

**Historic Town of Eatonville, Florida**  
**THE OLDEST INCORPORATED**  
**African American Municipality in the United States**

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**TOWN COUNCIL**  
**TUESDAY OCTOBER 4, 2022**  
**307 E. KENNEDY BLVD**

**WORKSHOP AGENDA**  
**6:30 P.M.**

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**I. PRESENTATIONS/AWARDS/ACKNOWLEDGEMENTS**

A. Discussion on Public Records Request Under Florida Statutes – (Legal Counsel).

1. INTRODUCTION OF PASS-THROUGH ORDINANCE

**ADJOURNMENT**



**TOWN OF EATONVILLE, FLORIDA**  
 Town Council Workshop  
 TUESDAY, OCTOBER 4, 2022, 6:30 P.M.

**ITEM A:**

Town Council Action

<b>I.</b>	Proclamations, Awards, and Presentations	<input checked="" type="checkbox"/>	Department:
<b>II.</b>	Introduction of Ordinances	<input type="checkbox"/>	Exhibits: <ul style="list-style-type: none"> <li>• N/A</li> </ul>
<b>III.</b>	Consent Agenda	<input type="checkbox"/>	
<b>IV.</b>	Council Discussion	<input type="checkbox"/>	
<b>V.</b>	Administrative	<input type="checkbox"/>	
		<input type="checkbox"/>	

**REQUEST:** To conduct a Special Presentation concerning Public Records Request Under Florida Statutes providing provisions to safeguards the Town of Eatonville.

**SUMMARY:** A Special Presentation concerning Public Records Request Under Florida Statutes presented by the Town Attorney Clifford Shepard. The public records information, will take 30-45 minutes, not including questions and intended to educate, raise awareness, and to provide provisions that will assist in understanding that compliance with a public records request is not optional.

**RECOMMENDATION:** N/A



**Town of Eatonville, Florida**  
**Town Council**  
**WORKSHOP**  
**6:30 PM**  
**OCTOBER 4, 2022**

**Item 1:**

**Town Council Action**

<b>I.</b>	<b>Proclamations, Awards, and Presentations</b>	<input type="checkbox"/>	<b>Department:</b> Legislative  <b>Exhibits:</b> <ul style="list-style-type: none"> <li>• PASS THROUGH ORDINANCE</li> </ul>
<b>II.</b>	<b>Public Hearing 1<sup>st</sup> or 2<sup>nd</sup> Reading</b>	<input type="checkbox"/>	
<b>III.</b>	<b>Consent Agenda</b>	<input type="checkbox"/>	
<b>IV.</b>	<b>INTRODUCTION</b>	<input checked="" type="checkbox"/>	
<b>V.</b>	<b>Administrative</b>	<input type="checkbox"/>	

**INTRODUCTION OF PASS-THROUGH ORDINANCE:** Amending Chapter 42 of the Town of Eatonville Code to provide pass-through fees for costs associated with certain land development applications.

The Town of Eatonville sometimes receives applications for land developments which require the Town to expend extraordinary staff time and hire consultants to assist in reviewing the application for compliance with the Town's code and to protect the health, safety, and welfare of the Eatonville citizens.

Creation of Section 42-10 of the Town Code. Chapter 52, Section 42-10 of the Town Code is hereby created. The Town Council desires to create a scheme whereby such costs are billed directly to the applicants with a deposit required in some instances prior to the Town commencing review.

ORDINANCE will come back to the Town Council for first reading during the October 18, 2022, Council Meeting.

**ORDINANCE #2022-\_\_\_**

**AN ORDINANCE OF THE TOWN OF EATONVILLE, FLORIDA, AMENDING CHAPTER 42 OF THE TOWN CODE TO PROVIDE PASS-THROUGH FEES FOR COSTS ASSOCIATED WITH CERTAIN LAND DEVELOPMENT APPLICATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Eatonville sometimes receives applications for land developments which require the Town to expend extraordinary staff time and hire consultants to assist in reviewing the application for compliance with the Town’s code and to protect the health, safety and welfare of Eatonville citizens; and

**WHEREAS**, the Town Council of the Town of Eatonville finds that the costs of such consultants hired to review these applications should be borne by the applicants rather than the taxpayers at large; and

**WHEREAS**, the Town Council of the Town of Eatonville desire to create a scheme whereby such costs are billed directly to the applicants, with a deposit required in some instances prior to the Town commencing review; and

**WHEREAS**, the Town Council of the Town of Eatonville hereby finds that this Ordinance serves a legitimate governmental purpose and is in the best interests of the public health, safety, and welfare of the citizens of Eatonville, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF EATONVILLE, FLORIDA, AS FOLLOWS:**

**Section 1. LEGISLATIVE FINDINGS.** The recitals set forth above are hereby adopted as the legislative findings of the Town Council of the Town of Eatonville, Florida.

