

# TOWN OF LOXAHATCHEE GROVES

TOWN HALL COUNCIL CHAMBERS

## TOWN COUNCIL SPECIAL MEETING

### AGENDA

OCTOBER 23, 2023 – 4:00 PM



**Laura Danowski, Mayor (Seat 2)**

**Phillis Maniglia, Councilmember (Seat 1)**

**Robert Shorr, Vice Mayor (Seat 4)**

**Marianne Miles, Councilmember (Seat 3)**

**Marge Herzog, Councilmember (Seat 5)**

#### Administration

Town Manager, Francine L. Ramaglia

Town Attorney, Elizabeth Lenihan, Esq.

Town Clerk, Lakisha Q. Burch

Public Works Director, Larry A. Peters, P.E.

**Civility:** Being "civil" is not a restraint on the First Amendment right to speak out, but it is more than just being polite. Civility is stating your opinions and beliefs, without degrading someone else in the process. Civility requires a person to respect other people's opinions and beliefs even if he or she strongly disagrees. It is finding a common ground for dialogue with others. It is being patient, graceful, and having a strong character. That is why we say "Character Counts" in Town of Loxahatchee. Civility is practiced at all Town meetings.

**Special Needs:** In accordance with the provisions of the American with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall within three business days prior to any proceeding, contact the Town Clerk's Office, 155 F Road, Loxahatchee Groves, Florida, (561) 793-2418.

**Quasi-Judicial Hearings:** Some of the matters on the agenda may be "quasi-judicial" in nature. Town Council Members are required to disclose all ex-parte communications regarding these items and are subject to voir dire (a preliminary examination of a witness or a juror by a judge or council) by any affected party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment, without being sworn. Unsworn comment will be given its appropriate weight by the Town Council.

**Appeal of Decision:** If a person decides to appeal any decision made by the Town Council with respect to any matter considered at this meeting, he or she will need a record of the proceeding, and for that purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes any testimony and evidence upon which the appeal will be based.

**Consent Calendar:** Those matters included under the Consent Calendar are typically self-explanatory, non controversial, and are not expected to require review or discussion. All items will be enacted by a single motion. If discussion on an item is desired, any Town Council Member, without a motion, may "pull" or remove the item to be considered separately. If any item is quasi-judicial, it may be removed from the Consent Calendar to be heard separately, by a Town Council Member, or by any member of the public desiring it to be heard, without a motion.

## **TOWN COUNCIL AGENDA ITEMS**

### **CALL TO ORDER**

### **PLEDGE OF ALLEGIANCE**

### **MOMENT OF SILENCE**

### **ROLL CALL**

### **ADDITIONS, DELETIONS AND MODIFICATIONS**

### **COMMENTS FROM THE PUBLIC ON NON-AGENDA ITEMS**

*Public Comments for all meetings may be received by email, or in writing to the Town Clerk's Office until 6:00 PM on the day of the meeting. Comments will be "received and filed" to be acknowledged as part of the official public record of the meeting. Town Council meetings are livestreamed and close-captioned for the general public via our website, instructions are posted there.*

### **REGULAR AGENDA AND PUBLIC HEARING**

1. Consideration of **Ordinance No. 2023-07** on second reading adopting Revised Recreational Vehicle Program Requirements.

### **DISCUSSION**

2. Presentation regarding the new Form 6 reporting requirements for elected officials.

### **TOWN STAFF COMMENTS**

**Town Manager**

**Town Attorney**

**Public Works Director**

**Town Clerk**

### **TOWN COUNCILMEMBER COMMENTS**

**Phillis Maniglia (Seat 1)**

**Marianne Miles (Seat 3)**

**Marge Herzog (Seat 5)**

**Mayor Robert Shorr (Seat 4)**

**Laura Danowski (Seat 2)**

## **ADJOURNMENT**

### **Comment Cards:**

Anyone from the public wishing to address the Town Council, it is requested that you complete a Comment Card before speaking. Please fill out completely with your full name and address so that your comments can be entered correctly in the minutes and give to the Town Clerk. During the agenda item portion of the meeting, you may only address the item on the agenda being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the Council with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.



