

TOWN OF LOXAHATCHEE GROVES

155 F Road Loxahatchee Groves, FL 33470



AGENDA MEMO

TO: Town Council

FROM: Ruth Holmes and Jim Fleischmann

DATE: April 15, 2024

SUBJECT: Agritourism Committee Report

The Agritourism Committee (Committee) convened on four occasions during the January – April 2024 period. The purpose of the meetings was to discuss the issue of substantial offsite impacts of an agritourism business or event. In addition to Town staff, Assistant Deputy Commissioner of the Department of Agriculture and Consumer Services, Steven Hall, and the Palm Beach County Assistant Fire Marshall, Chris Henry, each attended one of the meetings.

Conversations centered around the following potential offsite impacts: traffic; parking; lighting; noise; odors; vibrations; dust; and signage. Each of these topics were individually discussed. In addition, the following general recommendations were supported by consensus:

1. Proposed Ordinance 2023-15, which failed at the Council, contained Section 65-035 *Substantial offsite impacts of agritourism activities*. If a similar ordinance is proposed in the future, this section should not be included. Potential substantial offsite impacts can be addressed by the code enforcement process.
2. The Town's ULDC currently contains language that addresses each of the above offsite impacts. Additional language that unduly restricts or targets agritourism businesses should not be incorporated within the ULDC. All properties in Town should be subject to the same standards, restrictions, and enforcement.
3. The Town should add an Agritourism page to the Town's website. The page would provide: 1 information and direction to local bona fide agriculture property owners on how to incorporate an agritourism activity component to their business; and 2. a list of local agribusinesses and their contact information. A Voluntary Agritourism Business Description Form would be completed by the business owner to provide information for the website.

4. Use by the Town of a Voluntary Business Tax Receipt (VBTR) Fee Exemption Request form to register agritourism businesses in Town.
5. Any ULDC revisions should be reviewed and drafted by the RETAG Advisory Committee and/or the Planning and Zoning Board (PZB) prior to consideration by the Town Council.

In addition to the above general recommendations, the Committee reviewed provisions in the Town's ULDC that address each of the above potential off-site impacts. Specific definitions of "substantial" were not determined for any of the potential offsite impacts. However, the following recommendations for their use, revision or replacement were prepared.

Traffic

A. Townwide Traffic Volume: The Committee has recommended that the Town adopt townwide local traffic standards.

B. Townwide Traffic Safety

1. The Town's Code contains two principal sections related to traffic safety that the Committee has recommended to be retained on a townwide basis, including as they apply to Agritourism uses; ULDC Section 105-005 *Site Distance Triangle*; and Section 100—045 (6) which prohibits parking on local streets. Copies of these ULDC Sections are included in Attachment A.
2. A requirement for the use Palm Beach Fire Rescue (PBFR) access standards (20-foot driveway width; 13 feet 6-inch clearance; and 90-foot turnaround – circular driveway O.K.). The Committee has recommended that PBFR access standards be used by Agritourism businesses. A recommendation for a Code amendment to require townwide use was not made.

Parking

The Code does not contain minimum parking requirements for Agritourism. It was discussed by the Committee to use the parking provisions in the Code Section 80-025 *Special Event Permits* although no final recommendation was made. A copy of Section 80-025 is included in Attachment B. The Committee recommended that a code revision to permit off-site parking under certain circumstances in the AR District be investigated. ULDC Section 95-035 (Ref: Attachment I) establishes current shared parking regulations.

Noise

The Committee reviewed Sec. 50-010, ULDC, which sets forth the townwide regulations for excessive noise. The Committee recommended that the following hours of operation, rather than decibel levels, be used for Agritourism. Monday – Thursday close at 10:00 p.m.; Friday – Sunday and weekday holidays close at Midnight. **-2-**

The Committee also recommended that, if decibel levels are to be the Townwide standard, acceptable levels need to be revised above the current standard of 55dB to account for levels generated by normal agricultural operations and further reviewed for appropriate hours of operation. A copy of Section 50-010 is included in Attachment C.

