

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2015-01

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE TOWN'S UNIFIED LAND DEVELOPMENT CODE; AMENDING PART I, ENTITLED "ADMINISTRATION AND DEFINITIONS," ARTICLE 10 ENTITLED "DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS", SECTION 10-015, ENTITLED "DEFINITIONS," TO AMEND THE DEFINITION OF WILDLIFE PETS, AND TO DELETE THE DEFINITION OF WILDLIFE PETS FROM PART II, ENTITLED "ZONING DISTRICTS," ARTICLE 20 ENTITLED "RESIDENTIAL ZONING DISTRICTS," SECTION 20-010, ENTITLED "GENERAL PROVISIONS", SECTION (B), ENTITLED "ANIMALS AND LIVESTOCK"; TO AMEND PART II, ENTITLED "ZONING DISTRICTS," ARTICLE 20 ENTITLED "RESIDENTIAL ZONING DISTRICTS," SECTION 20-015, ENTITLED "PERMITTED USES" AND PART II, ENTITLED "ZONING DISTRICTS," ARTICLE 25 ENTITLED "COMMERCIAL ZONING DISTRICTS," SECTION 25-015, ENTITLED "PERMITTED USES," AND PART II, ENTITLED "ZONING DISTRICTS," ARTICLE 40 ENTITLED "CONSERVATION DISTRICT," SECTION 40-015, ENTITLED "PERMITTED USES" TO CLARIFY THAT AVICULTURE USE IN THE AGRICULTURAL RESIDENTIAL ZONING DISTRICT, EXHIBITION OF WILDLIFE PETS IN THE COMMERCIAL AND COMMERCIAL LOW ZONING DISTRICTS, AND WILDLIFE OBSERVATION IN THE CONSERVATION DISTRICT ARE PERMITTED AS REGULATED BY STATE LAW; TO DELETE PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80 ENTITLED "CONDITIONAL USES," SECTION 80-045, ENTITLED "EXHIBITION OF CLASS I AND CLASS II WILDLIFE", AND SECTION 80-050, ENTITLED "AVICULTURE"; PROVIDING FOR INTENT OF THE TOWN TO COMPLY WITH THE STATE'S PREEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council directed Town Administration to review provisions of the Town's Unified Land Development Code (ULDC) relating to the

exhibition of wildlife as it relates to regulation by the Florida Fish and Wildlife Conservation Commission (FWC); and,

WHEREAS, pursuant to the direction of the Town Council, the Town Administration has reviewed the matter, including consulting with FWC counsel, on the scope of FWC regulation and local government regulation of wildlife exhibition; and,

WHEREAS, the FWC recommends that local governments not establish different standards for wildlife exhibition and other activities within its constitutional jurisdiction to regulate, but that such uses may fall within local regulations that are generally applicable throughout the Town, such as noise and nuisance; and,

WHEREAS, consistent with the direction of the Town Council, and based upon review of FWC regulations and guidance from FWC counsel, the Town Administration has reviewed the provisions of the Town's ULDC and recommends that certain provisions that specifically regulate activities covered by FWC regulation be deleted to avoid any potential conflicts with FWC preemption in those areas; and

WHEREAS, the Town of Loxahatchee Groves, Florida, believes it is in the best interest of the Town to amend the Town's ULDC to defer to the state for specific regulations of such pursuant to the state's preemptions as evidenced by Sections 379.3761 and 379.62, Florida Statutes and Florida Administrative Chapter 68A-6, Florida Administrative Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, THAT:

Section 1. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Part I, entitled “Administration and Definitions,” Article 10 entitled “Definitions, Abbreviations, and Construction of Terms”, Section 10-015, entitled “Definitions,” of the Town’s Unified Land Development Code, is amended as follows:

Section 10-015. - Definitions.

Wildlife ~~pets~~. Shall include only those animals listed, categorized and regulated under Florida Statutes Section 379.3761: “Exhibition or sale of wildlife; fees; classifications”, Florida Statutes Section 379.62: “Personal possession of wildlife”, Florida Administrative Code Chapter 68A-1.002 “Regulation of Wild Animal Life and Freshwater Aquatic Life in the State”, and Florida Administrative Code Chapter 68A-6: “Wildlife as Personal Pets”. ~~that have been designated as endangered species, threatened species, or species of special concern by the State of Florida or federal government, and are permitted in private ownership by the Florida Fish and Wildlife Conservation Commission. This definition shall not include any dangerous or poisonous animal of the reptile or amphibian species.~~

Section 3. Part II, entitled “Zoning Districts,” Article 20 entitled “Residential Zoning Districts,” Section 20-010, entitled “General Provisions”, Section (B), entitled “Animals and Livestock”, of the Town’s Unified Land Development Code, is amended as follows:

Section 20-010. - General provisions.

