

ORDINANCE NO. 379

AN ORDINANCE OF THE TOWN OF HAVANA, FLORIDA, AMENDING CHAPTER 13 OF THE HAVANA CODE RELATED TO NUISANCES AND NUISANCE ABATEMENT ON PRIVATE PROPERTY; DEFINING NUISANCES AND DECLARING SPECIFIC USES AND CONDITIONS TO BE PERMITTED OR PROHIBITED; PROVIDING FOR THE CREATION OF A CODE INSPECTOR AND FOR ENFORCEMENT PROCEDURES AND PENALTIES INCLUDING FINES, FEES, ABATEMENT, LIENS, AND OTHER REMEDIES; PROVIDING FOR APPEALS; AND PROVIDING FOR THE ALTERNATIVE USE OF CIVIL CITATIONS AND CIVIL PENALTIES AND FOR THE PROCEDURES GOVERNING USE OF THE SAME.

WHEREAS, as provided in Article VIII, Section 2(b), of the Constitution of the State of Florida and Chapters 162 and 166, *Florida Statutes*, the Town of Havana (hereinafter the "Town") enjoys all home rule authority, police power, and governmental and proprietary powers necessary to conduct municipal government and perform municipal functions, including the authority to determine and declare the existence of a nuisances and other prohibited conditions, and to provide for the abatement of same; and

WHEREAS, the Town may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, the Town finds that in order to secure healthy and humane living conditions, to protect against dangers to the public, health, safety, or welfare, to prevent blight, to abate accumulations of trash, junk, debris, and other items, materials, or conditions unpleasant to reasonable persons of average sensibilities, to prevent the undue depreciation of property values and to protect the integrity of investments in real property, it is necessary to regulate, restrain, and abate the proliferation of certain activities, uses, or conditions now occurring, or which may occur, within the Town's jurisdictional limits; and

WHEREAS, the Town has determined that its existing laws and procedures regulating such detrimental activities and conditions, and providing for the enforcement of the same, are outdated and insufficient to meet the Town's current needs; and

WHEREAS, the Town finds that it is desirable and beneficial to the citizens and residents of the Town to adopt a new and more comprehensive ordinance more clearly defining prohibited uses, activities, or conduct deemed to be nuisances and providing for more effective enforcement procedures; and

WHEREAS, the Town finds that those certain activities and conditions identified and prohibited by this Ordinance are nuisances and a detriment to the public health, safety, and welfare of the citizens and residents of the Town;

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

1. This Ordinance shall become effective immediately upon adoption.

2. Chapter 13 of the Havana Code is hereby amended as follows:

CHAPTER 13
NUISANCES

ARTICLE I. GENERAL PROVISIONS

Sec. 13-1 – Authority.

Pursuant to home rule and police powers under Article VIII, Section 2, of the Florida Constitution, the Town has the authority to determine and declare the existence of a nuisances and other prohibited conditions, and has the authority to provide for the abatement of same.

Sec. 13-2 – Scope and Construction.

This Chapter shall be effective within the jurisdictional limits of the Town of Havana (the “Town”) and shall be liberally construed in order to effectuate its purpose and intent.

Secs. 13-3–13-25. Reserved.

ARTICLE II. NUISANCES ON PRIVATE PROPERTY

Secs. 13-26–13-35. Repealed.

Sec. 13-36 – Purpose and Intent.

The purpose of this Article is to regulate, restrain, and abate activities or conditions which are detrimental to health or threaten danger to persons or property within the Town. More specifically, to secure healthy and humane living conditions, protect against dangers to public, health, safety, or welfare, prevent blight, to abate accumulations visually unpleasant to reasonable persons of average sensibilities and that it to depreciate the value of neighboring property, and to protect the integrity of investments in real property by regulating and prohibiting nuisances and other conditions of public concern.

Sec. 13-37 – Nuisances Declared; Prohibited; Abatement.

(1) It is hereby declared that any use or condition of premises which is detrimental to the health, safety, welfare, or property of others, which causes or tends to cause a substantial diminution in the value of the property of others, or which unreasonably annoys or disturbs persons of ordinary sensibilities in the free use, possession, or enjoyment of their property, is a nuisance.