155 F Road Loxahatchee Groves, FL 33470

## Agenda Item # 1

**TO:** Town Council of Town of Loxahatchee Groves

**FROM:** Francine L. Ramaglia, Town Manager

**DATE:** October 18, 2023

**SUBJECT:** Consideration of *Ordinance No. 2023-06* on second reading adopting revised Recreational Vehicle Program Requirements

### Background:

In June, the Town held public input sessions for possible revisions to the RV Ordinance. The Town's planners, Kaitlyn Forbes with Transystems/SEPI, led the process and on September 5<sup>th</sup>, Council discussed initial draft outlines of a proposed ordinance as well as an update memo in preparation for the RV ordinance work session.

At the September 7<sup>th</sup> working session with the Council, the planners facilitated discussion of high-level topics requiring Council consensus. Various solutions were considered through direct exchange with Council. The proposed ordinance language is based on consensus from that workshop and amendments made during first reading. First reading of the ordinance occurred on September 19, 2023. A motion to approve the ordinance was made and passed on first reading, as shown below.

Attached is *Ordinance No. 2023-06* which repeals Sec. 20-050 "Recreational Vehicles" Of Article 20 – "Residential Zoning Districts"; and establishes Article 92 "Recreational Vehicles" within Part III "Supplemental Regulations" within the Unified Land Development Code. Also attached is the corresponding business impact statement as required by newly effective Florida Statutes.

### Staff Recommendation:

Motion to approve *Ordinance No. 2023-06* Repealing Sec. 20-050 "Recreational Vehicles" of Article 20 – "Residential Zoning Districts"; and Establishing Article 92 "Recreational Vehicles" within Part III "Supplemental Regulations" within The Unified Land Development Code.

**ORDINANCE NO. 2023-06**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, REPEALING SEC. 20-050 “RECREATIONAL VEHICLES” OF ARTICLE 20 – “RESIDENTIAL ZONING DISTRICTS”; AND ESTABLISHING ARTICLE 92 “RECREATIONAL VEHICLES” WITHIN PART III “SUPPLEMENTAL REGULATIONS” WITHIN THE UNIFIED LAND DEVELOPMENT CODE; 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**, the Town desires to amend and clarify its regulations relating to Recreational Vehicles (“RVs”) within its adopted Unified Land Development Code (“ULDC”); 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 proposed amendments; and

**WHEREAS**, the Town Council of Town of Loxahatchee Groves finds that the adoption of this ordinance amending the ULDC to revise its regulations regarding Recreational Vehicles is consistent with the Town’s Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

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

**Section 1.** The foregoing recitals are hereby ratified and confirmed as being true and correct and are incorporated herein by this reference.

**Section 2.** The Town of Loxahatchee Groves hereby repeals Section 20-050 “Recreational Vehicles” within Part II, Zoning Districts; and establishes Article 92 “Recreational Vehicles” within Part III Supplemental Regulations; its Unified Land Development Code to read as shown in the attached and incorporated Exhibit A.

**Section 3. 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 4. 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.

**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 Unified Land Development Code 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 6. Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

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>
LAURA DANOWSKI, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGARET HERZOG, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARIANNE MILES, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS \_\_ DAY OF \_\_\_\_\_, 20\_\_.**

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>
LAURA DANOWSKI, MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROBERT SHORR, VICE MAYOR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARGARET HERZOG, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PHILLIS MANIGLIA, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MARIANNE MILES, COUNCILMEMBER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**TOWN OF LOXAHATCHEE GROVES, FLORIDA**

ATTEST:

\_\_\_\_\_  
Mayor Laura Danowski

\_\_\_\_\_  
Lakisha Q. Burch, Town Clerk

\_\_\_\_\_  
Vice Mayor Robert Shorr

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Councilmember Margaret Herzog