Lighting

The Committee reviewed Sec. 50-030, ULDC, which sets forth the townwide regulations for outdoor lighting. The Committee recommends that the use of lumens in the AR District as the standard be reviewed and updated to reflect the same hours of operation that are recommended in the section on Noise, above, and an additional 2 hours be added for cleanup after event closing. Code Section 50-030 is included in Attachment D. Further, refer to Section 80-025 (F) in Attachment B.

Odors

The Committee reviewed Sec. 50-025, ULDC, which sets forth the townwide regulations for objectionable odors. The Committee recommends that these regulations not be applicable to agriculture and agritourism activities. Section 50-025 is included in Attachment E.

Vibrations

The Committee reviewed Sec. 50-020(Y)(2) ULDC, which sets forth the townwide regulations for vibration. The Committee recommends that these regulations not be applicable to agriculture and agritourism activities. Section 50-020 is included in Attachment F.

Dust

The Committee reviewed Sec. 155-010 (Z) ULDC, which requires site plan applications within the Town address visible emissions and particulate matter (including dust, smoke, soot, and aerosols) and Sec. 170-025(A)(9), ULDC, which requires that uses seeking special exception approval within the Town will not result in the creation of incompatible dust. The Committee recommends that these regulations not be applicable to agriculture and agritourism activities. Sections 155-010 and 170-025 are included in Attachment G.

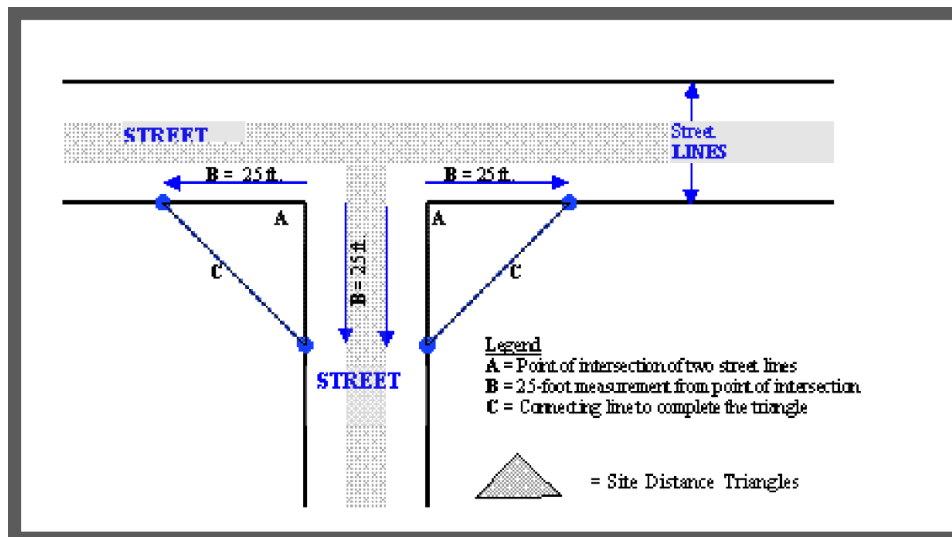
Signage

The Committee discussed the issue of signage with most of the emphasis being on off-site signs. Which are not currently permitted by code. Signs are regulated Townwide in Code Section 90 *Signs*. Signs are regulated by zoning district, with some additional regulations related to prohibited or temporary signs effective in all districts. As agritourism will occur in the AR zoning district, basic sign regulations are in Section 90-040 (A). Code sections pertinent to signs in the AR District are included in Attachment H. A code revision to permit certain types of off-site signs, including permanent event and directional signs, to be negotiated under certain circumstances, should be investigated in the AR District. The Town may also want to investigate the adoption of an official Agritourism logo.

ATTACHMENT A - TRAFFC

100-045(6) Section 105-005. Sight distance triangle.

