

Mayor David Browning, Seat 4
Vice Mayor Jim Rockett, Seat 2
Councilman Tom Goltzené, Seat 5
Councilman Ronald. D. Jarriel, Seat 1
Councilman Ryan Liang, Seat 3



Town of Loxahatchee Groves
Planning & Zoning Board/LPA Meeting
Thursday, March 14, 2013 at 7:00 p.m.

Central Palm Beach County Chamber of Commerce – West Office
13901 Southern Boulevard, Loxahatchee Groves, FL 33470

Chair Dennis Lipp
Vice Chair Robin Crawford
Committee Member Lawrence Corning
Committee Member Keith Harris
Committee Member Grace Joyce
Alternate Member #1 Veronica Close
Alternate Member #2 Byrnes Guillaume

Town Manager Mark Kutney
Town Clerk Susan Eichhorn
Town Planner Jim Fleishmann

The Planning & Zoning Board meets on the 2nd Thursday of each month
subject to the filing of applications. It also acts as the Local Planning Agency (LPA).
Items for each body are noted on the agenda.

PUBLIC NOTICE/AGENDA

1. OPENING

- a. Call to Order & Roll Call

2. MINUTES

- a. Planning and Zoning Board Minutes for Approval -
January 10, 2013

3. OLD BUSINESS

4. NEW BUSINESS – None

5. LOCAL PLANNING AGENCY

Old Business – None

New Business

- a. Ordinance No. 2013-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED "SUPPLEMENTAL REGULATIONS," ARTICLE 80, ENTITLED "CONDITIONAL USES," SECTION 80-020, ENTITLED "RESIDENTIAL ENTERPRISE," OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

- b. Report Regarding Manure Ordinance (verbal) – *Mark Kutney, Town Manager*

6. COMMENTS FROM THE BOARD

7. ADJOURNMENT

The next Planning & Zoning Board meeting is tentatively scheduled for April 11, 2013 at 7:00 p.m.

Comments Cards: Anyone from the public wishing to address the P&Z Board must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda in which is being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of the P&Z Board with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.

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MINUTES

1. OPENING

a. Call to Order & Roll Call

Chair Dennis Lipp called the meeting to order at 7:00 p.m. Present were Chair Dennis Lipp, Board Member Keith Harris, Alternate Board Members Veronica Close and Byrnes Guillaume. Board Member Grace Joyce arrived at 7:07 p.m. Vice Chair Crawford arrived at 7:11 p.m.

Board Member Corning was absent from the meeting. Also present were Town Manager Mark Kutney, Town Attorney Michael Cirullo, Town Planning Consultant Jim Fleischmann, and Town Clerk Susan Eichhorn.

b. Oath of Office- Byrnes Guillaume

Town Attorney Cirullo administered the oath of office to Alternate Member Guillaume.

2. MINUTES

a. Planning and Zoning Board Minutes for Approval - December 13, 2012.

Motion: Motion made by Alternate Member Close, seconded by Alternate Member Guillaume, to approve the Planning and Zoning Board Minutes of December 13, 2012. The motion passed 4/0, with Board Member Joyce and Vice Chair Crawford not yet in attendance.

3. OLD BUSINESS

a. Site Plan Approval: Project # SP 2012-01: Valley Crest (continued from November 8, 2012 and December 13, 2012 Planning and Zoning Board meetings)

Consideration of proposed Valley Crest Site Plan (SP 2012-01) for a 5.0 acre property located at 13710 Okeechobee Blvd., south side of Okeechobee Blvd., approximately 0.25 miles west of “F” Road.

Town Planning Consultant Jim Fleischmann provided the staff review, and responded to questions from the Board.

At 7:11 p.m., Chair Lipp announced that after the arrival of Vice Chair Crawford, Alternate Member #2 Guillaume, would no longer be eligible to vote.

Attorney David Coviello, on behalf of the applicant, produced a timeline document with Exhibit A through I, and distributed it to the Board Members and provided a copy to the Town Clerk for the record.

Town Planning Consultant Fleischmann advised that there was a comparison, on attached document B-7, of the regulations/standards of both the Town and Palm Beach County. The only substantive difference was in the setback requirement. Other than that the land development regulations were quite similar.

In response to Board Member Close, Town Attorney Cirullo stated that staff would provide the Town Council with all documents and material relating to the Site Plan for Valley Crest, at the time the application was presented to them.

Town Manager Kutney explained that the hearing before the Special Magistrate involved a lot of testimony, and his recollection was that there had been an agreement with the prior Code Enforcement vendor, however it had not been in writing. The former code officers could not be contacted. Board Member Close asked why the Special Magistrate had not been asked to amend his order.

Town Attorney Cirullo responded that the Special Magistrate is an independent hearing officer and the Town was a petitioner before that magistrate, and there was an order issued that no one appealed. It was final, and that was the complexity of having a case that went on for a long time, in that the magistrate worked out some mechanism to get this it cleaned up. It was not a good situation to have an ongoing business without the necessary approvals. That was the order that the two parties, the Town, and the applicant, had been travelling under.