(2) Except as provided herein, no person owning, leasing, occupying, or having charge of any premises shall keep, maintain, or permit any nuisance thereon.

(3) The Town is authorized to terminate or abate any nuisance in the manners herein provided.

Sec. 13-38 – Specific Nuisances Declared.

The following conditions are specifically declared to constitute a nuisance and a menace to the public health, safety and welfare:

(1) The growth of grass, weeds, brush, or undergrowth on improved property which exceeds a height of 14 inches. *Grass & weeds*

(2) Fences and other structures in such disrepair that they are no longer useful for their intended purpose. *(Chainlink fence destroyed)*

(3) Any "attractive nuisance" or condition which may prove detrimental to the health and safety of children, including, but not limited to, abandoned wells, shafts, excavations, abandoned or broken equipment or appliances, abandoned or inoperable motor vehicles, structurally unsound fences or structures, accessible artificial bodies of water, and accumulations of lumber, trash, debris, or vegetation, such as poison ivy, oak, or sumac, which may prove a hazard for inquisitive minors. *Safety for children & adults (Sink holes)*

(4) The open accumulation or storage of any the following, except to the extent that such items are reasonably organized for scheduled collection and disposal within 7 days:

- (a) Garbage, refuse, rubbish, trash, waste, debris, or junk, including but not limited to accumulations of discarded paper, glass, metal, rags, boxes, containers, sweepings, broken toys, food, household items, and other noxious accumulations of a similar nature.
- (b) Fallen trees and any substantial accumulations of other non-living plant/vegetative matter.
- (c) Stoves, refrigerators, washers, dryers, dishwashers, bedding, mattresses, chests, bookcases, and other similar household furnishings or appliances.
- (d) Construction materials or rubbish, including but limited to bricks or concrete blocks, cement mixers, lumber, planking, scaffolding, or scrap wood, unless such materials are reasonably organized, are stored in connection with an ongoing permitted and/or authorized construction project, and are used/removed within a time reasonable to the project. *Broken Glass etc.*
- (e) Vehicles, vessels, aircraft, machinery, or equipment that are derelict, inoperable, unlicensed, abandoned, wrecked, disassembled, scrapped, or otherwise in an evident state of disrepair or disuse, along with any parts or pieces thereof, such as tires, motors, or wheels.

- (f) Any other broken, abandoned, discarded, or unused materials, machinery, metals, lumber, equipment, or objects, or any property which is no longer safely usable for the purpose for which it was manufactured. *Broken Glass/destroyed Buildings*
- (5) Property which has, or may reasonably become, infested or inhabited with unreasonable numbers of rodents, vermin, wild animals, or snakes, or which has or may become a breeding place for mosquitoes, flies, or other insects which may cause harm or disease; *Rats/Bats/Dogs*
- (6) The carcass of any animal not intended for human consumption or food which is not buried or otherwise disposed of in a sanitary manner within 24 hours after death.
- (7) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, industrial wastes, garbage, debris, or other similar substances.
- (8) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other emissions in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to the property of others.
- (9) The escape of any noxious or disagreeable odors or emissions repulsive to the physical senses of ordinary persons which annoys, injures or inconveniences the health of others.
- (10) Any hazardous waste or chemicals not possessed, kept, or maintained in compliance with local, state, or federal laws, or manufacture instructions.
- (11) Any unfit, unsanitary, abandoned, unsafe, or unsound dwelling, structure, or improvement upon real property. *See above*
- (12) Any property where any activity in violation of local, state, or federal law is conducted, performed, permitted, or maintained.
- (13) Any public nuisance or nuisance *per se* known at common law or in equity or as provided by the statutes of the State of Florida.

Sec. 13-39 - Exceptions.

This Article shall not be construed to prohibit any of the following:

- (1) The storage of nonliving plant material in compost bins provided that: (i) no more than two compost bins per primary structure are present, (ii) the area surrounding all bins are kept free of excessive growths of grass or weeds in order to prevent rodents, vermin, reptiles or other wild animals from living and breeding around the bins; (iii) the bins are adequately screened, and (iv) no bins str located in the front yard of the principal structure or within ten feet of any side or rear property line.