- (A) The Town hereby establishes a mandatory sight distance triangle for the purposes of ensuring adequate cross visibility at the following types of intersections:
- (1) *Intersection of driveway and street.* Where a driveway intersects a street, the triangular area of property on both sides of a driveway, measured ten feet from the intersection, and on the street line, measured ten feet from the intersection, shall form two legs of the sight distance triangle, and the third side being a line connecting the ends of the two other sides.
 - (2) *Intersection of trail and street.* Where a trail intersects a street, the triangular area of property on both sides of a trail, measured ten feet from the intersection, and on the street line, measured ten feet from the intersection, shall form two legs of the sight distance triangle, and the third side being a line connecting the ends of the two other sides.
 - (3) *Intersection of two streets.* Where two streets intersect, the triangular area of property on all sides of the intersection, measured 25 feet from the intersection, and on the street line, measured 25 feet from the intersection, shall form two legs of the sight distance triangle, and the third side being a line connecting the ends of the two other sides.
- (B) Within any sight distance triangle described in paragraph (A), above, it shall not be permissible to install, set out or maintain, or to allow the installation, setting out or maintenance of, either temporarily or permanently, any vehicular parking space, sign, fence or wall, hedge, shrubbery, tree, earth mound, natural growth or other obstruction of any kind which obstructs cross-visibility at a level between 30 inches and eight feet above the level of the center of the adjacent intersection except that:
- (1) Fences or walls within the sight triangle can be constructed in such a manner as to provide adequate cross-visibility over or through the structure between 30 inches and eight feet in height above the driving surface.
 - (2) Trees having limbs and foliage can be trimmed in such a manner that no limbs or foliage extend into the area between 30 inches and eight feet above the level of the center of the adjacent intersection.
 - (3) Fire hydrants and public utility poles are permissible.
 - (4) Street markers and traffic control devices are permissible.



Section 100-045. Minimum standards for public and private streets.

The design and construction of public and private streets shall be in accordance with acceptable engineering principles. The design and construction of required improvements shall, at a minimum, be in accordance with current Town standards, including those contained in this article. Should a developer elect to provide improvements of a type or design proposed to equal or exceed the minimum requirements, standards for design and construction of such improvements shall be submitted for approval and evaluated for adequacy on an individual basis by the Town Engineer.

- (A) *Local roadway design standards.* The design of all local roadways (public and private) shall be as follows:
 - (1) *Volume.* Typical volume of local roadways shall be between zero and 2,000 vehicles per day.
 - (2) *Access.* Local roadways shall provide primary access to residential and agricultural properties and limited commercial development. Cut-through traffic is to be discouraged. Other than connecting to Okeechobee Boulevard or Southern Boulevard, local roadways shall not provide access to or from areas outside the Town's corporate limits.
 - (3) *Design speed.* Local roadways shall be designed for travel at a maximum of 30 miles per hour.
 - (4) *Required right-of-way dedication.* The minimum right-of-way dedication for all new local roadways shall be 30 feet, however, at the discretion of the Town Engineer, this minimum may be increased in order to provide sufficient drainage, canal maintenance, or to implement the Loxahatchee Groves Master Roadway, Equestrian and Greenway Plan, 2009 (MREG, 2009).
 - (5) *Construction of roadway.* The entire width of the right-of-way shall be demucked before construction of the roadbed begins. No material of FDOT Class A-5, A-7 or A-8 shall be allowed. All material supporting the roadway and shoulders shall have a minimum load bearing ratio (LBR) of 40. The top 12 inches of the undisturbed soil shall be compacted to 100 percent of maximum dry density as per AASHTO T-99-C. Unless otherwise approved by the Town Engineer, lime rock or shell rock bases shall be at least six inches thick and shall have a minimum LBR of 100. Base material shall be compacted to a density of not less than 98 percent of maximum density as determined by AASHTO T-180. Roadway surface shall consist of at least a three-inch layer of open graded emulsified mix (OGEM) or a surface material of equivalent durability, as certified by an engineer.
 - (6) *On-street parking.* Parking on local roadways is prohibited.
 - (7) *Traffic calming.* The Town Council shall have the authority to approve traffic calming devices.
 - (8) *Turnaround.* Any local roadway that does not conclude as an intersection of another roadway shall provide a turnaround of adequate dimension, as determined by the Town Engineer, to allow for the successful maneuvering and redirection of large vehicles such as emergency service and refuse collection vehicles.
 - (9) *Other.* Traffic signals, curbs, turn lanes, medians and sidewalks shall not be provided unless specifically required by the Town Engineer.
 - (10) *[Governed by District.]* Standards for roadways under the jurisdiction of the Loxahatchee Groves Water Control District shall be governed by standards developed by the District.