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

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

\_\_\_\_\_  
Councilmember Marianne Miles

**Exhibit A to  
Ordinance No. 2023-06**

**~~Section 20-050. Recreational vehicles.~~**

~~(A) — For properties which have a permitted residential structure within the agricultural residential zoning district, recreational vehicles shall be allowed on a temporary basis for living and sleeping purposes, provided there are no adjudicated Town Code violations pending against the property and/or unresolved penalties associated therewith subject to the following conditions:~~

~~(1) — A registration permit, (the fee for the registration permit shall be set by a resolution of the Town Council) which shall only be valid for a less than 180 days and shall be required for each recreational vehicle parking space on an annual basis and shall be placed on the recreational vehicle occupying parking space where it can be seen from the exterior of the recreational vehicle;~~

~~(2) — No recreational vehicle shall be allowed on a parcel less than one acre. One recreational vehicle shall be allowed on a parcel consisting of one acre and less than two acres; a maximum of two recreational vehicles shall be allowed on a parcel consisting of two acres and less than ten acres; and, no more than four recreational vehicles shall be allowed on a parcel consisting of ten acres or more;~~

~~(3) — The person or persons residing in the recreational vehicle must demonstrate a permanent residence in another location;~~

~~(4) — The placement of the recreational vehicle must be setback from all property lines by at least 25 feet;~~

~~(5) — The recreational vehicle shall be hooked up to or have access to appropriate electrical service, potable well and sanitary sewer facilities (bathroom and septic tank) that have been installed pursuant to permits issued by, or approved by, the health department and applicable building and zoning codes, where required; portable/ pump-able septic tanks as well as the waste removal therefrom are permitted under this section subject to the requirements set forth hereinabove.~~

~~(6) — Upon expiration of the registration permit the recreational vehicle shall not remain on property parked or stored and shall be removed from the property and any application for a new registration permit for that property may only occur after a minimum time period of six months has expired, unless the parking space was initially used for a period of less than six months, then a permit may be issued for the time period remaining on the initial six-month time period;~~

~~(7) — The parcel owner, where the recreational vehicle(s) site is located, shall be required to allow Town staff, or its agents, to inspect the recreational vehicle(s) in such a manner and time as determined by the Town Manager, upon at least 24 hours' notice.~~

~~(8) — Recreational vehicles shall only be used for their designed and intended purpose as evidence by the manufacturer's certification.~~

~~(9) — A recreational vehicle that is not occupied must be owned or leased by the property owner or tenant of the property.~~



~~(10) — Unoccupied recreational vehicles shall not be used for storage or any other non-residential use for which it was not designed and manufactured as evidenced by the manufacturer's certification.~~

~~(11) — No recreational vehicle shall be kept in an abandoned, inoperable, junked, disabled, wrecked, discarded or otherwise unused condition.~~

~~(B) — This section shall not apply to caretaker's quarters, groom's quarters and construction trailers.~~

~~(C) — Any violation of this section may subject the property owner and/or recreational vehicle user to code enforcement action or any other legal action as determined by the Town.~~

~~(D) — Requests for such a registration permit shall be submitted in writing to the Town Manager together with such fees, if any, as the Town requires and is set forth in the Town Code.~~

## **ARTICLE 92 – RECREATIONAL VEHICLES**

### **Section 92-005 – Purpose and Intent**

The purpose of this section is to establish standards relating to recreational vehicles (RVs) consistent with State of Florida and Federal law. The Town recognizes the potential safety hazards and other negative impacts associated with the unregulated use of RVs. These standards are designed to allow the use and siting of RVs as set forth herein, while protecting the health, safety, and general welfare of the Town of Loxahatchee Groves. To the extent any provision of in this article conflicts with Florida law, federal law, or any other provision of the Town code, the more restrictive provision shall prevail.