The following requirements shall apply to the Agricultural Residential (AR) Zoning District.

(B) Animals and livestock. The breeding raising, and/or keeping of animals and livestock as an accessory use to a permanent dwelling shall be subject to the following standards:

(1) *Number.* The number of animals and livestock permitted shall be based on parcel size as follows.

a. *Livestock.* Four livestock, not including swine, are permitted per every one acre of land, except that parcels of at least five acres are permitted eight livestock per every acre of land and parcels over ten acres in size shall have no limit to the number of livestock per acre.

b. *Small domesticated farm animals.* Fifteen (15) small domesticated animals are permitted per every one-half (1/2) acre of land.

c. *Large domesticated farm animals.* Two (2) large domesticated animals are permitted per every one (1) acre of land.

d. *Poultry.* Parcels under one acre shall be limited to four (4) birds per every one-quarter (1/4) acre.

e. *Swine.* One (1) swine is permitted per property of one (1) acre or greater, except for pot bellied pigs, which shall be considered livestock.

f. *Wildlife pets.* Ten wildlife pets are permitted on properties of five acres or greater provided that the wildlife pets are permitted and licensed by the State of Florida.

g. f. Household pets. A maximum of ten (1) household pets are permitted on a property.

Section 4. Part II, entitled “Zoning Districts,” Article 20 entitled “Residential Zoning Districts,” Section 20-015, entitled “Permitted Uses”, of the Town’s Unified Land Development Code, is amended as follows:

Section 20-015. - Permitted uses.

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

| Principal Uses | Agricultural Residential (AR) |
|--|---|
| Single Family Dwelling | Permitted |
| Mobile Home | Permitted w/Special Exception Category B |
| Public Schools | Permitted |
| Congregate Living Facility, Type I | Permitted |
| Non-Profit Community Recreational Facilities | Permitted w/Special Exception Category A |
| Essential Services | Permitted |
| Commercial Equestrian Operations | Permitted |
| Wholesale Nursery | Permitted |
| Retail Nursery | Permitted w/Special Exception Category A |
| Aviculture | Permitted subject to Article 80 See Note 1 below |
| Commercial Kennels | Not Permitted |
| Chipping and Mulching | Permitted subject to Article 80 |
| Feed Lots | Not Permitted |
| Commercial Animal Manure Management | Not Permitted |
| Commercial Chipping and Mulching | Permitted subject to Article 80 |
| Rescued Animal Care | Permitted w/Special Exception Category A |
| Outdoor Events | Permitted subject to Article 80 and to a Special Exception Category A |
| Agriculture | Permitted |
| Bona Fide Agriculture | Permitted |
| Wireless Communication Facilities | Permitted w/Special Exception Category A |
| Rodeo Events | Permitted w/Special Exception Category A |

Note 1: The regulation of exhibition or sale of wildlife and personal possession of wildlife are preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.762, Florida Statutes and Florida Administrative Code Chapters 68A-1.002 and 68A-6.

| Accessory Uses | Agricultural Residential (AR) |
|------------------------|--|
| 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 |
| Retail Nursery | Permitted w/Special Exception Category B |
| U-Pick Farms | Permitted w/Special Exception Category B |

| Accessory Uses (Continued) | Agricultural Residential (AR) |
|-----------------------------------|--|
| Private Kennels | Permitted |
| Private Stables | Permitted |
| Yard Sales | Permitted subject to Article 80 |
| Veterinarian Services | Permitted |
| Dog Boarding | Permitted |
| Temporary Events | Permitted w/Special Exception Category C |

Section 5. Part II, entitled "Zoning Districts," Article 25 entitled "Commercial Zoning Districts," Section 25-015, entitled "Permitted Uses", of the Town's Unified Land Development Code, is amended as follows:

Section 25-015. Permitted uses.

