

**ORDINANCE NO. 2023-15**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING SECTION 20-015 “PERMITTED USES” OF ARTICLE 20 “RESIDENTIAL ZONING DISTRICTS” WITHIN PART II “ZONING DISTRICTS” AND ARTICLE 65 “AGRICULTURAL USES” WITHIN PART III “SUPPLEMENTAL REGULATIONS” ALL 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 legislature has adopted Sections 570.85 and 823.14, F.S., providing certain protections and restrictions as to agricultural and agritourism uses within the State of Florida; and

**WHEREAS**, pursuant to the statutory intent, the Town is limited in its ability to regulate agricultural and agritourism uses within the Town; and

**WHEREAS**, the Town desires to amend and clarify its regulations relating to agricultural uses and adopt regulations relating to agritourism uses within its adopted Unified Land Development Code (“ULDC”); and

**WHEREAS**, the Town Council has determined that the provisions in this ordinance are a clarification of the application of the Town’s regulations to the development of land for these statutorily protected uses and is not more restrictive or burdensome than existing regulations; 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 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 amends Section 20-015 “Permitted Uses” of Article 20 “Residential Zoning Districts” within Part II, “Zoning Districts” of its Unified Land Development Code to read as follows:

**Section 20-015. Permitted uses.**

Plots located in the Agricultural Residential (AR) zoning districts may be used for the following specified uses.

| <b>Principal Uses</b>              | <b>Agricultural Residential (AR)</b>     |
|------------------------------------|--|
| Single Family Dwelling             | Permitted                                |
| Modular Home or Factory-Built Home | Permitted subject to Section 80-65       |
| Essential Services                 | Permitted w/Special Exception            |
| Agriculture                        | Permitted                                |
| Wireless Communication Facilities  | Permitted w/Special Exception Category A |
| <b>Accessory Uses</b>              | <b>Agricultural Residential (AR)</b>     |
| Accessory Dwelling                 | Permitted                                |
| Groom’s Quarter                    | Permitted                                |
| Caretaker’s Quarter                | Permitted                                |
| Home Offices                       | Permitted subject to Article 80          |
| Residential Enterprise             | Permitted subject to Article 80          |
| Wholesale Nursery                  | Permitted                                |

Underline language is added and ~~strikethrough~~ language is deleted.

|                     |  |
|---------------------|--|
| Retail Nursery      | Permitted w/Special Exception Category B |
| U-Pick Farms        | Permitted w/Special Exception Category B |
| Private Kennels     | Permitted                                |
| Private Stables     | Permitted                                |
| Yard Sales          | Permitted subject to Article 80          |
| Veterinary Services | Permitted                                |
| Dog Boarding        | Permitted                                |
| Temporary Events    | Permitted w/Special Exception Category C |
| <u>Agritourism</u>  | <u>Permitted subject to Article 65</u>   |

**Section 3.** The Town of Loxahatchee Groves hereby amends Article 65 “Agricultural Uses” within Part III “Supplemental Regulations” of its Unified Land Development Code to read as follows:

**Article 65 AGRICULTURAL AND AGRITOURISM USES**

**Division I. Agricultural Uses**

**Section 65-005. Purpose and intent.**

The purpose and intent of this ~~article~~ division is to protect, and provide regulatory relief for, reasonable agricultural activities conducted on farm land in the Town as consistent with the Florida Right to Farm Act (823.14, F.S.).

**Section 65-010. Determination of valid agricultural use.**

Any property owner who seeks the regulatory relief provided for an agricultural use as defined herein, must ~~either~~ provide documentation to the Town from the Palm Beach County Property Appraiser's Office demonstrating that the property is currently classified as agriculture pursuant to F.S. § 193.461, as may be amended from time to time, or as an alternative, demonstrate to the Town Council that the use is agricultural, as defined herein. Once documentation is provided, the Town shall maintain an on-going record of such use and assume that each property continues to maintain its agricultural status unless a claim is made otherwise. If a claim is made otherwise, the property owner shall demonstrate the use is agricultural as provided for in this section.

Underline language is added and ~~strikethrough~~ language is deleted.

**Section 65-015. Nonagricultural uses and structures on properties with a bona fide agricultural use.**

Nonagricultural uses and structures on properties with a valid agricultural use shall not qualify for modifications or exceptions to the Code based on agricultural status unless specifically stated otherwise.

**Division II. Agritourism Uses**

**Section 65-030. Purpose and intent.**

The purpose and intent of this division is to protect, and provide regulation and regulatory relief for, reasonable agritourism activities conducted on bona fide agricultural land in the Town as consistent with section 570.85, F.S.