### **Section 92-010 – Reserved**

### **Section 92-015 – Allowances**

**(A) General.** RVs may be permitted on properties with an Agricultural Residential (AR) zoning designation in accordance with Table 1 below. In no instance shall a property have more than four (4) occupied RVs at any given time. All RVs shall be properly registered with the State and maintained in working order, to meet the requirements of being “Ready for Highway Use” throughout the permit period. “Ready for Highway Use” means the RV is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions. Alternatively, an RV may meet the elevation and anchoring requirements for manufactured homes.

**(B) Vehicle Use.** Recreational vehicles shall only be used for their designed and intended purpose as evidenced by the manufacturer's certification.

**(C) Occupancy.** RV occupancy shall not exceed the maximum number of occupants prescribed by the manufacturer.

**(D) Unoccupied RVs**

Properties in the AR zoning district are permitted to have unoccupied RVs, subject to the following standards:

1. The subject property must have a permanent, principal residential structure.
2. Any unoccupied RV must be owned or leased by the property owner or tenant of the property.
3. Unoccupied RVs shall not be used for storage or any other non-residential use for which it was not designed and manufactured as evidenced by the manufacturer's certification.
4. Unoccupied RVs shall be routinely operated or maintained by a permanent, full-time resident of the property and shall not be located in any required setback, easement, or right-of-way.
5. Unoccupied RVs may be periodically connected to electric hookups for the purpose of climate control.
6. Property owners with a principal residential structure in the AR district may have temporary guests stay in an RV on the subject property for owned or leased by the property owner up to fourteen (14) consecutive days, four (4) separate times per calendar year. Such use shall not require a permit. However, annually, properties intended to accommodate temporary guests shall file an affidavit confirming compliance with this subsection. RVs occupied by temporary guests shall count toward the total number of RVs allowed per property.

**(E) Properties under common ownership, control, or operation.** The maximum number of RVs shall apply to adjacent properties under common ownership, control, or operation as determined by the Town Manager, or his/her designee. Mere ownership by separate corporate ownership shall not be sufficient. For example, a 10-acre parcel shall not be subdivided into two 5-acre parcels and be awarded the maximum allowance per parcel unless it is demonstrated each adjacent parcel is under separate ownership, control, and function.

**(F) Accessory structures.** No accessory structure shall be permitted that directly serves or relates to an occupied RV, including but not limited to an RV port.

**Sectio 92-020 – RV Site and Utility Requirements.**

**(A) Location.** No RV site shall be located within any required yard or setback as established by the AR zoning district, nor any easement or right-of-way.

**(B) Utility Connections.** An occupied RV shall be hooked up to appropriate electrical service, potable well and sanitary sewer facilities (bathroom and septic tank) that have been installed pursuant to permits issued by, or approved by, the health department and applicable building and zoning codes, where required; portable/ pump-able septic tanks as well as the waste removal therefrom are permitted under this section. A determination of appropriateness shall be made at the time of inspection regarding the size and capacity of on-site wells and septic tanks to meet demands generated by permitted RVs.

1. Electrical hook up must be separate for each RV. Each electrical hook up must be permitted through and inspected by the Town's Building Department. No electrical extension cords shall be utilized. Use of extension cords will render the permit invalid.
2. Water hook ups may be a single source with separate hook up at each RV parking spot. Backflow protection devices shall be installed prior to use.
3. Septic hook up must be permitted and inspected by the Health Department. A copy of the approved permit is required as part of this application. Portable/ pump-able septic tanks as well as the waste removal therefrom are permitted under this section subject to the requirements set forth hereinabove.

**(C) Solid Waste Disposal.** The permit holder shall be required to ensure solid waste generated by an occupied RV is disposed of in a manner that keeps the property free and clear of trash and debris. Trash generated by occupied RVs shall be collected by the Town's franchise waste hauler as residential or commercial collection.