Town Planning Consultant Fleischmann explained that the principal argument is that the Palm Beach County ULDC was in effect at the time of the violation and at the time of the Special Magistrate order, and the Special Magistrate ordered that the remedy be implemented consistent with specific sections of the Palm Beach County ULDC. He also explained that in the conditions of approval, he had asked for conditions that were consistent with the Town of Loxahatchee code.

In response to Alternate Board Member Close, Town Attorney Cirullo explained that each case has to stand on its own merit. In this matter, it is unique in that it is a case that changed from Palm Beach County to the Town.

Board Member Joyce stated that the way that she was reading this is that the violation is saying that the landscape service is in violation, and the Special Magistrate finding was to come into compliance with the Palm Beach County code at that time.; she stated that the remedy being requested this evening was not consistent with the order of the Special Magistrate. She explained that if the Town moved forward with this application, there could not be a flip-flop between the County code and the Town code.

Harold Worthington, owner's representative and tenant stated the following:

When we first got this, we appeared before the Special Magistrate and we were working with Calvin Giordano & Associates, and the code enforcement for the Town. When we went through the violation process we were given 60 or 90 days to come into compliance. We did that. Exhibit G shows that we actually had the nursery part installed. We were operating as a wholesale nursery, with the landscape service, for a period of more than 2 years. We never had any other problems with the Town. Once the moratorium ended, then the new code enforcement came in last August, and said there was no landscape service here because there were no i's dotted and t's crossed in the files they had received from Calvin Giordano. Then we got an order to appear, and went back before the Special Magistrate and went through the history. During the winter of 2010 that was the big freeze winter and a lot of our tropical plants died, our branch manager had died the previous summer, and the new manager didn't understand the importance of the issues. We made a business license request for a wholesale nursery and a landscape business.

Attorney David Coviello explained that the applicant had to go through a site plan process when he applied for a Business Tax Receipt, and could not do that earlier because of the moratorium. He explained that the wholesale nursery component was going to serve the landscape service business. The applicant wanted to be a good business and a good neighbor, and had not had any complaints. When the property was purchased the applicant did not get a business tax receipt because he did not know that was necessary. Then the moratorium was in place and during that time the applicant had worked with staff and developed a site plan. The company has not acted in bad faith.

Town Attorney Cirullo explained that when the applicant gets to final consideration of the Town Council there will be a resolution, that will rely on the conditions that come from this Board, and whatever the Town Council or staff may add, which provide some safeguards that the business will operate as per approval.

Town Planning Consultant Fleischmann commented that there were some quite detailed compliance conditions and some quite severe penalties for not complying. It was a very visible site and would be easy to monitor.

Town Attorney Cirullo advised the Board that they were talking about a site plan as opposed to an enforcement type thing, and that they should keep focus on the site plan. If there was an application that came before the Board that had no history, they would not apply the County code, but in this case, the circumstances were different. There were unique circumstances.

Town Planning Consultant Fleischmann pointed out that table B-7 in his report contained comparisons between the County code and the Town code.

At this time, Attorney Coviello reviewed the site plan with the Board. Comments were heard from the Board regarding the following:

- The process for composting. Mr. Worthington stated that a management plan was in place, and the debris would be screened.
- Variance to bring the building into compliance with the setback.
- Parking and load requirements, including handicapped. Applicant would confirm this before it gets to the Town Council.
- Landscape plan
- Seeing landscape vehicles from Okeechobee Blvd.

In response to Alternate Board Member Guillaume, Town Planning Consultant Fleischmann explained that because the code violation had referenced two sections of the County code that were in effect at the time violation, the Planning and Zoning Board recommended that the applicant comply with the County code regulations, as much as possible.

Board Chair Lipp commented that the Town should go out and find the other landscape companies that are violating the Town Code. If this applicant was held to a standard, the Town needed to be even handed.

Town Planning Consultant Fleischmann referred to the staff report, and reviewed the conditions of approval for the site plan. The following comments were provided by the Board:

Chair Lipp noted that all lighting should focus downward, as per the ULDC. He requested that any conditions desired by the Board would be set forth in a motion, after which he would then entertain a motion to approve or deny.

Motion: Alternate Member Close recommended to the Town Council that you provide 70% pervious area, or whatever the Town Council ended up applying. The motion was seconded by Board Member Joyce. The motion passed 5/0.

Motion: Alternate Board Member Close made a motion to not allow them to increase the amount of impervious area on the site because it would increase the nonconformity. The motion was withdrawn.

Motion: Alternate Board Member Close made a motion to recommend to the Town Council that they be required to provide 100% opaque screening/landscape berm or buffer - minimum 4feet to reach a height of 6 feet within two years; she then amended the motion to say along east of the entryway and on the west side and rear property is existing vegetation as long as it provides adequate screening. Board Member Joyce seconded the motion. The motion passed 5/0.