ATTACHMENT B - SPECIAL EVENTS (Selected Sections Only)

Section 80-025. Special event permits.

- (D) *Access.* Vehicular access onto any plot used for a special event shall be only from a public street as specified in subsection (B), above.
- (E) *Parking.* Event parking shall comply with the requirements of Article 95, "Parking and Loading" insofar as the amount of spaces required, minimum parking space size, and minimum aisle widths. All parking spaces may be on an unpaved surface. Temporary barriers, guides, signs, and other temporary markings shall be erected and placed around and within the parking area to facilitate safe and efficient vehicular traffic flow on site.
- (F) *Lighting.* Temporary lighting used to illuminate the special event after dusk shall be designed and arranged to reflect away from adjacent properties and away from any street, and shall comply with Section 50-030, "Outdoor Lighting."
- (H) *Signs.* One temporary sign advertising the event may be erected on the plot where the event will be held not more than 14 days prior to the event. Such signs shall be no larger than 24 square feet in sign area and no higher than ten feet above the ground, and shall observe the site distance triangle requirement of Article 105, "Sight Distance." The sign shall be removed by the permit holder within three days of the conclusion of the special event.

ATTACHMENT C - NOISE

Section 50-010. Excessive noise.

- (A) The following are prohibited in the Town in that such activities create excessive noise.
 - (1) Any use, activity or operation which generates a sound level of 55 dB or greater on any surrounding property between the hours of 7:00 a.m. and 10:00 p.m.
 - (2) Any use, activity, or operation which generates a sound level of 50 dB on any surrounding property between the hours of 10:00 p.m. and 7:00 a.m.
 - (3) Any use, activity or operation that creates a sound level in excess of the foregoing limits for more than ten percent of any time period of not less than ten minutes, shall be a violation of these regulations.
- (B) Sound Level Measurement Compliance shall be determined using a Type 2 or equivalent sound level meter using the A Weighting Scale in accordance with the standards of the American National Standards Institute (ANSI). All measurements shall be made with a sound meter at the required structural setbacks of the property of the landowner filing the complaint.
- (C) The following exceptions apply:
 - (1) Outdoor events (operating with a valid permit)
 - (2) Government sanctioned activities (e.g., parades, Town celebrations)
 - (3) Temporary, Portable Generators used only during periods of electrical power outages in utility distribution systems maintained by the utility service provider.
 - (4) Sound generated from motor vehicles legally operating on any public right-of-way regulated by F.S. ch. 316, (Uniform Traffic Control Law).

ATTACHMENT D - LIGHTING

Section 50-030. Outdoor lighting.