(2) The accumulation of cut wood for use as fuel, provided that: (i) it is piled, stacked, bundled, or corded, and (ii) the surrounding area is free of excessive growth of grass, weeds, brush and branches.

(3) Any items or materials appropriate for, and maintained at, a designated and/or properly permitted junkyard, landfill, scrap metal processor, or recycling operation, operating in compliance with all applicable local, state and federal laws.

(4) Any items or materials located in an area maintained by the Town or any other public entity for the express purpose of the accumulation or storage of the same.

(5) The accumulation of weeds, undergrowth or other plant material on lands which are in an undeveloped state, meaning land that is in a natural state which has never been cut mowed, or improved.

(6) Conditions, items or materials expressly made lawful any other Town ordinance.

Sec. 13-40 – Responsibility for Noncompliance.

All owners and occupants of property upon which a violation of this Article occurs shall be jointly and individually responsible for any violation of this Article, regardless of whether such violations may occur on property leased, occupied, maintained, or managed by others.

Sec. 13-41 – Code Inspectors.

(1) “Code Inspector” shall mean the Chief of Police or any designee(s) thereof whose duty it is to ensure compliance with this Article.

(2) A Code Inspector shall be charged with the duty of making such inspections, compiling such facts and evidence, and preparing such reports and taking other actions as may be necessary to effectuate the purposes and intent of this Article. The Code Inspector shall report any findings of non-compliance to the Town Manager as provided herein.

(3) No person shall oppose, obstruct or resist any Code Inspector or any person authorized by the Code Inspector in the discharge of their duties as provided in this Article.

Sec. 13-42 – Enforcement Procedures Declared Supplemental.

The enforcement and abatement procedures contained herein are supplemental, additional, and alternative to all other rights and powers of enforcement and abatement available to the Town, including, but not limited to, the powers contained elsewhere in the Town Code or conveyed to the Town in Chapter 162, *Florida Statutes*. The Town’s adoption and/or use of the procedures herein shall not be construed as limiting the Town’s right or power to use any other lawful procedure or choice of remedy.

Sec. 13-42 – Enforcement Procedure: First Violation

(1) Whenever a Code Inspector has reasonable cause to believe that a violation of this Article is occurring, the Inspector shall serve, or cause to be served a written Notice of Violation on the owner and, if known, the agent, custodian, lessee, or occupant of the property, setting forth: (a) the date of issuance, (b) the name and address of the person to whom notice is given, (c) the location of the property upon which the violation exists, (d) a description of the violation and/or conditions to be corrected, (e) a reasonable time period of not less than 7 calendar days within which the person must correct the violation, and (f) a statement that if the violation is not timely terminated or abated, the Town may cause a civil citation to be issued to the recipient, may cause the violation to be terminated and abated at the owner's expense, or may cause other legal action to be initiated. The notice shall be delivered by hand delivery, by certified mail (return receipt requested), or by posting and keeping posted for 48 hours a copy of the notice in a conspicuous place on the premises and also at Town Hall.

(2) If the noticed violation is neither timely corrected nor appealed as provided in section 13-44, or if the violation is corrected but recurs within the noticed abatement period, the Code Inspector shall report such to the Town Manager and provide him or her with a copy of the notice and any evidence collected of the violation. Upon consideration of the issue, the Town Manager shall determine whether a violation has occurred. If no violation is found, the matter shall be discharged. If a violation is found, the Town Manager may take any action authorized by this Article or permissible under state and federal law.

(3) The Town Manager may at his or her discretion cause any alleged violation to be set for hearing for determination by the Town Council or Code Enforcement Board.

Sec. 13-43 – Enforcement Procedure – Repeat Violations. 1st 7/30/21 2nd 9/1/21

(1) If the Code Inspector finds that the same property has had more than one of the same type of violation within any 12-month period, the Inspector shall notify the violator of the violation as provided in section 13-42, but is not required to give the violator a reasonable time to correct the repeat violation. The Code Inspector shall instead immediately report the matter to the Town Manager and provide him or her with a copy of the notice and evidence of the violation, as well as copies of the prior notice(s) of the same violation issued within the preceding 12 months. Upon consideration of the issue, the Town Manager shall determine whether a repeat violation has occurred. If no violation is found, the matter shall be discharged. If a violation is found, the Town Manager may take any action authorized by this Article or permissible under state and federal law.

