

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2016-05**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, TO ENACT SEXUAL OFFENDER AND PREDATOR PROHIBITIONS WITHIN THE TOWN OF LOXAHATCHEE GROVES; PROVIDING FOR FINDINGS AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR A PROHIBITION FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS CONVICTED OF CRIMES UNDER CERTAIN FLORIDA STATUTES OR SIMILAR CRIMES IN OTHER JURISDICTIONS FROM LIVING OR WORKING WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE TOWN OF LOXAHATCHEE GROVES; PROVIDING FOR A PROHIBITION FOR SEXUAL OFFENDERS AND SEXUAL PREDATORS FROM WORKING AT OR WITHIN SPECIFIED LOCATIONS WITHIN THE TOWN OF LOXAHATCHEE GROVES; TO PROHIBIT RENTING OR LEASING OF ANY PLACE, STRUCTURE, OR PART THEREOF, TRAILER OR OTHER CONVEYANCE LOCATED WITHIN 2500 FEET OF SPECIFIED LOCATIONS WITHIN THE TOWN OF LOXAHATCHEE GROVES TO SEXUAL OFFENDERS AND SEXUAL PREDATORS; PROVIDING FOR PENALTIES; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY, PROVIDING FOR CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Council desires to provide for the maximum protection of the lives and persons in the Town of Loxahatchee Groves; and,

**WHEREAS**, the Town Council has the authority, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Section 166.021, Florida Statutes, to adopt such provisions in order to protect the health, safety, and welfare of its residents; and,

**WHEREAS**, the Third District Court of Appeal of Florida, in *Calderon v. State*, 93 So. 3d 439, 440 (Fla. 3d DCA 2012), upheld a local ordinance which prohibited sexual offenders from residing within 2,500 feet of places where children congregate; and,

**WHEREAS**, the Fifth District Court of Appeal of Florida, in *Doe v. City of Palm Bay*, 169 So. 3d 1211 (Fla. 5th DCA 2015), upheld a local ordinance which prohibited sexual offenders from entering into or upon any residence, including the curtilage thereof, any designated private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, dwelling, domicile, or other place where children or vulnerable adults reside or regularly congregate, to make deliveries or perform work.

**WHEREAS**, the Town Council finds that the creation of a Sexual Offender and Sexual Predator Prohibitions in its Town Code to prohibit sex offenders convicted of crimes under certain Florida Statutes, or other similar laws, from living within two thousand five hundred feet (2500') of specified locations, to prevent property owners or managers from knowingly renting or providing house to sexual offenders and predators within two thousand five hundred feet (2500') of

specified locations, and to prohibit sexual offender or predators from making deliveries, performing work and entering into or upon any residence, including the curtilage thereof, any designated private or public school facilities or grounds, including school bus stops, any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, dwelling, domicile, or other place where children or vulnerable adults reside or regularly congregate, is in the best interests of the citizens and residents of the Town to prohibit sexual offenders and sexual predators.

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

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

**Section 2. Purpose and Intent.**

Sexual offenders, who use physical violence, and sexual offenders who prey on children or vulnerable adults, are sexual predators who present an extreme threat to the public safety. It is the intent of this ordinance to serve the Town's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the Town by creating areas around locations where children or vulnerable adults regularly congregate wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence, or making deliveries or performing work.

**Section 3. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Permanent residence" means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

(b) "Temporary residence" means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or nonconsecutive days in any month and which is not the person's permanent residence.

(c) "Park" means all public and private property specifically designated as being used for recreational purposes, usually consisting of grass, trees, paths, equestrian and recreational trails, sports fields, playgrounds, picnic areas and/or other features for amusement, activities, and relaxation.

(d) "Employer" means any person or entity who conducts business within the Town limits of the Town of Loxahatchee Groves.

(e) “Vulnerable Adult” means any adult who lacks the capacity to give consent or is physically or mentally restricted, incapacitated, or restrained to the extent as to require periodic or constant supervision by another person.