## **Section 92-025 – Permit Requirements**

### **(A) Application.**

1. **Complete permit application.** Copies of the required application shall be on file at Town Hall, including all required materials Completed and approved applications shall be required prior to permit issuance.
2. **Plan Drawings.** Location sketch showing RV site with dimensions, availability of hook-ups, and setbacks from all property lines.
3. **Fees.** Application, permit and inspection fees for RVs shall be as listed in the Town's fee schedule and may be amended from time to time.

**(B) Permit Required.** All occupied RVs shall be located on a permitted RV site.

1. Each RV site requires a separate permit.
2. Permit allocations shall be restricted by Table 1 below.

3. Each RV on a site granted a seasonal or annual permit shall be designated by a Town issued decal, or similar, which shall be visible for inspection.

<b><u>TABLE 1 – RV PERMITS</u><sup>1</sup></b>		
<b><u>Annual Permit</u></b>		
<u>Eligible Property Type</u>	<u>Minimum Property Size</u>	<u>Maximum # RVs</u>
<u>Bona fide agricultural property without principal dwelling unit.</u>	<u>5 net acres</u>  <u>[total of 5.0 + acres shall be classified as bona fide agricultural]</u>	<u>1</u>  <u>[The RV may only be used as a caretaker’s quarters or for the purpose of on-site security.]</u>
<u>Homestead property with principal single family dwelling unit.</u>	<u>5 net acres</u>	<u>1</u>  <u>[The RV may only be used as a guest cottage. An annual RV permit shall not be issued to a property with an existing guest cottage.]</u>
<b><u>Seasonal Permit</u></b>		
<u>Eligible Property Type</u>	<u>Minimum Property Size<sup>2</sup></u>	<u>Maximum # RVs</u>
<u>Property with permitted residential structure; or, Bona fide agricultural property with property owner maintaining permanent residence on subject property throughout the permit period.</u>	<u>1.0 – 4.9 net acres</u>	<u>2</u>
	<u>4.9 net acres and larger</u>	<u>4</u>
<p><u>1 For minimum property size purposes, required lot area shall be measured using the portion of the property that is designated as bona fide agriculture. For example, if 3 acres of a 10-acre parcel are designated as bona fide ag., the maximum seasonal permit allowance shall be 2 RVs.</u></p>		

**(C) Permit Period.**

1. **Seasonal Permit.** A seasonal permit shall be valid for 179 days from the first date of site occupation noted in the permit application. From the first date of occupation, the maximum time limitation of 179 days shall apply regardless of changes to, or discontinuance of, occupation on the site throughout the permit period.

2. **Annual Permit.** An annual permit shall be valid for 365 days from date of issuance.

**(D) Inspections Required.**

1. **RV Site Inspection.** Prior to permit issuance, the Town shall inspect all proposed sites intended for use by an occupied RV. The site inspection shall ensure proper location, site design, and the availability of required utilities.
2. **RV Utility Connection Inspection.** Prior to site occupation and final permit issuance, all RV utility connections shall be inspected and permitted as required by the Town and any other pertinent agency.
  - i. In the case the RV intended for occupation is on-site at the time of the Site Inspection, the required Site and Connection Inspections may be done concurrently.
  - ii. Changes to the RV vehicle on a permitted site shall require a corresponding Connection Inspection to ensure correct hook-ups. Such re-inspection may result in additional inspection fee.
3. **Annual Permit Inspections.** Annual permits shall require bi-annual Site and Connection Inspections. Bi-annual inspections shall generally occur on a six (6) month basis. At this time, if the property is located within a Special Flood Hazard Area, the designated Town official shall determine compliance with the requirements noted in Table 1.

**(E) Expiration.** Upon expiration of the registration permit, the RV site shall remain free of occupied RVs until such a time as another permit is issued for the site. RV sites used on a seasonal basis shall not be issued another seasonal permit until a minimum time period of six (6) months has passed. Within seven (7) calendar days of the permit expiration, the permit holder shall submit a Close-Out Affidavit to Town Hall confirming the RV site is vacant as required.

