Marge Herzog

APPROVED AS TO LEGAL FORM:


Office of the Town Attorney


Council Member Laura Danowski


Council Member Phillis Maniglia


Council Member Robert Shorr