(f) “Work” means any and all repairs, labor, services or any other activity requested by the property owner or lawful occupant of a property.

(g) “Sexual offender,” for purposes of this chapter, shall be defined as provided by Section 943.0435(a), Florida Statutes, as may be amended from time to time.

(h) “Sexual predator,” for purposes of this chapter, shall be defined as a repeat sexual offender, a sexual offender who uses physical violence, a sexual offender who preys on children or as otherwise defined by Section 775.21, Florida Statutes, also known as “The Florida Sexual Predators Act,” as may be amended from time to time.

**Section 4. Sexual Offender and Sexual Predator Residency Prohibitions; Exceptions.**

(a) It is unlawful for any person who has been convicted of a violation of §§794.011, 800.04, 827.071, or 847.0145, Fla. Stat., or similar crime in another jurisdiction, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within two thousand five hundred (2500) feet of any private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, or other place where children or vulnerable adults reside or regularly congregate.

(b) It is unlawful for any person who is required to register as a sexual offender or sexual predator under the laws of the State of Florida, to establish a permanent residence or temporary residence within two thousand five hundred (2,500) feet of private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, or other place where children or vulnerable adults reside or regularly congregate.

(c) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of any private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, or other place where children or vulnerable adults reside or regularly congregate.

(d) Exceptions. A person does not commit a violation of this Ordinance if any of the following apply:

- (i) The person established the permanent residence prior to May 1, 2016.
- (ii) The person was a minor when he/she committed the offense and was not convicted as an adult.
- (iii) The person is a minor and is not emancipated.
- (iv) The school, or any private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice

facility, nursing home, adult day-care center, or other place where children or vulnerable adults reside or regularly congregate, within two thousand five hundred (2500) feet of the persons permanent residence was opened after the person established the permanent residence.

**Section 5. Sexual Offender and Sexual Predator Employment Prohibitions.**

(a) It is unlawful for any business owner, manager, supervisor or employer to allow, direct, dispatch, or instruct a known sexual predator and/or sexual offender who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation of a sex-related crime, or a violation or attempted violation of a similar law of another jurisdiction, when the victim of the offense was a minor or vulnerable adult, to enter into or upon any residence, including the curtilage thereof, any designated private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, dwelling, domicile, or other place where children or vulnerable adults reside or regularly congregate, to make deliveries or perform work.

(b) It is unlawful for any person who is a registered sexual predator or a registered sexual offender to enter into or upon any residence, including the curtilage thereof, any designated private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, dwelling, domicile, or other place where children or vulnerable adults reside or regularly congregate, to make deliveries or perform work.

**Section 6. Property Owners and Property Managers Prohibited from Renting Real Property to Certain Sexual Offenders and Sexual Predators.**

(a) It is unlawful for any property owner or property manager or his or her agent or assignee to knowingly let, rent, or allow to be occupied free of charge any place, structure, or part thereof, trailer, recreational vehicle, or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence of temporary residence pursuant to any provision of this Code, if such place, structure, or part thereof, trailer, recreational vehicle, or other conveyance, is located within two thousand five hundred (2,500) feet of any private or public school facilities or grounds, including school bus stops, or any day-care center, library, after-care center, park, playground, hospital, hospice facility, nursing home, adult day-care center, or other place where children or vulnerable adults reside or regularly congregate.

(b) A property owner or property manager shall be in violation of this code section if they knew or should have known that an occupant of property under their control was in violation of this code.

**Section 7. Penalties.**

A person who violates this ordinance shall be subject to one or more of the following penalties:

(i) A person or entity who violates this Ordinance shall be guilty of a misdemeanor of the second degree punishable as provided in Fla. Stat. §§ 775.082 and 775.083.

(ii) For a second or subsequent conviction of a violation of this Ordinance, such person shall be guilty of a misdemeanor of the first degree punishable as provided in Fla. Stat. §§ 775.082 and 775.083.

(iii) A person or entity who violates this Ordinance is subject to the code enforcement provisions, procedures, and penalties as provided in the Town Code and Florida Statutes.

