

**RESOLUTION NO. 2024-\_\_\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA ADOPTING A POLICY FOR REIMBURSEMENT OF ATTORNEYS' FEES AND COSTS INCURRED BY TOWN OFFICIALS, ADVISORY BOARD MEMBERS AND EMPLOYEES IN SUCCESSFULLY DEFENDING ETHICS COMPLAINTS.**

**WHEREAS**, from time to time municipal public officials, advisory board members and employees are required to retain the services of a private attorney to defend against complaints brought pursuant to the State Code of Ethics or the Palm Beach County Code of Ethics; and

**WHEREAS**, numerous municipalities and Palm Beach County have adopted policies authorizing reimbursement of attorneys' fees and costs incurred in successfully defending ethics complaints filed against public officials, advisory board members and employees; and

**WHEREAS**, the Town Council desires to adopt a reimbursement policy for its public officials, advisory board members and employees; and

**WHEREAS**, the Town Council has determined that such reimbursement policy serves a valid public purpose.

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

**SECTION 1.** The foregoing recitals are hereby affirmed and ratified.

**SECTION 2.** The Town Council hereby adopts the reimbursement policy attached to this resolution as Exhibit A.

**SECTION 3.** This Resolution shall become effective immediately upon adoption.

Councilmember \_\_\_\_\_ offered the foregoing Resolution. Councilmember \_\_\_\_\_ seconded the Motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
ANITA KANE, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGARET HERZOG, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAURA DANOWSKI, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCIL MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES,  
FLORIDA, THIS \_\_ DAY OF \_\_\_\_\_ 2024.**

TOWN OF LOXAHATCHEE GROVES, FLORIDA

ATTEST:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Office of the Town Attorney

\_\_\_\_\_  
Mayor Anita Kane

\_\_\_\_\_  
Vice Mayor Margaret Herzog

\_\_\_\_\_  
Councilmember Robert Shorr

\_\_\_\_\_  
Councilmember Laura Danowski

\_\_\_\_\_  
Councilmember Phillis Maniglia

## **EXHIBIT A**

### REIMBURSEMENT POLICY FOR DEFENDING ETHICS COMPLAINTS

#### AUTHORITY

This Reimbursement Policy is authorized by Resolution No. 2024-\_\_ POLICY

#### STATEMENT

It is the policy of the Town Council to have a method in place for processing requests for reimbursement of attorney's fees and costs expended in successfully defending ethics complaints. This policy applies to present and former Town public officials, employees, agents and board appointees.

#### PURPOSE

To establish a policy for reimbursement of present and former Town public officials, advisory board members, employees, and agents for reasonable attorneys' fees and costs incurred in successfully defending or prevailing in an action concerning the Florida Code of Ethics and the Palm Beach County Code of Ethics. This policy is intended to apply prospectively.

#### SECTION 1. DEFINITIONS

- A. **Reasonable Attorney's Fees** shall mean fees earned by an attorney or attorneys licensed to practice law in the State of Florida, based on the customary hourly rate charged in Palm Beach County Florida, for similar work performed by private non-appointed attorneys within the County.
- B. **Successfully Defend or Prevail** shall mean the dismissal any or all counts, charges, and/or allegations regardless of the reason; the finding of not guilty; a verdict in favor of the persons covered herein; or a letter of instruction issued in lieu of the finding of a violation. A failure to successfully defend or prevail against one or more counts, charges and/or allegations shall not affect the application of the policy to other counts, charges and/or allegations which were successfully defended or against which the officer or employee prevailed.

#### SECTION 2. REIMBURSEMENT OF ATTORNEY'S FEES AND COSTS

Subject to Section 6, the Town Council shall reimburse present and former Town officials, public officers, employees and agents, including appointees to boards and committees, for the reasonable attorney's fees and costs incurred by them after successfully defending or prevailing in actions concerning the Florida Code of Ethics, chapter 112, part III, *Florida Statutes*, or the Palm Beach County Code of Ethics, as either may be amended from time to time provided that such actions arose out of and in connection with their official duties and serves a public purpose. The decision to make payment shall be subject to final approval by the Town Council and appropriate budget allocation.

### SECTION 3. REQUEST FOR REIMBURSEMENT

Any person who believes that he or she is entitled to payment for reasonable attorney's fees and costs pursuant to the provisions of this policy shall first notify the Town through its Attorney in writing, within ten (10) days of retaining private counsel. Notification shall include the reason for retention of the private attorney and shall include a copy of the fee agreement or engagement letter. Thereafter, should fees and costs exceed \$10,000, such person shall immediately notify the Town Attorney in writing that the threshold has been exceeded and shall establish good cause therefore.

At the conclusion of the matter, the person requesting reimbursement shall file a written request for reimbursement of such fees or costs with the Town Attorney. This request shall set forth the following information:

- A. The name and current address of the person making the request;
- B. A description of the entity that conducted the investigation or proceeding;
- C. Case number or file number, if known or available;
- D. A description of each count, charge, or allegation made or investigated;
- E. The date(s) that the incidents are alleged to have occurred;
- F. The person's office or position of employment with the Town on the dates described in paragraph E above;
- G. The reasons why such person believes that the request meets the criteria set forth in this policy, and reasons why his or her fees and costs should be reimbursed by the Town;
- H. The name, address and telephone number of the attorney or attorneys who represented such person against the counts, charges or allegations described in paragraph D above;
- I. A copy of the fee arrangement or agreement between the person and his or her attorney, the amount of attorney's fees and costs paid for defense against the counts, charges, or allegations described in paragraph D above; and
- J. Such other information as the Town Council or the Town Attorney may reasonably require.

### SECTION 4. NOTICE

The Town Council shall be advised by the Town Attorney of receipt of a written request for reimbursement of attorney's fees and costs, as set forth in Section 3 above. The Town Attorney may request such additional relevant information from the applicant as deemed necessary to a full evaluation of the claim.

### SECTION 5. INSURANCE

Prior to presenting any request for reimbursement of attorney's fees and costs, the Town Attorney shall determine whether coverage for such amounts is afforded by any policy of insurance carried by the Town. Only those sums not paid by any policy of insurance carried by the Town shall be presented to Council.

#### SECTION 6. DISCIPLINE AND TERMINATION PROCEEDINGS

This policy does not address or pertain to employee discipline or termination proceedings. In the event such discipline or termination proceedings occur concurrently with the issues or proceedings described above, such discipline or termination proceedings shall not affect the application of this policy to the above described non-discipline or non-termination issues or proceedings.

#### SECTION 7. RIGHT TO REPRESENTATION FOR OFFICIAL DUTIES

This policy is in addition to and is not intended to replace all common law rights of public officials and employees to legal representation at the public expense for litigation arising out of the performance of their official duties while serving a public purpose.

#### SECTION 8. APPLICABILITY TO PROCEEDINGS FILED PRIOR TO EFFECTIVE DATE

This policy shall apply to alleged ethics violations filed in any judicial or administrative tribunal on or after the date of adoption of this Policy.