

**ORDINANCE NO. 2024-\_\_**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING CHAPTER 14 “CODE ENFORCEMENT”, BY ADOPTING ARTICLE I “IN GENERAL” TO INCLUDE EXISTING SECTIONS 14-1 THROUGH 14-4; ADOPTING ARTICLE II “CIVIL CITATION PROCEDURES” TO PROVIDE CITATION PROCEDURES AND FOR OTHER PURPOSES; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves wishes to adopt an ordinance to allow for the issuance of code enforcement citations for appropriate violations of the Code of Ordinances; and,

**WHEREAS**, in accordance with Section 166.041, Florida Statutes, the Town prepared a business impact estimate prior to final consideration of this ordinance and posted said estimate on the Town’s website no later than the date the notice of proposed adoption of the ordinance was published pursuant to subsection 166.041(3)(a), Florida Statutes (i.e., at least ten (10) days prior to the adoption of the ordinance); and

**WHEREAS**, the Town Council finds the adoption of the Ordinance serves a public purpose and is in the best interest of the Town.

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

**Section 1:** That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

**Section 2.** The Town Council for the Town of Loxahatchee Groves hereby amends Chapter 14 “Code Enforcement” by adopting Article I “In General” to include existing sections 14-1, 14-2, 14-3, and 14-4 and to adopt Article II “Civil Citation Procedures” as follows:

**Chapter 14 – CODE ENFORCEMENT**

**ARTICLE I. – IN GENERAL**

\* \* \*

**Secs. 14-5 – 14-14. – Reserved.**

**ARTICLE II. – CIVIL CITATION PROCEDURES**

**Sec. 14-15. – Generally.**

(a) Authority. This article is adopted pursuant to F.S. §§ 162.03(2), 162.13, and 162.22, as an alternative method for enforcing the Code and is enacted to promote, protect, and improve the health, safety, and welfare of residents and visitors of the town.

(b) Special magistrate. This article authorizes the appointment of one (1) or more special magistrates with authority to hear appeals of civil citations issued pursuant to this article and to provide an equitable, expeditious, and inexpensive method of enforcing any codes and ordinances of the town. The special magistrate shall have the power to:

- (1) Adopt rules for the conduct of hearings not in conflict with this article;
- (2) Subpoena alleged violators and witnesses to special magistrate hearings.  
Subpoenas may be served by the town's law enforcement agency;
- (3) Subpoena evidence to special magistrate hearings;
- (4) Take testimony under oath; and
- (5) Issue orders having the full force of law to command whatever steps are necessary to bring a violation into compliance.

(c) Definitions.

1. When not inconsistent with the intent and purpose of this article, the definitions that apply in section 14-1 of this Code shall apply herein.
2. A "code compliance officer" or "code inspector" means any designated employee or agent of the town whose duty it is to enforce the codes and ordinances enacted by the town. The town may designate appropriate town employees and agents as code inspectors including, but not be limited to, code compliance employees, building department employees, and law enforcement officers.
3. "Person" includes individuals, firms, associations, partnerships, estates, trusts, fiduciaries, corporations, and all other groups or combinations.

(d) Schedule of violations and fines; costs. The maximum fine for a violation enforced pursuant to this article shall be five hundred dollars (\$500.00). A schedule of fines

and violations shall be established and amended from time to time by resolution of the town council. Costs incurred by the town in the successful prosecution of a citation may be assessed by the special magistrate in his or her order.

(e) *Separate violations.* Each day on which a violation exists is a separate violation.

**Sec. 14-16. – Citation procedure.**

(a) *Issuance.* Before issuing a citation to a person who has committed a violation of a code or ordinance, a code inspector shall issue a written warning. The warning shall specify a reasonable time, not to exceed thirty (30) days from the date of issuance of the warning, within which the person must correct the violation. If the violation is not corrected within the deadline provided in the warning, the code inspector may issue a citation to the person.

(b) *Circumstances in which warning not required.* A code inspector is not required to provide a warning and may immediately issue a citation if a repeat violation is found, or if the code inspector has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible. Further, a code inspector may immediately issue a citation for a violation that occurs on a town right-of-way or on town property.

(c) *Extension.* A code inspector may, in his or her discretion and upon a finding of good cause, administratively extend the deadline for corrective action set forth in a warning. The total of any extension(s) granted pursuant to this subsection shall not exceed ninety (90) days from the date of issuance of the warning. A code inspector is not required to provide any extension of time where the violation presents a serious threat to the public health, safety, or welfare.

(d) *Notice.* Warnings and citations shall be served in the manner prescribed by F.S. § 162.12.

(e) *Citation form.* A citation issued pursuant to this article shall include the following information:

(1) The date and time of issuance.