**(F) Extensions.** Under special circumstances, Seasonal Permits may be administratively extended by the Town Manager or his/her designee for up to an additional twenty (20) days so long as an RV on the permitted site meets the FEMA requirements for “Ready for Highway Use” as defined in Table 1. To be granted such an extension, the permit holder must establish good cause.

**(G) Maintenance.** Properties shall be maintained in accordance with Article 45 of the Unified Land Development Code.

**Section 92-030 – Enforcement.**

- (A) **Violations.** It shall be unlawful to use or possess an RV in violation of this article. Each additional RV used or possessed in violation of this this article shall constitute a separate violation. Each day a violation exists shall constitute a separate violation.
  
- (B) **Enforcement and Penalties.** Violations of this article are subject to the enforcement procedures and penalties in chapter 162, Florida Statutes, and chapter 14 of the Town code. In addition to the foregoing, violations may be subject to any other means of enforcement allowed by law.
  
- (C) **Effect on Permit Issuance/Renewal.** In addition to the penalties set forth in subsection (B) above, the Town may deny issuance or renewal of a permit after a finding of violation of this article.



155 F Road Loxahatchee Groves, FL 33470

**Agenda Item # 2**

**TO: Town Council of Town of Loxahatchee Groves**

**FROM: Town Attorney's Office**

**VIA: Francine L. Ramaglia, Town Manager**

**DATE: October 23, 2023**

**SUBJECT: Presentation regarding the new Form 6 reporting requirements for elected officials**

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**Background:**

Currently, elected members of a governing body are required to file a limited financial disclosure (Form 1) with the Florida Commission of Ethics. Senate Bill 774, enacted earlier this year, amends Florida Statute section 112.3144(1)(d) to require elected members of a governing municipal body to file a Full Disclosure of Financial Interests (Form 6) starting January 1, 2024.

It is important for Town Council Members to understand these new requirements because failure to comply can result in penalties including but not limited to fines and/or removal from office. Further, any Council Member who does not wish to be subject to the Form 6 reporting requirements must submit their resignation on or before December 30, 2023. The attached presentation covers the new reporting requirements; addresses frequently asked questions, such as when Council Members must report their spouses' income and assets; and includes information from the Palm Beach County Supervisor of Elections concerning the procedures to be followed if qualifying periods need to be extended due to late December resignations.

**Recommendation:**

None.

# Senate Bill 774 (Form 6)

New Financial Disclosure Requirements For Local Officials

Presented by: Glen J. Torcivia, Esq

October 23, 2023



# Overview of SB 774

- Amended F.S. § 112.3144(1)(d) to requires elected members of a governing municipal body to file a Full Disclosure of Financial Interests (Form 6) with the Florida Commission on Ethics.
  - Filing deadline is July 1st
- The disclosure form is a public record and is required by law to be posted to the Commission's website

# Who Do New Financial Disclosure Requirements Apply To?

- Mayors
- Elected members of the governing body of a municipality
- Any individual appointed to replace an elected official for the remainder of a term

# When Do New Financial Disclosure Requirements Take Effect?

- SB 774 takes effect on January 1, 2024
- Resignations during calendar year 2023
  - Elected officials who resign from office must file a final financial disclosure within 60 days of leaving office
    - Form 1 filers use Form 1F
    - Form 6 filers use Form 6F
  - Per the Florida Commission on Ethics, to be eligible to file Form 1F, the official must leave office on or before **December 30, 2023**

# What Financial Information Must Be Included In Form 6 or Form 6F

- Net Worth
- Assets (valued over \$1,000)
- Liabilities (valued over \$1,000)
- Income
- Interests in specified businesses