- (A) *Purpose and intent.* The purpose and intent of this section is to preserve, protect, and enhance the lawful nighttime use and enjoyment of any and all property through the use of appropriate lighting practices and systems. Furthermore, it is to preserve the rural character of the Town of Loxahatchee Groves and promote the health, safety and welfare of the residents by establishing maximum intensities of lighting and controlling glare from lighting fixtures. The provisions of this section shall apply to all outdoor lighting from an artificial light source.
- (B) *Definitions.* In addition to terms defined in Article 10, "Definitions, Abbreviations, and Construction of Terms", the following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning. In the absence of a specific technical definition, words and phrases shall have those definitions and meanings as provided by the Illuminating Engineering Society of North America.
- (1) *Athletic field lighting.* Any lighting greater than 35 feet in height utilized to illuminate sports facilities.
 - (2) *Area light.* Light that produces more than 1,800 lumens.
 - (3) *Cutoff, full.* A lighting fixture that emits zero percent of its light above 90 degrees and only ten percent above 80 degrees from horizontal.
 - (4) *Floodlight.* Any light that produces no more than 1,800 lumens in a broad beam designed to saturate or illuminate a given area with light. Generally, flood lights produce from 1,000 to 1,800 lumens. Floodlights are directional fixtures.
 - (5) *Glare.* The sensation produced by lighting that results in annoyance, discomfort or a reduction of visual performance and visibility, and includes direct and reflected glare. All directional fixtures and any fixture with an output of more than 1,800 lumens that is visible, either directly or by reflection, from adjacent properties or streets shall be considered to cause glare.
 - (6) *Open air parking.* Open air parking shall be synonymous with the term vehicular use area, as defined in ULDC Section 85-015(E).
 - (7) *Outdoor lighting.* Lighting located outside of an enclosed building, or otherwise installed in a manner that lights any area other than the inside of an enclosed building.
 - (8) *Residential and agricultural recreational lighting.* Fixtures of a type or intensity designed or used to light sports courts or equestrian riding areas.
 - (9) *Spotlight.* Any lighting assembly designed to direct the output of a contained lamp in a specific, narrow and focused beam, with a reflector located external to the lamp. Spotlights are directional fixtures.
 - (10) *Stadium lighting.* See the definition for "athletic field lighting."
 - (11) *Temporary lighting.* Portable lights used for a special purpose, on a temporary and rare or infrequent basis, limited to motor vehicle lights during the normal operation of the vehicles, emergency services lights and handheld flashlights and spotlights.
 - (12) *Uplighting.* Light projected above the horizontal plane formed by the top of fixture.
- (C) *Prohibited outdoor lighting.* The following types of outdoor lighting are not permitted in the Town of Loxahatchee Groves.
- (1) Uplighting, unless limited to 1,000 lumens and either shielded by an architectural overhang or landscape element or used to illuminate the flag of the United States of America.
 - (2) Area lights other than those with full cutoff fixtures. **-7-**

ATTACHMENT E - ODORS

Section 50-025. Objectionable odors.

No person shall cause, suffer, allow or commit the discharge of air pollutants which contribute to an objectionable odor in accordance with Rule 62-296.320(2) F.A.C., as may be amended from time to time.

ATTACHMENT F - VIBRATIONS

Section 50-020. Vibration.

In all districts, no use shall operate nor any activity take place so as to produce vibration noticeable by a person of reasonable sensitivity at the property line, including bass emanating from audio speakers.

ATTACHMENT G- DUST

Section 155-010. Submission requirements.

In addition to the application submission requirements of Article 110, "General Application Requirements," an application for site plan approval or modification shall include the items and information listed below. The overall size of the site plan shall be 24 inches by 36 inches, drawn at a scale not less than one inch equals 50 feet, unless a smaller scale is permitted by the Town Manager. The Manager may waive a submittal requirement if, in the Manager's opinion, it is not necessary for proper evaluation of a proposed site plan due to the limited scope of the proposal or the existence of previously submitted information that satisfies a submittal requirement.

- (Z) Additional documentation for non-residential site plans. An applicant for site plan approval for a non-residential use shall provide written documentation with the application demonstrating the specific measures that will be taken to prevent or minimize impacts upon adjacent residential plots within 250 feet of a boundary of the site plan. These impacts include the effects of excessive noise, objectionable odors, visible emissions, particulate matter (including dust, smoke, soot, and aerosols), solid wastes, hazardous wastes, fire and explosion. Specific measures include but are not limited to the provision of setbacks, buffers, landscaping, fencing, walls, and/or other measures as required by the ULDC.

Section 170-025. Special exception use review standards; Town Council action.

- (A) The Town Council shall review Category A special exception applications to determine whether the special exception use complies with the following standards. The Town Manager shall review Category B applications to determine whether the special exception use complies with the following standards:
 - (9) That the use will not result in the creation of incompatible noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses, uses located on contiguous properties, uses in the general area and the zoning in the vicinity due to its nature, duration, direction or character.

