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April 4, 2025

VIA ELECTRONIC MAIL ONLY – framaglia@loxahatcheegrovesfl.gov

Francine Ramaglia, Town Manager
Town of Loxahatchee Groves
155 F Road
Loxahatchee Groves, FL 33470

RE: Draft Sign Code

Dear Ms. Ramaglia:

At your direction, our Firm prepared a draft ordinance establishing a new sign code, which is enclosed with this letter. Please note this draft was prepared without assistance or input from the Town's planning consultant or Town staff. In accordance with the Town Council's direction, please share a copy of this draft ordinance, along with a copy of the previous draft ordinance and memorandum our Firm prepared that was shared with the Town Council in June of 2024. For your convenience, a copy of the 2024 draft and memorandum is also enclosed with this letter.

As you are aware, the regulation of signs is complex. The law on this issue is not perfectly black and white on what is constitutionally permissible and what is not; indeed, there is much gray. At a basic level, it is important to understand that the Town's standard for developing regulations concerning other parts of its Code is rational basis. This means the Town simply needs to have a legitimate government interest or purpose for its actions. Under this standard, there is a presumption that the government—the Town—has a rational basis and a challenger must rebut that presumption. The regulation of signs, however, has a much higher standard whereby the presumption of government interest is not present, and the Town must justify its regulations meet the higher standard of either intermediate scrutiny or strict scrutiny. Without delving too much into the legality of those standards, you should understand the following:

1. Intermediate scrutiny typically applies to the regulation of content-neutral and commercial signs and requires a substantial (not just legitimate) government purpose that is narrowly tailored to achieve that purpose without excessive restriction.
2. Strict scrutiny applies to signs that on their face are content-based and require the highest burden demanding a compelling government interest (not legitimate or substantial) that is narrowly tailored to achieve those interests with the least restrictive means available. In other words, the law must have a compelling government interest and must not be over-inclusive or under-inclusive.

Because the regulations of signs are subject to intermediate and strict scrutiny, the first five pages of the ordinance establish the Town's appropriate government purposes to place the Town in the best possible position to withstand a legal challenge and mitigate risk. The pages that follow that section provide for severability in the event one portion of the ordinance is later deemed unconstitutional, the other portions of the ordinance can still be enforced. Following severability is a definition section, which is lengthy because these high legal standards demand specificity and clarity. Accordingly, it is important the Town include specific and clear definitions of relevant terms. The remaining portions of the ordinance address the various regulations for signs within the Town.

As your team and the Unified Land Development Code Review Committee review, analyze and revise the draft ordinance, be sure to focus on length, height, width, building materials, lighting, moving parts, portability, time, and location. Moreover, it is important to determine whether the criteria for each type of sign are appropriate within a particular zoning district and whether such criteria are consistent with the Town's Comprehensive Plan. Most importantly, is that the proposed regulations not focus on or otherwise attempt to regulate the content of signs.

In addition to your general review and revision of the draft ordinance, we recommend your team, and the Unified Land Development Code Review Committee, consider the following issues and provide guidance on how those areas should be developed, if at all:

1. Design standards. Review Section 89-060 and provide direction on whether specific regulations relating to foundations or footing for monument signs, or mounting for wall signs are necessary and on the style, size, and material of letters and numerals contained within the sign area, and separation of signs on a building.
2. Additional signs. Review Section 89-065 and provide direction on whether the number and type of signs permitted is adequate.
3. Amortization. Review Section 89-055 and provide direction on how the Town would like to handle nonconforming signs, which may include an amortization schedule.
4. Master Site Plan Waiver. Review Section 89-070(E) and provide direction on what regulations may be waived.

5. Additional definitions. Review Section 89-015 and provide direction on whether to include regulations relating to the following types of signs and/or design criteria or to delete these definitions:
- a. *Accessory sign.*
 - b. *Awning sign.*
 - c. *Emitting signs.*
 - d. *Changeable copy sign (electronic).*
 - e. *Changeable copy sign (manual).*
 - f. *Channel style letters.*
 - g. *Fascia.*
 - h. *Identification sign.*
 - i. *Memorial sign.*
 - j. *Monument sign.*
 - k. *Portable sign.*
 - l. *Post and panel sign.*
 - m. *Primary façade.*

Please let me know if you want one of our attorneys to be present at the meeting when the Unified Land Development Code Review Committee reviews the draft ordinance. I look forward to our collaboration on this important project. Our Firm is committed to assisting you to bring this project to a successful completion.

In the meantime, do not hesitate to contact me if you have any questions.

Sincerely,



Glen Torcivia
Enclosure

cc: Jeffrey Kurtz
Kaitlyn Forbes