**Section 2. CREATION OF SECTION 42-10 OF THE TOWN CODE.** Chapter 42, Section 42-10 of the Town Code is hereby created and shall read as follows in its entirety:

**Sec. 42-10. Pass-through fees.**

- (a) *Authority.* The Town is hereby authorized to assess and collect fees, deposits, costs and expenses relating or pertaining to the review, inspection, regulation and defense of development-related activities pursuant to this section in addition to any fees adopted pursuant to Section 42-9 of this Code.
- (b) *Definitions.* The following words, terms, and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Applicant* means an owner or an owner's authorized agent who submits an application, proposal, petition or project to the Town.

*Application*, for purposes of this section, means an application, petition or proposal submitted to the Town pertaining to development for which Town approval is required, and shall be limited to the following, except as the provisions of subsection (c) of this section shall apply:

- (1) Comprehensive plan amendment.
- (2) Development agreement, formulation and review.
- (3) Development of regional impact.
- (4) Final or preliminary plat.
- (5) Special exception.
- (6) Planned unit development.
- (7) Site development plan.
- (8) Site plan, as defined under Section 54-27(a) of the Code.
- (9) Rezoning (with or without a comprehensive plan amendment).
- (10) Variance request.
- (11) Vesting determination.
- (12) Impact fee agreements.
- (13) Utility plans and agreements.
- (14) Any other development application or development order not listed above requiring substantial assistance from any Town consultant, as determined by the Town administrator.
- (15) Substantial change in any of the above.

**Town administrator** means the Mayor or Town employee the Mayor has designated as responsible for managing the land development process.

*Town consultant* means those companies, private consultants, governments, individuals, or other entities under contract with the Town to provide services to or for the Town or who provide services to or for the Town or who provide technical or legal expertise to or for the Town, including, but not limited to, attorneys, engineers, planners, environmental specialists, property appraisers and surveyors.

*Town staff* means Town employees.

*Owner* means an owner or group of owners of fee simple title to a particular lot, tract, or parcel of real property.

*Owner's authorized agent* means an agent of the owner duly authorized to submit and process an application. If the applicant is not the property owner, a proper authorization must accompany the application. Such authorization shall be evidenced by a power of attorney signed by the owner and notarized, specifically authorizing the agent to represent the owner in connection with the application and as to the owner's real property which is the subject of the application. The authorization shall include an agreement of the owner to be bound by the actions of the owner's authorized agent and the provisions of this section.

*Review deposit* means a deposit of money, as established by this section, to be paid by an applicant at the time of the filing of an application as defined above or, upon good cause shown, such other development-related application as determined by the Town administrator, or designee as required in subsection (c) of this section.

*Total development review amount* means the total amount of the review deposit to be paid by an applicant pursuant to this section and any fees authorized to be collected by the Town pursuant to this Code.

(c) *Review deposits.*

- (1) *Required review deposits.* A \$5,000.00 review deposit, payable to the Town by money order, personal or company check, or cashier's check drawn on a financial institution authorized to do business in the county shall be delivered to and collected by the Town at the time of submission of each application as defined in subsection (b) of this section. Said review deposit shall be utilized by the Town to reimburse the Town for the actual costs paid by the Town incurred because of the review of the development activity.
- (2) *Other types of development-related applications.* Upon good cause shown, a review deposit, in an amount determined by the Town administrator not to exceed \$5,000.00, paid as set forth above in subsection (c)(1) of this section, shall be delivered to and collected by the Town at the time of submission of such other types of development-related application as may be determined by the Town administrator or at such other time as the Town administrator may designate. The following factors, by way of example, not limitation, may be considered to support a finding of good cause for the imposition of a review deposit during the review and approval of a development-related application other than as described in subsection (b) of this section and for establishing the appropriate review deposit amount: information provided by the Town staff and applicant about the complexity and scope of the proposed development-related application and the development project, the payment history of the applicant as it pertains to past dealings with the Town, and the expected involvement of Town consultants.
- (3) *Waiver of review deposits.* In all cases, the Town administrator may waive the requirement of a review deposit if, based upon information from Town staff and the

applicant, the amount of the fees, costs and expenses relating to the review, processing, inspection, and regulation of such as estimated by the Town administrator will not exceed the application fee. Similarly, should the Town administrator determine at any time thereafter, in their sole discretion, that requiring a review deposit is in the Town's best interest, the administrator may require one at that time. No review of an application pertaining or relating to subdivision plats, development agreements, planned unit developments, a development of regional impact or such other development-related application as determined by the Town administrator shall commence until the application fee and review deposit, if applicable, are paid. The balance of the review deposit, if any, shall be returned to the applicant as provided for in subsection (d) of this section. No interest shall be paid to the applicant on any review deposit on account with the Town.