(iv.) These penalties are in addition to any violation of probation or other offenses specified by statute or ordinance.

**Section 8.** All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**Section 9.** If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

**Section 10.** 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 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 11.** This Ordinance shall take effect immediately upon its adoption.

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 30 DAY OF MAY, 2016.**

Council Member McLENDON offered the foregoing ordinance. Council Member JARRIEL seconded the motion, and upon being put to a vote, the vote was as follows:

|                               | <u>Aye</u>                          | <u>Nay</u>               | <u>Absent</u>                       |
|-------------------------------|-------------------------------------|--------------------------|-------------------------------------|
| DAVID BROWNING, MAYOR         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| TOM GOLTZENÉ, VICE MAYOR      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| RON JARRIEL, COUNCIL MEMBER   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| RYAN LIANG, COUNCIL MEMBER    | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| TODD MCLENDON, COUNCIL MEMBER | <input checked="" 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 17<sup>th</sup> DAY OF MAY, 2016.**

ATTEST:

Virginia M Walton  
Virginia Walton, Town Clerk

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

David Browning  
Mayor David Browning

APPROVED AS TO LEGAL FORM:

[Signature]  
Office of the Town Attorney

Tom Goltzené  
Vice Mayor Tom Goltzené

Council Member Ron Jarriel

Ronald Jarriel  
Council Member Ryan Liang

Council Member Todd McLendon

[Signature]  
Council Member Todd McLendon



**RECEIPT**

TOWN OF LOXAHATCHEE GROVES  
NOTICE OF PUBLIC HEARING

The following proposed ordinance, that is published by caption only, will be presented for public hearing, second and final reading, and reviewed and acted on by the Town Council at the public meeting to be held at the Loxahatchee Groves Town Hall, 155 F Road, Loxahatchee Groves, Florida, 33470, on Tuesday, May 17, 2016 at 7:00 p.m., or as soon thereafter as the agenda permits.

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Interested parties may appear at said meeting and be heard with respect to this proposed ordinance. The subject ordinance may be inspected by the public at the offices of the Town of Loxahatchee Groves, 155 F Road, Loxahatchee Groves, Florida 33470, or by contacting the Town Clerk at 561-793-2418. Pursuant to F.S. 286.0105, please be advised that if a person decides to appeal any decision made by the Town Council with respect to any matter considered at this meeting, they will need a record of this proceeding, and for such purpose, they may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons who require special accommodation to participate in the proceedings should call the Town Clerk's Office at 561-793-2418 at least 48 hours in advance to request such accommodation.

Virginia M. Walton, MMC  
Town Clerk  
PUB: The Palm Beach Post  
5-7/ 2016 #599299

**RECEIPT**

Ad shown is not actual print size.

**RECEIPT**

Account: G792  
Name: TOWN OF LOXAHATCHEE GROVES  
Address: 155 F RD  
LOXAHATCHEE GROVES FL 33470-4949

Phone: 561-793-2418  
E-mail:

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Order Name: Notice of Public Hearing  
Order Id: 599299  
Original Order Id:  
Copy Line: TOWN OF LOXAHATCHEE GROVESNOTICE OF PUBL  
Sales Rep: PB116 R Hindmarch (P)  
Purchase Order:  
Pay Type: Billed  
Account Group:  
Caller: Virginia Walton  
  
Section: 6205 Legal Notices  
Reply Request:  
Tear Sheets: 0

**Order Summary**  
Base: \$275.20  
Other Charges: \$0.00  
Discounts: \$0.00  
Agency Commission: \$0.00  
Sales Tax: \$0.00  

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Total Order \$275.20

**Payment Summary**  
*No payment information available.*

**RECEIPT**

Ad Name: 1146703A

Ad Id: 1146703

Original Ad Id:

Start: 05/07/2016  
Stop: 05/07/2016  
Issues: 1  
Words: 387  
Dimensions: 1 X 80  
Color:

**Editions**  
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