ATTACHMENT H – SIGNS

Section 90-010. Definitions. (Partial List)

Area of sign. The total area of each sign face which may be used to display copy, including background, but not including the frame and structural supporting elements. Where a sign is composed of individual letters, characters or symbols applied directly to a building, canopy, marquee, mansard, fascia, facade, parapet, awning, wall or fence, the area of the sign shall be the smallest rectangle, triangle or circle which will enclose all of the letters, characters or symbols. The area of a double-faced sign shall be the total area of each sign face.

Balloon sign. A type of sign that is temporary, three-dimensional, and usually made of non-rigid material, inflated by air or other means to a point of semi-rigidity and used for advertising purposes, with or without copy.

Banner or pennant sign. A type of sign, with or without a frame and with or without characters, letters, symbols or illustrations, made of cloth, fabric, paper, vinyl, plastic or other non-rigid material for the purpose of gaining the attention of persons.

Bench sign. Any sign painted on or affixed to a bench or to a shelter for persons awaiting public transportation.

Directional sign. A sign, with or without a directional arrow, designed to direct the public to a facility or service or to direct and control traffic, such as entrance and exit signs, and which does not contain any other commercial advertising.

Directory sign. A sign, which may consist of an index, designed to provide the names of tenants in an office building, shopping center or other multi-tenant complex.

Fence or wall sign. A type of sign attached to and erected parallel to the face of or painted on a fence or free-standing wall and supported solely by such fence or free-standing wall.

Garage sale sign. A sign designed to advertise the sale of personal property by the person or family conducting the sale in, at or upon residentially zoned or residentially used property. Garage sale signs shall include lawn sales, yard sales or any similar designation.

General information sign. A sign designed to provide information on the location of facilities or a warning to the public regarding the premises where the sign is located, such as entrance or exit signs, caution, no trespassing, no parking, tow-away zone, parking in rear, disabled parking, restrooms, etc., and containing no commercial advertising.

Identification sign. A sign designed to provide the name, owner, address, use, and/or service of a particular activity located on the premises where such sign is displayed.

Mobile sign. Any type of sign not permanently attached to a wall or the ground or any other approved supporting structure, or a sign designed to be transported, such as signs transported by wheels, mobile billboards, sandwich signs, sidewalk signs, curb signs, and unanchored signs.

Monument sign. A type of freestanding sign supported by an internal structural framework or integrated into a solid structural feature other than support poles. In order to qualify as a monument sign, the supporting structure shall not be less in width than 50 percent of the sign face, inclusive of any box, cabinet, or frame.

Off-premises sign. A sign, other than a billboard, designed to direct attention to a business, commodity, service, product or activity not conducted, sold, offered or available on the premises where such sign is located.

Outdoor event sign. A temporary sign designed to identify an outdoor event which is of general interest to the community.

Pole sign. A type of free-standing sign erected upon a pole or poles which are visible and wholly independent of any building or other structure for support.

Traffic control sign. Any sign designed to control traffic on public streets or private property, such as speed limit, stop, caution, one-way, do not enter, tow-away zone or no parking signs.

Section 90-015. Prohibited signs.

The following types of signs are prohibited in the Town of Loxahatchee Groves unless specifically permitted by Section 90-050, "Promotional signs."

- (A) Animated signs;
- (B) Balloon signs;

- (C) Banner or pennant signs;
- (D) Bench signs;
- (E) Billboards;
- (F) Mobile signs;
- (G) Pole signs;
- (H) Projecting signs;
- (I) Roof signs;
- (J) Snipe signs;
- (K) Strip lighting.

Section 90-020. Temporary signs.

The following types of signs are permitted in the Town of Loxahatchee Groves on a temporary basis:

- (A) Garage sale sign;
- (B) Project sign;
- (C) Real estate sign;
- (D) Seasonal or holiday signage.
- (E) Other signs, including opinion signs, to be used on a temporary bas

Section 90-040. Standards by sign type and zoning district.