- (4) *Administrative fee for review deposits.* To mitigate the Town's cost to administer and process a pass-through fee review deposit, an administrative fee equal to three percent of the actual costs of the review by the Town consultant shall be paid to the Town. This administrative fee shall be deducted from the review deposit.

(d) *Project account.*

- (1) Once an application pertaining or relating to an application or, upon good cause shown, such other development-related application as determined by the Town administrator, has been submitted to the Town and the applicable total development application fee has been collected, the Town administrator or designee shall establish an individual project account through which all fees, expenses and costs incurred by the Town which are associated with the applicable application will be monitored. The project account will be maintained throughout the entire review, processing, inspection, and regulation process until the latter of:
  - a. Final action (after all appeal periods have run) by the Town council has occurred with respect to the application;
  - b. No further significant involvement of the Town staff or Town consultants is expected to occur;
  - c. The Town has been paid all of the amounts due under this section and this Code; or
  - d. The expiration of any warranty period associated with the conveyance or dedication of improvements to the Town.
- (2) Fees, costs and expenses for any Town consultant time directly related to the review, processing, inspection or regulation of any application or development pursuant to this section, this Code and/or state statutes, and all other directly related expenses,

including, but not limited to, advertising, legal, inspection and engineering costs, are to be charged to the project account.

(e) *Town invoices.*

(1) *Payment.*

- a. The Town administrator or designee may periodically calculate the costs, expenses and fees incurred by the Town for each application for which a review deposit is required and send an invoice to the applicant for payment. The applicant shall have ten days from the date of the invoice to pay to the Town the invoiced amount. Thereafter, if payment is not received in the required time, the Town administrator or designee shall apply the review deposit toward payment for the invoiced amounts. If the total of the costs, expenses, and fees incurred by the Town for an application for which a review deposit is required exceeds the review deposit, and payment is not received in the required time after invoicing, then the Town administrator or designee shall apply the review deposit to the unpaid portion of the invoice and send a notice of non-payment to the applicant for the remaining amount of the invoice. The Town administrator or designee shall also send a notice to the applicant and to all Town staff and Town consultants associated with the subject application or project, instructing them to cease all work relating to such application or project unless and until further notified by the Town administrator or designee. A copy of such notice shall be sent to the applicant.
- b. Upon receipt of the notice, work by the Town staff and Town consultants on the application or project shall cease, and neither building permits, certificates of completion, temporary certificates of occupancy, nor certificates of occupancy will be issued with respect to such real property. Continuation of the review of the application or project with respect to the real property for which payment was not made will not be undertaken by the Town until such time as all outstanding fees, costs, and expenses due under this section are paid in full and a new review deposit is paid to the Town.
- c. Unless otherwise provided for in this section, if an applicant receives or is granted approval on an application or project or is issued a building permit, certificate of completion, temporary certificate of occupancy, certificate of occupancy, occupational license or other development order by the Town, and additional fees, costs, expenses or such other obligations attributable to the application are thereafter posted to the project account for work that is associated with said approval or issuance, the applicant or successor in interest shall pay said costs, fees and expenses incurred by the Town for such application. The Town shall send an invoice to the applicant or successor for such fees or expenses, and the



applicant or successor shall reimburse the Town for such fees or expenses within ten days.

(2) *Deficiency and liens.*

- a. Failure to pay an invoiced amount within the requested time shall constitute a violation of this section. Any deficiency owed to the Town, whether incurred before or after project approval, shall bear interest from the date of the aforementioned notice of non-payment at the rate of eighteen (18) percent simple interest per annum, or otherwise at the highest rate permitted by law, until paid. The amount of any such deficiency owed to the Town shall, together with interest and the costs of collection as hereinafter provided, shall be the personal obligation of the applicant, and shall be a continuing lien on the real property related to the application or project under review. Any subsequent or new owner of the real property related to the application or project shall take title subject to the obligations of the applicant under the terms of this section and shall be jointly and severally liable for such obligations. An applicant may not escape liability for the deficiency by abandonment of the application or project, withdrawal of such application, or sale of the real property with respect to which such application has been submitted. If the initial or subsequent invoices are not paid in a timely fashion, and the invoiced amount exceeds the amount of the review deposit, the Town may take whatever legal means it deems appropriate to collect the deficiency, including, but not limited to, retaining the services of a collection agency or attorney, initiating legal proceedings for the collection thereof, recording a notice of lien as hereinafter provided, and foreclosing same in the same manner as mortgage liens are foreclosed.
  - b. If the project is subject to the provisions of a development agreement, and the applicant is found to be in default of such development agreement, then it would be considered a default of that agreement and whatever remuneration such development agreement calls for would be applied, as opposed to the provisions called for in this section.
- (f) *Required payments.* Payment for costs, expenses and fees incurred by the Town under this section is a requirement for the Town's final approval of the application and project.
- (g) *Assessable costs, expenses, and fees.*
- (1) All direct costs, expenses and fees incurred by the Town that relate directly to the review, processing, inspection, regulation or defense of an application, including, but not limited to, expenses incurred by Town consultants who review or defend the application at the direction of the Town, as well as other expenses related directly to advertising, surveying, legal review and/or engineering review for an application or project shall be assessed to the applicant and reimbursed to the Town. Assessable