Sec. 13-44 – Appeals

(1) Time for Appeal: Within the time for abatement or appeal established by the Notice of Violation, or within 7 days of delivery of notice of a repeat violation or a violation constituting a severe threat to public health or safety, an aggrieved party may appeal the determination of a Code Enforcement Officer that a violation of this Article has occurred to the Town Manager. The filing of a timely appeal shall toll the accumulation of all fines and penalties until a decision on the appeal is made. Except for violations constituting a severe threat to public health or safety, the Town shall not undertake abatement actions while an appeal is pending.

(1) Form of Appeal: An appeal under this section: (a) shall be in writing, (b) shall be addressed to Town Manager, and (c) shall include any evidence the aggrieved party wishes to have reviewed by the Town in support of the appeal.

(2) Procedure for Appeal: Upon receipt of a timely appeal, the Town Manager shall request from the Code Inspector a copy of the notice and any evidence of the violation, and shall determine whether reasonable cause exists to believe that a violation has occurred. If no-reasonable cause is found, the matter shall be discharged. If reasonable cause is found, the Town Manager shall set the matter for hearing before the Town Council. At a properly noticed public hearing, The Town Council shall allow the Code Inspector or his designee and the aggrieved party an opportunity to present evidence and to examine and cross-examine witnesses. After considering the evidence, the Town Council shall make a factual determination as to whether the property is (or was if abatement action has already occurred) in violation of this Article. If no violation is found, the matter shall be discharged. If a violation is found, the Town shall issue an order requiring the aggrieved party to promptly terminate or abate the violation within a specified reasonable time of not less than 7 days. If the aggrieved party has not remedied the violation within the specified time, the Code Inspector shall so inform the Town Manager and the Town Manager shall cause the violation to be terminated and abated forthwith.

(2) Civil Citations: The issuance of a civil citation as authorized herein shall terminate any appeal, or right to appeal, and the matter will be addressed and determined by a judge of the County Court.

(3) Appeals to the Circuit Court: An aggrieved party may appeal a final decision of the Town Council to the Circuit Court of this county. Such an appeal shall not be a hearing *de novo* but shall be limited to appellate review of the record created at hearing before the Town Council. An appeal must be filed within 30 days of rendition of the appealed order.

(4) Creation of Code Enforcement Board: The Town Council reserves the right to create a code enforcement board, which shall be authorized to hear and review appeals and other code enforcement issues in place of the Town Council. The membership and qualifications of such board shall be determined by Town council by resolution.

Sec. 13-45 – Remedies & Penalties.

(1) Upon the finding a violation by the Town Manager, any and all of the remedies and penalties provided herein may be imposed.

(2) Agreements: The Town Manager may enter into an agreement with the violator to take certain measures to remedy or abate the nuisance and to reduce or eliminate any fees, costs, or penalties imposed herein.

(3) Administrative Fees & Costs:

(a) The Town shall charge an administrative fee of \$15 for the processing of violations of this Chapter resulting in a Notice of Violation.

(b) A violator shall also be responsible for reimbursement to the Town of all costs and expense incurred to enforce this Article, or to prosecute and/or abate a violation of this Article.

(4) *Abatement:* The Town Manager may cause a violation of this Article to be terminated and abated at the owner's expense. The abatement of a violation by the Town does not create a continuing obligation on the part of the Town to make any further repairs or to maintain the property and does not create any liability against the Town for any damages to the property if such repairs were completed in good faith.

(5) *Fines:*

(a) The Town Manager may order the violator who fails to correct a noticed violation to pay an administrative fine in an amount specified in this section for each day the violation continues past the date set by the order for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the Code Inspector. Such fines shall cease to accrue upon abatement of the condition by either the Town or the violator.

(b) A fine imposed pursuant to this section shall not exceed \$100 per day for a first violation and shall not exceed \$250 per day for repeat violations. However, if the Town Council finds a violation to be irreparable or irreversible in nature, the Town may impose a fine not to exceed \$5,000 per violation. In determining the appropriate amount of the fine, the following factors should be considered:

- i. The nature and gravity of the violation;
- ii. Any good faith actions taken by the violator to correct the violation; and
- iii. Any previous violations committed by the violator.

