

ORDINANCE NO. 2024-08

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA AMENDING CHAPTER 2 “ADMINISTRATION”, ARTICLE III “OFFICERS AND EMPLOYEES”, DIVISION 2 “CODE OF ETHICS”, SECTION 2-87 “STANDARDS OF CONDUCT”, PARAGRAPH (10) OF THE CODE OF ORDINANCES AND PART V “DEVELOPMENT REVIEW PROCEDURES AND REQUIREMENTS”, ARTICLE 120 “QUASI-JUDICIAL HEARINGS”, SECTION 120-020 “EX-PARTE COMMUNICATIONS” OF THE UNIFIED LAND DEVELOPMENT CODE OF THE TOWN OF LOXAHATCHEE GROVES TO PROVIDE FOR PROCEDURES REGARDING HOLDING AND DISCLOSURE OF EX-PARTE COMMUNICATIONS AND REMOVING ANY PRESUMPTION OF PREJUDICE; PROVIDING FOR CONFLICT, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Town Council, as the governing body of the Town of Loxahatchee Groves, Florida (“Town”), pursuant to the authority vested in Chapter 166, Florida Statutes, is authorized and empowered to adopt land development regulations within the Town; and

WHEREAS, Section 286.0115, Florida Statutes, authorizes the Town to adopt an ordinance removing the presumption of prejudice from ex-parte communications by establishing a process for disclosure; and,

WHEREAS, the Town wishes to adopt procedures regarding holding and disclosure of ex-parte communications to remove any presumption of prejudice, in accordance with Section 286.0115, Florida Statutes; and

WHEREAS, the notice and hearing requirements for adoption of ordinances contained in the Florida Statutes and the Town’s Code of Ordinances have been satisfied; and

WHEREAS, the Town Council of the Town of Loxahatchee Groves has conducted a public hearing for the amendment of Article 120 “Quasi-Judicial Hearings”, Section 120-020 “Ex-parte communications” of its adopted Unified Land Development Code to procedures for holding and disclosure of ex-parte communications to remove any presumption of prejudice; and

WHEREAS, the Town Council finds it is in the best interest of the Town to adopt this Ordinance and that said Ordinance serves a public purpose.

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 2 "Administration", Article III "Officers and Employees", Division 2 "Code of Ethics", Section 2-87 "Standards of conduct", paragraph (10) as follows (deletions shown in ~~striketrough~~ and additions shown in underline):

(10) Reserved. ~~Notwithstanding the provisions of F.S. § 286.0115 and in full recognition of the provisions thereof, an elected public officer shall not have any contact with, in any form, nor engage in communication or discussion with applicants, petitioners, or their agents or representatives seeking action or other relief from the town council on matters related to a pending application or other petition. If there is no application pending, the public officer has the discretion to decide whether or not to contact or engage in communication or discussion with the applicant or petitioner or their representatives concerning a matter for which an application or petition may be submitted.~~

Section 3. The Town Council for the Town of Loxahatchee Groves hereby amends Part V "Development Review Procedures and Requirements", Article 120 "Quasi-Judicial Procedures", Section 120-020 "Ex-parte communications" of the Unified Land Development Code as follows (deletions shown in ~~striketrough~~ and additions shown in underline):

Sec. 120-020. – Ex-parte communications.

~~Ex-parte communications shall be prohibited and may provide a basis to deny an application.~~

(A) Board members may participate in ex-parte communications, subject to compliance with the provisions of this section. It is preferred and encouraged that all ex-parte communications take place at Town Hall.

(B) Board members shall disclose on the record any ex-parte communications, site visits, expert opinions, and personal investigations. Such disclosures shall be made on the record of the proceedings for the pending quasi-judicial matter prior to any final action on the matter, as follows:

(1) The substance of any ex-parte communication shall be disclosed including the subject of the communication and the identity of the person, group, or entity with whom the communication took place.

(2) Any written communication shall be made part of the record.

(3) Any site visit, personal investigation or expert opinions received shall be disclosed and made part of the record.

(C) In making such disclosure, board members shall also state on the record whether despite such ex-parte communication he/she is still able to serve as an impartial hearing officer and make decisions solely based on the facts on the record of the proceeding.

(D) Such disclosures ensure persons who have opinions contrary to those expressed in the ex-parte communication are afforded a reasonable opportunity to refute or respond to the

communication.

(E) Pursuant to F.S. §286.0115(1), the foregoing process removes the presumption of prejudice from such ex-parte communications.

Section 4: 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 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: 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 in order to accomplish such intention.

Section 7: Effective Date. This ordinance shall take effect immediately upon adoption.

Councilmember _____ offered the foregoing ordinance on first reading.

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	☐	☐	☐
MARGARET HERZOG, VICE MAYOR	☐	☐	☐
ROBERT SHORR, COUNCILMEMBER	☐	☐	☐
PHILLIS MANIGLIA, COUNCILMEMBER	☐	☐	☐
LAURA DANOWSKI, COUNCILMEMBER	☐	☐	☐

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 on second reading.

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	☐	☐	☐
MARGARET HERZOG, VICE MAYOR	☐	☐	☐
ROBERT SHORR, COUNCILMEMBER	☐	☐	☐
PHILLIS MANIGLIA, COUNCILMEMBER	☐	☐	☐
LAURA DANOWSKI, COUNCILMEMBER	☐	☐	☐

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

**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 Phillis Maniglia

Councilmember Laura Danowski