Plots located in the Commercial Low and Commercial Low Office zoning districts may be used for one or more the following uses.

| Principal Uses | Commercial Low (CL) | Commercial Low Office (CLO) |
|-------------------------------------|---------------------------------|------------------------------------|
| Adult Entertainment | Permitted subject to Article 20 | Not Permitted |
| Arcade, Video | Permitted | Not Permitted |
| Automobile Repair Garage | Permitted | Not Permitted |
| Bank or Financial Institution | Permitted | Permitted |
| Bar, Lounge, Tavern or Pub | Permitted | Not Permitted |
| Barber Shop, Beauty or Nail Salon | Permitted | Not Permitted |
| Pool Hall | Permitted | Not Permitted |
| Car Wash, Self-Service or Automated | Permitted | Not Permitted |
| Catering or Food Service Delivery | Permitted | Not Permitted |

| Principal Uses (continued) | Commercial Low (CL) | Commercial Low Office (CLO) |
|--|---|---|
| Child Care Center | Permitted | Not Permitted |
| Commercial Animal Manure Management | Not Permitted | Not Permitted |
| Commercial Chipping and Mulching | Permitted subject to Article 80 | Not Permitted |
| Convenience Store | Permitted | Not Permitted |
| Dance/Night Club | Permitted | Not Permitted |
| Day Labor Hiring Center | Permitted w/Special Exception Category A | Not Permitted |
| Delicatessen | Permitted | Not Permitted |
| Theater or Auditorium | Permitted | Not Permitted |
| Dry Cleaning or Laundry Service | Permitted | Not Permitted |
| Employment Agency | Not Permitted | Not Permitted |
| Essential Services and Utilities | Permitted | Permitted |
| Exhibition of Wildlife Pets | Permitted subject to Article 80—See Note 2 below | Not Permitted—See Note 2 below |
| Gasoline Station | Permitted | Not Permitted |
| Shooting Range | See Note 1 below | See Note 1 below |
| Archery Range | Permitted subject to Article 80 | Not Permitted |
| Hotel | Permitted | Not Permitted |
| Holiday Wayside Stand | Permitted subject to Article 80 | Permitted subject to Article 80 |
| Laboratory (e.g., medical, dental, research) | Permitted | Permitted |
| Offices (e.g. business, professional, medical) | Permitted | Permitted |
| Package Liquor, Beer or Wine Store | Permitted | Not Permitted |
| Outdoor Events | Permitted subject to Article 80 and to a Special Exception Category B | Permitted subject to Article 80 and to a Special Exception Category B |
| Retail Plant or Produce Sales | Permitted | Not Permitted |
| Restaurant, Fast Food | Permitted | Not Permitted |
| Restaurant, Full Service | Permitted | Permitted |
| Restaurant, Take Out | Permitted | Permitted |
| Retail Services | Permitted | Not Permitted |
| Retail Store | Permitted | Not Permitted |
| Commercial Recreation (e.g. batting cages, rink) | Permitted | Not Permitted |

| Principal Uses (continued) | Commercial Low (CL) | Commercial Low Office (CLO) |
|-----------------------------------|----------------------------|------------------------------------|
| Veterinary Clinic or Hospital | Permitted | Not Permitted |
| Warehouse, Self Storage | Permitted | Not Permitted |
| Wireless Communication Facilities | Permitted | Permitted |
| Adult Day Care | Permitted | Permitted |
| Schools, Public or Private | Permitted | Not Permitted |
| Gym or Fitness Center | Permitted | Permitted |

Note 1: The regulation of guns and shooting ranges is preempted by state law and regulated solely by the State of Florida. See Sections 790.33 and 790.333, Florida Statutes.

Note 2: The regulation of exhibition or sale of wildlife and personal possession of wildlife are preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.762, Florida Statutes and Florida Administrative Code Chapters 68A-1.002 and 68A-6.

Section 6. Part II, entitled “Zoning Districts,” Article 40 entitled “Conservation District,” Section 40-015, entitled “Permitted Uses”, of the Town’s Unified Land Development Code, is amended as follows:

Section 40-015. - Permitted uses.

Plots located in the Conservation zoning district may be used for one or more of the following specified uses.

| Principal Uses | Parks and Recreation |
|--------------------------|-----------------------------|
| Natural open Space | Permitted |
| Passive Park | Permitted |
| Walking and Biking Trail | Permitted |
| Wildlife Observation | Permitted—See Note 1 below |

Note 1: The regulation of exhibition or sale of wildlife and personal possession of wildlife are preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.762, Florida Statutes and Florida Administrative Code Chapters 68A-1.002 and 68A-6.