- expenses shall not include the cost of Town employee time in reviewing such application, as such time shall be deemed to have been reimbursed by the application fee.
- (2) Town consultants shall submit records of their time, fees, costs, and expenses to the Town administrator or designee, and such fees, costs and expenses shall be invoiced to the applicant on a dollar-for-dollar basis for services provided under the direction of the Town to review. The rates charged to the applicant for said services shall not exceed those charged to the Town.
- (h) *Objections/appeal.* Any objection to any invoice or to any matter set forth in this section must be set forth in writing and addressed and delivered to the Town administrator on or before the tenth day after the date of the relevant invoice. In the event the Town administrator denies the objection, the applicant shall have ten days after the date of the Town administrator's written decision to file an appeal of such decision with the Town clerk or designee, which appeal shall be heard by the Town council. All objections and appeals shall set forth in detail the reasons and evidence upon which the objection and appeal are based. Failure of the applicant to establish beyond a preponderance of the evidence that an invoice is not appropriate and is not based upon competent substantial evidence, shall result in a denial of the objection and appeal.
- (i) *Attorney fees in the event of failure to pay review costs.* In the event the Town is required to enforce this section, then the Town shall be entitled to recover from the applicant all costs and expenses incurred, including, but not limited to, its reasonable attorney fees, paralegal fees and other costs and expenses, whether incurred prior to, during or subsequent to court proceedings or on appeal, and/or in any bankruptcy proceedings involving the applicant, the real property and/or the project being reviewed.
- (j) *Change of ownership.* An applicant shall provide prompt written notice to the Town administrator in the event of a change in ownership of all or a portion of a lot, tract, or parcel of real property with respect to which an application or project is pending before the Town. Such notice shall be on a form approved by the Town and shall include the name, address and telephone number of the new owner and a legal description of the lot, tract or parcel of real property now owned by the new owner. Any such new owner: (i) shall not be entitled to utilize or draw upon any review deposit previously paid to the Town by the original applicant, (ii) shall be liable to the Town for all fees, costs and expenses related to the lot, tract or parcel of real property which arise subsequent to the date the new owner acquires title to such real property, and (iii) may be required by the Town to pay a separate review deposit in the same manner as a new application, in which case, a separate project account will be opened in the name of the new owner or the new owner's authorized agent. If a separate review deposit is required, no work shall be undertaken by the Town or its consultants with respect to the lot, tract or parcel of real property under control of the new owner until a separate review deposit is paid to the Town. Until such time as the Town

receives such written notice of a change in ownership, the original applicant shall be jointly and severally liable to the Town for all fees, costs and expenses associated with the application or project; provided, however, that upon receipt by the Town of a notification of change of ownership, the original applicant shall no longer be liable to the Town for fees, costs and expenses incurred by the Town which arise after receipt of the notification of change of ownership, and the new owner shall be solely liable to the Town for all such fees, costs and expenses associated with the application or project activities subsequent to the date of receipt by the Town of such notification. Additionally, the applicant shall be entitled to a refund of any review deposit balance as of the date said change of ownership notice is received by the Town.

- (k) *Agreement to be bound by this section.* Submission of an application shall constitute the consent and agreement for the applicant and the owner, if the application is being executed by the owner's authorized agent, to be bound by the provisions of this section.

**Section 3. CODIFICATION.** It is the intent of the Town Council of the Town of Eatonville that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provision of this Ordinance.

**Section 4. CONFLICTS.** After the effective date of this Ordinance, in any case where all or any part of this Ordinance is found to conflict with any provision of any other ordinance of the Town of Eatonville, to the extent of such conflict, all such ordinances are hereby repealed.

**Section 5. SEVERABILITY.** If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unenforceable, unlawful or unconstitutional by a court of competent jurisdiction, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance.

**Section 6. EFFECTIVE DATE.** This Ordinance shall become effective upon adoption.

**Upon motion duly made and carried,** the foregoing Ordinance was approved and passed and transmitted upon the first reading on the \_\_\_ day of \_\_\_\_\_, 2022.

**Upon motion duly made and carried,** the foregoing Ordinance was approved and passed upon the second reading on the \_\_\_ day of \_\_\_\_\_, 2022.

Attest:

**TOWN OF EATONVILLE**

\_\_\_\_\_  
Veronica King,  
Town Clerk

\_\_\_\_\_  
Angie Gardner, Mayor

Approved as to Form:

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Clifford B. Shepard, Town Attorney