(c) A fine imposed pursuant to this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien filed pursuant to this section, whichever occurs first.

(d) The Town Council may reverse or reduce a fine imposed by the Town Manager upon a request for review by an aggrieved party within 15 calendar days of imposition of the fine.

(e) In order to halt the accumulation of fines, a person who voluntarily abates a violation of this Article must declare, in a writing delivered to the Town Manager, that the violation has been abated and the actions by which abatement has been achieved. Fines will cease to accrue on the date of such delivery—subject to confirmation by the Town of abatement.

(6) *Permit Denial & Revocation of occupational license:*

- (a) While any unpaid charges, fees, fines, or liens exist under this Article, no building or zoning permit or license in any other form of Town approval shall be issued to anyone affecting or relating to the subject property until such lien or charges are satisfied or satisfactory arrangements are made with Town for payment.
- (b) In the event that any charges, fees, fines, or liens imposed under this Article remain unpaid for a period of more than 30-days, the Town Manager may commence revocation of any occupational license granted by the city to the violator.

(7) *Liens:*

- (a) Special Assessment Liens: The abatement of active nuisances is remedial in nature and is designed to protect the public welfare by directly improving and benefiting the property upon which the violation occurred by bringing the property into compliance with this Article. The actual cost and administrative expenses of the abatement action(s) may be levied as a special assessment, which shall constitute a lien against the benefited property. A special assessment lien shall be coequal with the lien of all state, county, district, and municipal taxes and superior in dignity to all other liens against the real property.
- (b) Municipal Liens: All fees, fines, and costs imposed by this Article, if not the subject of a special assessment lien, may be recorded in a certificate of indebtedness in the official records of the county and, upon such recording, shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.
- (c) Procedures for liens:

- i. A claim of lien provided in this Section shall be adopted by the Town Council in the form of a resolution at a public meeting.
- ii. The claim of lien shall state the amount of the lien, and such amount shall include the following when applicable:
 - a. A legal description of the real property upon which the abatement services were rendered, including the street address;
 - b. The name(s) and address(es) of all owner(s) of the property;
 - c. A summary description of the abatement services rendered and the dates on which they were rendered; and

- d. The amount of any fees, fines, or costs covered by the lien, including the cost of delivering or mailing any required notices, the cost of recording, and any other administrative costs;
 - (a) A certified copy of the resolution adopting the claim lien and the claim of lien shall be recorded in the official records of the county and, upon such recording, shall thereafter constitute a lien against the property.
 - (b) Upon petition to the circuit court, such resolution shall be enforceable in the same manner as a court judgment by the sheriffs of this state, including execution and levy against the personal property of the violator, but such order shall not be deemed to be a judgment of a court except for enforcement purposes.
 - (c) The Town may also enforce a lien created under this Article using any method available to it under Florida law, including the initiation of legal proceedings to collect on or foreclose on the lien and may recover the costs of the suit and reasonable attorney's fees. However, no municipal lien may be foreclosed on real property which is a homestead under s. 4, Art. X of the Florida Constitution.
 - (d) The lien shall be deemed satisfied when the amount due, including any statutory interest thereon, has been paid in full. The satisfaction shall be adopted by the Town Council in the form of a resolution at a public meeting.
- (8) *Civil Citations:*
- (a) Pursuant to Chapter 162, Part II, *Florida Statutes*, enforcement of this Article by issuance of a civil citation shall be available for any violation of this Article.
 - (b) A code enforcement officer is hereby empowered to issue a civil citation to any person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed or is committing a violation of this Article.
 - (c) Each violation of this Article constitutes a separate civil infraction punishable by a civil penalty as provided herein. Each day such a violation persists following notice as provided in Section 13-42 or 13-43, shall continue shall be deemed to constitute a separate civil infraction, but shall not require a separate notice.
 - (d) Prior to issuing a citation under this Section, the officer shall provide written notice to the owner or occupant of the premises as provided in Section 13-43 above. Thereafter, if upon personal investigation the code enforcement officer finds that the person has not corrected the violation, the officer, with the written consent of the Town Manager, may issue a civil citation to the person responsible for the violation.