Section 7. Part III, entitled “Supplemental Regulations,” Article 80 entitled “Conditional Uses,” Section 80-045, entitled “Exhibition of Class I and Class II Wildlife”, of the Town’s Unified Land Development Code, is amended as follows:

Section 80-045. – Exhibition of Class I and Class II Wildlife.

Individuals providing care and permanent habitat for Class I and Class II Wildlife that have been abused, neglected or otherwise need sanctuary may request a license from the Town to allow limited exhibition of said wildlife, subject to the provisions of this section.

(A) For purposes of this section only, exhibition of wildlife shall be defined as a public or private showing of Class I and Class II wildlife for financial or other consideration.

(B) For purposes of this section, Class I and Class II wildlife are defined pursuant to Chapter 68-A6, F.A.C., as amended.

(C) The property on which the animals are kept shall have a minimum plot size of five acres and a minimum plot width and length of 300 feet and must conform with all of the minimum requirements established in the Florida Administrative Code.

(D) No wildlife exhibition license may be issued for a location that is within 1,000 feet of another licensed wildlife exhibitor.

(E) Signage is not permitted.

(F) The owner of the animals must hold a USDA, Animal Welfare Act, Class C Exhibitor License and a Florida Fish and Game Conservation Commission Class I or II (as applicable) License, and must live on the property on a permanent basis.

(G) The owner of the animals shall maintain 501(C)(3) non-profit status for the specific purpose of caring and providing habitat for the wild animals.

(H) All wildlife habitat areas shall be surrounded by a minimum of a six foot high barrier/fence to prevent unauthorized access. The wildlife habitat areas shall also be fully screened from all property lines to a height of six feet through the use of landscape materials or opaque fence materials.

(I) Public premises liability coverage in the amount of \$1,000,000.00 shall be maintained at all times. The policy must name the Town as an additional insured and must be issued by an insurance company authorized by the Florida Department of Insurance to do business in the State of Florida. The Town Attorney must approve the policy.

(J) The number of wild animals on the property shall be limited to three per acre.

(K) At no time shall the property be unattended and without the presence of someone licensed to handle wild animals, or with at least six months experience working under the jurisdiction of the licensee's Federal and State licenses when the owner of the animal(s) is away from the premises.

(L) All parking shall be accommodated on-site, and shall be screened from view along all property lines adjoining any private or public street, or residential plot. Parking areas shall be set back at least 25 feet from any residential plot line. Parking areas need not be paved.

(M) Public admission shall be by appointment only, and shall be limited to 40 people on the property at any given time, except that groups from educational institutions arriving by bus shall be limited to 100 people, and that special events with attendance greater than that provided for herein may be held up to 12 times per year, provided the owner notifies the Town Clerk's Office in writing at least five days prior to the event. The

notification shall state the date and hours, nature of the event, and maximum number of people expected.

(N) Noise levels, including noises resulting from public admission, shall not exceed the limits set forth in Section 50-010, " Excessive Noise."

(O) Noise abatement. Wildlife habitat areas shall be designed, constructed and located using noise abatement measures (e.g., locating wildlife which excessively screech, howl, or make loud noises away from property lines; maintaining a thick, vegetated buffer along property lines) to help ensure that noise levels do not exceed the limits set forth in Section 50-010, " Excessive Noise."

(P) Upon determination that an application for an exhibition of Class I and Class II wildlife license satisfies the criteria of this section, the Town shall notice property owners within 1,000 feet of the subject property, by certified mail, that an application for a wild animal habitat license will be administratively approved and issued ten days from the mailing date indicated on the notice, unless a written objection is received by the Town Clerk within the ten day period.

(Q) Upon satisfying all of the conditions for licensure, a license under this section shall be issued administratively unless the Town receives written objection from a noticed property owner within the ten day response period. In the case of a timely objection, the application for licensure shall be scheduled for the next available Town Council agenda as an advertised public hearing. After hearing the testimony of affected property owners, the Town Council may approve, approve with conditions, or deny the application for licensure based upon consideration of the following criteria:

(1) That the use is compatible with the existing natural environment and other properties in the vicinity;

(2) That there will be adequate provision for safe traffic movement, both vehicular and pedestrian, in the area which will serve the use;

(3) That there are adequate setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust and other potential nuisances; and,

(4) That the land area is sufficient, appropriate and adequate for the use as proposed. Conditions placed upon the license by Town Council may supplement the requirements of this section contained in provisions (A) through (O);

(R) Licenses are valid only to the person named on the license and shall not be transferable.