(A) The following signs are permitted in the Agricultural Residential (AR) zoning district subject to the requirements below. All signs in residentially zoned districts shall not be illuminated unless it is holiday signage.

(1) *Mandatory building identification sign:*

Sign face area	0.5 sq. ft. (min)—2 sq. ft. (max)
Lettering	3 in. (min)—8 in. (max)
Number of signs (maximum)	1 per dwelling unit
Attached/freestanding or both	Attached

(2) *Garage sale sign:*

Sign face area	6 sq. ft. (max)
Number of signs (maximum)	4 per garage sale
Height	6 feet (max)
Other restrictions	Signs shall be removed after sale
Attached/freestanding or both	Freestanding

(3) *Real estate sign:*

Sign face area	6 sq. ft. (max)
Number of signs (maximum)	1 per street frontage
Height	6 feet (max)
Other restrictions	Sign(s) shall be removed after sale
Attached/freestanding or both	Freestanding

(4) *Seasonal or holiday signage:*

Sign face area	Not applicable
Other restrictions	Signage shall not be erected more than four weeks before the holiday and shall be removed within two weeks after the holiday
Attached/freestanding or both	Both

(5) *Opinion sign:*

Sign face area	6 sq. ft. (max)
Number of signs (maximum)	1 per street frontage
Height	6 feet (max)
Other restrictions	Sign(s) shall be removed within six weeks after election or final decision on issue (if applicable)
Attached/freestanding or both	Freestanding

Section 90-045. Temporary signs.

- (A) A permit as required in Section 05-040 shall be obtained for any temporary sign six square feet or larger in size.
- (B) No more than four temporary signs shall be erected per plot for any period of time.
- (C) Temporary signs shall not be larger or higher than any permanent sign permitted on the premises where the sign will be located.
- (D) No temporary sign shall be placed on public property or in a public ingress/egress easement. Signs placed in violation of this provision shall be considered abandoned and shall be subject to removal without notice by the Town.
- (E) Lighting of temporary signs is prohibited.
- (F) Unless otherwise stated, temporary signs shall be removed within six months from the date that the sign was erected.

Section 90-060. Flags.

Flags in residential zoning districts are permitted up to six feet in area and may be mounted on a flag pole not exceeding 15 feet in height. Flags in non-residential zoning districts are permitted up to 144 feet in area and may be mounted on a flag pole not exceeding 50 feet in height. A maximum of four flags are permitted per each plot of land.

Section 90-070. Sign permit requirements.

- (F) Permit exemptions. Permits shall not be required for the following signs:
- (1) Temporary signs six feet in area or height or less;
 - (2) Holiday signage;
 - (3) Murals;
 - (4) Flags;
 - (5) Public service signs;
 - (6) Traffic control signs;
 - (7) Any sign on a plot, or portion of a plot, used as a farm and pertaining to farm activities

ATTACHMENT I – SHARED PARKING

Section 95-035. Shared parking facilities.

Required parking spaces may be permitted to be utilized for meeting the parking requirements of two or more separate permitted uses when it is clearly established by the applicant that the different uses will utilize the spaces at different times of the day, week, month or year, such as an office sharing spaces with a dinner-only restaurant, such that the total number of parking spaces required by this article for each use is fully available during the operation of each use. A recordable covenant, with the correct legal description, shall be submitted by the owners of the property and all businesses or tenants involved in a form acceptable to the Town Attorney. The covenant shall be recorded in the public records of Palm Beach County at the applicant's expense and shall run with the land. The covenant shall provide that the use or portion of a use, that requires the shared parking in order to obtain the necessary permits or licenses, shall cease and terminate upon any change in the uses' respective schedules of operation that results in conflicting or overlapping usage of the parking facilities, and that no use may be made of that portion of the property until the required parking facilities are available and provided. The covenant shall also provide that the Town may collect attorneys' fees if litigation is necessary to enforce the requirements of this section.