(2) The name and address of the person to whom the citation is issued.

- (3) The date, time, and location where the violation occurred.
- (4) A general statement of the facts supporting reasonable cause.
- (5) The number or section of the ordinance or code violated.
- (6) The name and title of the code inspector.
- (7) The procedure for the person to follow to pay the fine or appeal the citation.
- (8) The amount of the potential fine and administrative costs if the person appeals.
- (9) The amount of the fine if the person pays the citation and does not appeal.
- (10) A statement that if the person fails to pay the fine or appeal the citation within the time allowed, or if the person appeals the citation but fails to appear before the special magistrate, he or she shall be deemed to have waived the right to contest the citation and an order may be entered against the person for an amount up to the maximum fine plus administrative costs, if applicable. Such order may be entered by the special magistrate without a hearing.

If the citation fails to include any of the information set forth above or includes inaccurate information, the town may issue a corrected citation to the person by regular mail to the address provided to the town.

- (f) *Compliance; appeal.* To comply with a citation, a person shall pay the fine or appeal the citation to the special magistrate within the respective timeline provided in the citation.
- (g) *Repeat violation.* Once a fine is paid, it is deemed to be conclusive proof of the violation for the purpose of establishing a repeat violation under this article. If a fine is unpaid and the citation is not appealed within the time provided for in the citation, it is also deemed to be conclusive proof of the violation for the purpose of establishing a repeat violation under this article.

**Sec. 14-17. – Appeal of citation.**

- (a) Appeal procedure. If the person wishes to appeal the citation, he or she shall deliver a written request for a hearing to the town's code compliance division on or before the time provided in the citation. The request shall include the person's name, citation number, code section/ordinance number allegedly violated, date of issuance, and the person's current telephone number and mailing address. The town will schedule a hearing before the special magistrate and will send the notice of hearing to the person by regular mail at the mailing address included in the request for the appeal.
- (b) Waiver of appeal rights. If the person fails to pay the fine or appeal the citation within the times allowed, he or she shall be deemed to have waived the right to appeal the citation, and the special magistrate may automatically enter an order for the amount of the fine without the need for a hearing. If the person appeals the citation but fails to appear before the special magistrate, he or she shall be deemed to have waived the right to further appeal the citation. The appeal hearing may proceed without the person present, and the special magistrate may enter an order for the amount of the fine and administrative costs.
- (c) Hearing.
- (1) Procedure. All testimony at the special magistrate hearing shall be under oath and shall be recorded. The special magistrate shall take testimony from the code inspector and the alleged violator, and may take testimony from any other witness he or she deems appropriate. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings. The town shall be responsible for proving the violation by a preponderance of the evidence standard.
  - (2) Order. The special magistrate, after a hearing on a citation, shall determine whether or not a violation was committed. If a violation is found to have occurred, the special magistrate may enter an order requiring payment of the applicable fine and administrative costs by a date certain.

**Sec. 14-18. – Failure to pay; liens.**

Any special magistrate order assessing fines and/or costs may be certified and recorded as a lien against all real and personal property owned by the violator or recorded as otherwise authorized by law. If the lien remains unpaid for three (3) months, the town may authorize the town attorney or designee to foreclose on the lien or to sue to recover a money judgment for the amount of the lien plus accrued interest.

**Sec. 14-19. – Appeal of special magistrate order.**

An aggrieved party, including the town, may appeal a final administrative order of a special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to an appellate review of the record created before the special magistrate. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed. The town attorney is hereby authorized to defend such appeals on behalf of the town.

**Sec. 14-20. – Alternative means of enforcement.**

The provisions of this article are additional and supplemental means of enforcing town codes and ordinances and may be used for the enforcement of any code or ordinance. Nothing contained in this article shall prohibit the town from enforcing its codes or ordinances by any other method. Enforcement methods may include, but are not limited to, the issuance of a notice of violation or notice to appear in county court, arrest as authorized by law, injunctive relief, or any other available remedy at law or in equity.

**Section 3: Conflicts.** 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 4: 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 5: 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, and that the Sections of this ordinance may be re-numbered, re-lettered, and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase to

accomplish such intention.

**Section 6: Effective Date.** This ordinance shall take effect immediately upon adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024.**

Councilmember \_\_\_\_\_ offered the foregoing ordinance. 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, COUNCI MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAURA DANOWSKI, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2024.**

Councilmember \_\_\_\_\_ offered the foregoing ordinance. 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, COUNCI MEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
LAURA DANOWSKI, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**TOWN OF LOXAHATCHEE GROVES,  
FLORIDA**

ATTEST:

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

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

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

APPROVED AS TO LEGAL FORM:

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

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

\_\_\_\_\_  
Councilmember Phyllis Maniglia

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