**Section 65-035. Determination of valid agritourism use.**

Any property owner who seeks the regulatory relief provided for an agritourism use as defined herein, must provide documentation to the Town from the Palm Beach County Property Appraiser's Office demonstrating that the property, or portion thereof, is currently classified as agriculture pursuant to section 193.461, F.S., that the purported agritourism use is consistent with the agricultural use on the same property and otherwise meets the requirements of section 570.86, F.S., and that the property owner is in compliance with 570.89, F.S.

**Section 65.040. Substantial offsite impacts of agritourism activities.**

- (A) Subject to the limitations of section 823.14, F.S., substantial offsite impacts caused by agritourism uses are prohibited.
- (B) Substantial offsite impacts that may be caused by agritourism activities include, but are not limited to, the following:
  - (1) Traffic and Parking. Ingress to and egress from the property causing substantial interference with traffic on abutting streets or resulting in the generation or creation of traffic inconsistent with the health, safety and welfare of the community. Vehicles entering or exiting the right-of-way to or from the property that utilize turning movements that are hazardous or a nuisance due to the design or function of the ingress and egress connection to the property. Parking on local roadways and Town maintenance easements.
  - (2) Noise. Excessive noise as set forth in section 50-010, ULDC.
  - (3) Lighting. The overspill of light originating from the subject property onto any other plot or street that exceeds one-tenth horizontal foot-candle measured at grade level at the property line and any outdoor lighting, other than motion-detected security lighting, that is not extinguished between 11:00 p.m. and dawn.
  - (4) Odors. Objectionable odors as set forth in section 50-025, ULDC.
  - (5) Vibrations. Vibration noticeable by a person of reasonable sensitivity at the property line, including bass emanating from audio speakers, which is prohibited by section 50-020, ULDC.

- (6) Dust. Unconfined dust that emanates across property lines.
- (C) If an agritourism use is anticipated to or is determined, in the sole discretion of the Town, to cause substantial offsite impacts, the property owner shall prevent, correct or mitigate for such impacts as follows:
- (1) Traffic and Parking. The property owner shall provide a traffic study and site plan to show sufficient circulation and parking on-site for all agritourism activities on the property to alleviate traffic stacking and parking in the right-of-way. Alternatively, the property owner may provide for off-site parking through agreement for same with another property owner and provision of shuttle service from the parking area to the agritourism activity and shall provide a traffic study and site plan for the alternative parking site as well as the parking agreement. Any proposed off-site parking shall be on property that is properly zoned for and can accommodate the parking for the agritourism activities and designed to alleviate traffic stacking and parking in the right-of-way. The property owner shall provide Maintenance of Traffic for agritourism events, including pre and post event, to prevent or reduce traffic stacking.
  - (2) Noise. The property owner shall provide a noise study and maintain noise levels for all agritourism activities below the thresholds for excessive noise. The property owner may obtain a special event permit up to three (3) times per year for agritourism activities that would allow excessive noise, pursuant to section 80-025, ULDC.
  - (3) Lighting. The property owner shall install timers, cutoff fixtures, shields and baffles and adjust pole height and fixture mounting height, lighting intensity, placement and angle for all lighting creating substantial offsite impacts and provide a photometric plan.
  - (4) Odors. The property owner shall eliminate and prohibit objectionable odors that emanate off-site as part of any agritourism activities.
  - (5) Vibrations. The property owner shall eliminate and prohibit vibrations that emanate off-site as part of any agritourism activities.
  - (6) Dust. The property owner shall eliminate and prohibit the off-site emanation of dust from any agritourism activities, including application of dust suppressants to areas in which the agritourism activities generate dust.
  - (7) The property owner may provide additional means to prevent, correct, or mitigate substantial off-site impacts, including, but not limited to, limiting hours of operation of the agritourism activities.
- (D) The property owner shall submit documentation to the Town to establish compliance with the requirements for prevention, correction or mitigation of substantial off-site impacts. Such documentation shall be provided to the Town no later than thirty (30) days prior to an agritourism activity that it anticipated to cause substantial offsite impacts and within thirty (30) days following the date of any written notice of substantial offsite impacts issued to the property owner by the Town.

(E) Preventions, correction and mitigation of the substantial off-site impacts of agritourism uses shall be processed and reviewed as a Category B special exception, though such review will be limited to the standards set forth in this section.

(F) Violations of this section may be enforced by the Town in accordance with Chapter 14 of the Code or any other applicable legal remedy.

**Section 65.045. Construction related to agritourism activities.**

Construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public on properties with a valid agritourism use are not subject to regulatory relief and shall not qualify for modifications or exceptions to the Code based on agritourism status unless specifically stated otherwise.

**Section 4. 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 5. 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 6. 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 7. 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