A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation of the same or similar type is found or if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare, or if the violation is irreparable or irreversible, or if the violation is itinerant or transient in nature.

For the purposes of this Article, repeat violations of a similar type means that a person has, within the previous 12-months, engaged in one or more violations of this Article which were the same as, or were materially similar to, the currently cited violation. Violations which remain uncorrected for a period of 30-days or more after the issuance of a citation shall also constitute repeat violations of a similar type.

- (e) A civil citation issued under this Section shall contain the matters specified in § 162.21(3)(c), Florida Statutes (2019), and shall be provided to the alleged violator by either hand-delivery by the issuing officer, or delivery by certified mail, return receipt requested. After issuing a citation, the code enforcement officer shall deposit the original citation and one copy of the citation with the county court, who will hear the charge.
- (f) A person who receives a citation may contest the citation by filing a written demand with the county court requesting a hearing within the time period provided on the notice. Upon receipt of such demand, the clerk of court will schedule a hearing and send a notice of the hearing to the alleged violator and the officer who issued the citation. If a person fails to pay the penalty within the specified period or fails to timely request a hearing, that person shall be deemed to have waived the right to contest the citation.
- (g) Upon a finding of a violation at a hearing, or if an alleged violator fails to pay or contest the civil fine within the time allowed, or fails to appear in court to contest the citation at the scheduled date and time, the court shall enter a judgment against the violator. A judgment may include the civil penalties provided herein, injunctive relief requiring the termination or abatement of the violation, and any other relief deemed necessary and proper by the court.
- (h) The following civil penalties are hereby established:
 - (a) First violation: \$50;
 - (b) Second violation of a similar type: \$100;
 - (c) Third and subsequent violations of a similar type: \$250.

A person who does not contest a violation shall be subject to a civil penalty in the following amount which may be paid directly to the Town Clerk:

- (a) First violation: \$25;

- (b) Second violation of a similar type: \$50;
- (c) Third and subsequent violations of a similar type: \$125.

The civil penalties established in this section shall always be cumulative and in addition to any other penalties which may be provided by law.

- (i) The provisions of this section shall also apply to all violations of the Town Code of Ordinances and includes any ordinance of the Town, wherever found, which is not specifically set forth in this Section.
- (j) A judgment confirming that a violation has occurred shall be deemed conclusive proof of a violation, and shall authorize the Town or Town Manger to take any other action authorized by this Article or permissible under state and federal law.

(9) *Civil Actions:* As provided in § 162.30, *Florida Statutes*, the Town Manager enforce any violation of a county or municipal code or ordinance by filing a civil action seeking any relief allowed by law.

(10) *Other Acts:* The Town may take any other act, or combination of acts, allowed by law.

Sec. 13-46 – Attorney's fees.

The prevailing party in any legal action, appeal, or proceeding instituted to contest any action by the Town under this Article shall be entitled to reasonable attorneys' fees and costs notwithstanding, in the event the Town prevails, that the attorney handling the matter may be an employee of the Town.

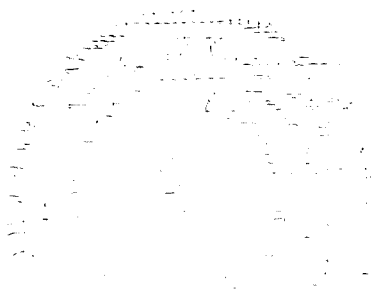
Sec. 13-47 – Severability.


If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

Sec. 13-48 to 13-55. Reserved.

INTRODUCED in open session of the Town Council of the Town of Havana, Florida, the
1st day of August, 2019.

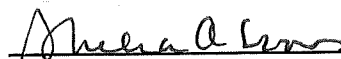
ADOPTED AND PASSED in open session of the Town Council of the Town of Havana,
Florida, this 24th day of September, 2019.





Presiding Officer of the Town Council
of the Town of Havana, Florida

ATTEST:



Clerk of the Town of Havana and
Clerk of the Town Council thereof