<b>FORM 6</b>	<b>FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTERESTS</b>	<b>2021</b>
Please print or type your name, mailing address, agency name, and position below:		<b>FOR OFFICE USE ONLY:</b>
LAST NAME — FIRST NAME — MIDDLE NAME:		
MAILING ADDRESS:		
CITY : ZIP : COUNTY :		
NAME OF AGENCY :		
NAME OF OFFICE OR POSITION HELD OR SOUGHT :		
CHECK IF THIS IS A FILING BY A CANDIDATE <input type="checkbox"/>		
<b>PART A -- NET WORTH</b>		
Please enter the value of your net worth as of December 31, 2021 or a more current date. [Note: Net worth is not calculated by subtracting your reported liabilities from your reported assets, so please see the instructions on page 3.]		
My net worth as of _____, 20__ was \$ _____.		
<b>PART B -- ASSETS</b>		
<b>HOUSEHOLD GOODS AND PERSONAL EFFECTS:</b> Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry, collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.		
The aggregate value of my household goods and personal effects (described above) is \$ _____		
<b>ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:</b>		
DESCRIPTION OF ASSET (specific description is required - see instructions p.4)	VALUE OF ASSET	
<b>PART C -- LIABILITIES</b>		
<b>LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):</b>		
NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY	
<b>JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:</b>		
NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY	

<b>PART D -- INCOME</b>			
Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2021 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.			
<input type="checkbox"/> I elect to file a copy of my 2021 federal income tax return and all W2's, schedules, and attachments. [If you check this box and attach a copy of your 2021 tax return, you need not complete the remainder of Part D.]			
<b>PRIMARY SOURCES OF INCOME (See instructions on page 5):</b>			
NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT	
<b>SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person--see instructions on page 5]:</b>			
NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
<b>PART E -- INTERESTS IN SPECIFIED BUSINESSES [Instructions on page 6]</b>			
	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			
<b>PART F - TRAINING</b>			
This section applies only to officers required to complete annual ethics training pursuant to section 112.3142, F.S. [See instructions p. 6]			
<input type="checkbox"/> I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.			
<b>OATH</b>		<b>STATE OF FLORIDA</b>	
I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.		COUNTY OF _____ Sworn to (or affirmed) and subscribed before me by means of <input type="checkbox"/> physical presence or <input type="checkbox"/> online notarization, this _____ day of _____, 20__ by _____  (Signature of Notary Public--State of Florida)  (Print, Type, or Stamp Commissioned Name of Notary Public)	
SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE _____		Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____	
If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:			
I, _____, prepared the CE Form 6 in accordance with Art. II, Sec. 8, Florida Constitution, Section 112.3144, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.			
Signature _____		Date _____	
<b>Preparation of this form by a CPA or attorney does not relieve the filer of the responsibility to sign the form under oath.</b>			
<b>IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE</b> <input type="checkbox"/>			

# Net Worth (Part A)

- Add value of all assets
  - Aggregate value of household good and personal effects reported in Part B,
  - Value of all assets worth over \$1,000 reported in Part B, and
  - Value of any asset worth less than \$1,000 that were not reported in Part B
- Then subtract value of all liabilities
  - Total value of liabilities reported in Part C, and
  - Total value of unreported liabilities
  - Does **not** include joint and several liabilities

# Assets (Part B)

- Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000
  - *E.g.*, jewelry, guns, art, furniture, vehicles for personal use (whether owned or leased)
- Assets individually valued at over \$1,000
  - *E.g.*, interests in real property; cash; stocks; bonds; bank accounts; Deferred Retirement Option Program accounts; Florida Prepaid College Plan; investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan

# Liabilities (Part C)

- Generally, must report liabilities over \$1,000
  - *E.g.*, accounts, notes, and interest payable; debts or obligations to governmental entities; judgments; unpaid portion of vehicle leases
- Do not have to report the following liabilities
  - Credit card and retail installment accounts
  - Taxes owed (unless the taxes have been reduced to a judgment)
  - Contingent liabilities
  - Liabilities that are solely spouse's responsibility
- Must also report joint and several liabilities
  - Example: If you and a business partner have a \$100,000 business loan from a bank, you should report \$50,000 as a personal liability and \$50,000 as a joint and several liability