(S) Upon a second violation of any one or more provisions of this section within a 24 month period, as determined pursuant to the Town's code enforcement procedures, the Town shall notify the licensee, by certified mail, of its intent to revoke the license. The licensee or designee may initiate an appeal of the revocation by filing written notice of intent to appeal with the Town Clerk's Office no later than 15 days from receipt of the Town's notice of intent to revoke the license. The license will be administratively revoked should the licensee not file an appeal within the allotted time. The Town Clerk shall schedule the appeal for the next available Town Council meeting. In determining the existence of extenuating factors contributing to the code violation(s), Council may uphold the revocation or continue the license with any conditions Council may deem appropriate to protect the public health, safety and welfare.

(T) Nothing within this section shall be construed to prevent the Town Council from revoking the license at any time, provided that after conducting an advertised public hearing on the matter, a supermajority of council members make a determination that the licensed activity no longer satisfies the criteria for licensure.

(U) All exhibition of Class I and Class II wildlife shall occur on a parcel that has a land use designation of Commercial Low.

Section 8. Part III, entitled “Supplemental Regulations,” Article 80 entitled “Conditional Uses,” Section 80-050, entitled “Aviculture”, of the Town’s Unified Land Development Code, is amended as follows:

Section 80-050. – Aviculture.
Permits for aviculture, as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" may be issued in the Agricultural Residential (AR) zoning district subject to the following:

(A) Minimum plot size requirements:

(1) Two acres for 40 to 200 birds;

(2) Five acres for 201 or more birds;

(B) Breeder:

(1) The minimum plot size shall be two acres; and

(2) Shelters, cages and accessory structures shall be set back a minimum of 50 feet from all property lines; and

(3) Outdoor shelters and cages shall be contained to specific areas of the plot and completely screened from view from adjacent properties with a visual

~~barrier. Such barriers may include natural vegetation, landscaping, fencing or other opaque structures; and~~

~~(4) The breeder shall locate birds that excessively screech, chirp, crow or make loud noises away from residential properties to the maximum extent possible; and~~

~~(5) The care, licensing, registration and inspections shall be as required by applicable regulations; and~~

~~(6) Any avicultural endeavor shall comply with Article 50, "Public Nuisances," of this Code.~~

Section 9. Nothing in this Ordinance is intended to exempt any uses regulated by the FWC to be exempt from provisions of the ULDC generally applicable throughout the Town; provided that it is also the intent of the Town Council that the Town's ordinances and Unified Land Development Code be interpreted and administered consistent with the state's preemptions of the regulation of wildlife pets.

Section 10. All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

Section 11. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given affect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 12. 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 13. This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 20th DAY JANUARY, 2015.

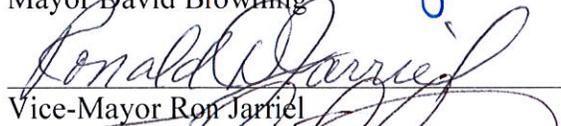
PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 3RD DAY OF FEBRUARY, 2015.

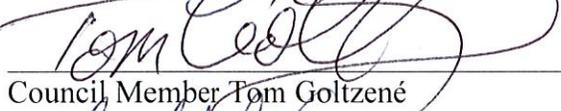
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FLORIDA**

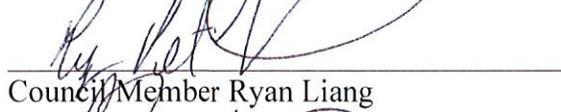
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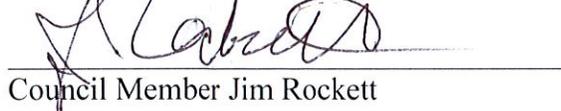

Janet Whipple, Town Clerk


Mayor David Browning


Vice-Mayor Ron Jarriel


Council Member Tom Goltzené


Council Member Ryan Liang


Council Member Jim Rockett

APPROVED AS TO LEGAL FORM:



Office of the Town Attorney