# Income (Part D)

- Can either complete Part D or attach a copy of complete federal income tax return including all schedules, W2's and attachments
- Income means the same as “gross income” for federal income tax purposes, even if the income is not actually taxable
  - *E.g.* compensation for services, gross income from business, gains from property dealings, interests, rents, dividends, pensions, IRA distributions, alimony (but not child support)
- Must also report Secondary Income, which only applies if:
  1. You owned during the disclosure period, more than 5% of the total assets or capital stock of a business entity, **and**
  2. You received more than \$1,000 in gross income from that business entity during the period

# Interests in Specified Business (Part E)

- Must disclose if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of certain types of businesses
  - State and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies, utility companies; entities controlled by the Public Service Commission; entities granted a franchise to operate by either a city or a county government
- Must disclose if you are or were at any time during the reporting period an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process)

# Reporting Spouse's Assets, Liabilities, & Income

- **Not** required to report assets or liabilities **solely** in spouse's name
- The income of your spouse need **not** be disclosed
- If there is **joint income** to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include **all** of that income
- If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as **tenants by the entirety or jointly with right of survivorship**, including bank accounts held in such a manner, **must be reported at 100% of their value.**
- If you are **jointly and severally liable** for a debt relating to **property** you own with one or more others as **tenants by the entirety or jointly, with right of survivorship**, **report 100%** of the total amount owed.

# Potential Penalties for Failure to Comply (§ 112.317 F.S.)

- Impeachment
- Removal or suspension from office
- Public censure and reprimand
- Reduction in Salary
- Forfeiture of no more than one-third of his or her salary per month for no more than 12 months
- Civil Penalty not exceeding \$20,000

# Information from Supervisor of Elections Regarding December 2023 Resignations

- The Palm Beach County Supervisor of Elections (SOE) has advised that there will be no special elections in 2024. Therefore, midterm vacancies that are required to be filled by election must make it onto the March 2024 ballot.
- The normal cutoff date for qualified candidates to be placed on the March ballot is December 15, 2023. However, in anticipation of late-December resignations, the SOE is granting an extension specific to those instances subject to the below deadlines. Please note, some municipalities may have to amend their Charter to take advantage of SOE's proposed extension.
  - Municipalities will need to inform SOE no later than **January 2, 2024**, if they are going to have to add a race (or races), and which seats/races will be affected.
  - Qualifying would need to end by **12 noon on Friday, January 12, 2024**, with names/races to SOE no later than 3pm on Friday, January 12<sup>th</sup>.
  - SOE will prepare and proof the revised ballot by 12:00 noon on Friday, January 19<sup>th</sup>. SOE will then send it to the municipality, who will have to have it back to SOE by 5 pm on Monday, January 22<sup>nd</sup>.
  - If there are any revisions required, SOE will revise and have it back to the municipality by 4:00pm on Tuesday, January 23<sup>rd</sup>, with the municipality reviewing the revision and sending it back to SOE by 5pm on that same day.
  - SOE will send it to the printer that night and have ballots back by the end of the day on January 31.
  - Insert ballots on February 1<sup>st</sup> and mail out on February 2<sup>nd</sup>.

# Financial Reporting Requirements for Candidates

- Currently, candidates for mayor or a governing body of a municipality are not required to complete a Form 6 at the time of qualifying for office.
- SB 774, however, also amended § 99.061(5), F.S. Pursuant to these amendments, beginning on January 1, 2024, candidates for mayor or a governing body of a municipality will be required to complete a Form 6 at the time of qualifying for office.
- Any candidate who qualifies for office before January 1, 2024, is not required to complete a Form 6.
- Any candidate who qualifies for office on or after January 1, 2024, must complete a Form 6.
- If the SOE extends the qualifying period beyond January 1, 2024, pursuant to the procedures/timeline discussed on the previous slide, candidates will have to complete a Form 6.

# Thank You!!

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