Motion: Alternate Board Member Close made a motion to recommend to the Town Council that any additional building must observe the 50 foot setback, and that a Resolution containing all conditions would be recorded at the expense of the applicant. The motion was seconded by Board Member Grace. The motion passed 5/0.

Motion: Board Member Joyce made a motion to recommend to the Town Council that the septic tank is replaced and the drain field repaired within thirty days of approval of the site plan. The motion was seconded by Alternate Board Member Close. The motion passed 5/0.

Motion: Board Member Joyce made a motion to recommend to the Town Council that all parking and loading should occur on site, as shown in the site plan. The motion was seconded by Alternate Board Member Close. The motion passed 5/0.

Motion: Board Member Joyce made a motion to recommend to the Town Council that there be a sign that stated what the operation is, as well as the hours of operation. The motion was seconded by Alternate Board Member Close. The motion failed 2/3.

Motion: Board Member Joyce made a motion to recommend to the Town Council that some sort of documentation is provided to the Town annually that supports that the wholesale nursery is a primary use. She then withdrew the motion.

Motion: Vice Chair Crawford made a motion to recommend to the Town Council that the site plan is approved, with all of the conditions made this evening. The motion failed for lack of a second.

Further discussion took place regarding whether the Special Magistrate could require conformance to a code that no longer existed; concerns with some of the code interpretations; concerns that the purpose of the site plan may be to facilitate the landscaping business; concerns related to the accessory use. Discussion took place as to the wording of a motion to approve or deny.

Board Member Joyce made a motion that the Planning and Zoning Board finds the application inconsistent with Palm Beach County ULDC, which was effective as of March 19, 2008 and recommends denial of the application based on the following deficiencies:

- 1. Is inconsistent as it pertains to outdoor storage in an AR district**
- 2. Is inconsistent with the buffering requirements**
- 3. Is inconsistent with the parking requirements as it pertains to handicapped spaces (refers to Page C-2) as handicapped space is not identified on the site plan.**
- 4. The site plan does not identify a loading space as outlined in table C - Parking and Loading requirements.**

The motion was seconded by Alternate Board Member Close. The motion passed 5/0.

4. NEW BUSINESS –None

5. LOCAL PLANNING AGENCY

Old Business–None

New Business - None

6. COMMENTS FROM THE BOARD

Chair Lipp requested that Town Manager Kutney review the number of times that a Planning and Zoning Board member may miss meetings. Town Manager Kutney responded that he will check on that and report back to the Town Council.

7. ADJOURNMENT

There being no further business, the Planning and Zoning Board Meeting of January 10, 2013, was adjourned at 11:15 p.m.

Susan Eichhorn
Town Clerk

Dennis Lipp
Chairman

(SEAL)

**These minutes were approved by the Planning and Zoning Board
at its meeting of March 14, 2013.**



TOWN OF LOXAHATCHEE GROVES
OFFICE OF THE TOWN MANAGER
AGENDA REPORT

TO: Local Planning Agency
FROM: Mark A. Kutney, Town Manager, AICP, ICMA-CM
DATE: March 8, 2013
SUBJECT: Amendment to Residential Enterprises ULDC

I. BACKGROUND/HISTORY

At the February 5, 2013 Town Council meeting, the Town Council deliberated on a matter related to a local business owner that sells guns under a Residential Enterprise approval. An issue occurred with the Federal Bureau of Alcohol Tobacco, Firearms and Explosives (ATF) advising the Town that the gun business owner needed to meet all of the Town's regulations as well as Federal regulations to be considered in compliance. Specifically, the ATF was concerned that the business in question was not meeting Section 80-020 (H) of the ULDC which relates to clients or customers being allowed on the premises of a Residential Enterprise (based upon their observation at the site). The owner came to Town Council seeking relief to this provision.

II. DISCUSSION

After discussion and deliberation of the matter above, the Town Council elected to direct Town Management to prepare an amendment to the ULDC granting relief for all Residential Enterprises relative to the prohibition of client/customers being allowed on the premises to transact business. The effect of this amendment would be to allow all Residential Enterprises to have up to three (3) clients or customers present at the same time to transact business on the premises.

III. REQUESTED ACTION

Motion to Approve Ordinance 2013-02

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2013-02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING PART III, ENTITLED “SUPPLEMENTAL REGULATIONS,” ARTICLE 80, ENTITLED “CONDITIONAL USES,” SECTION 80-020, ENTITLED “RESIDENTIAL ENTERPRISE,” OF THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE TO PERMIT A LIMITED NUMBER OF CUSTOMERS TO TRANSACT BUSINESS AT THE LOCATION OF A RESIDENTIAL ENTERPRISE; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the Town Council believes that the regulations relating to Residential Enterprises should be amended to permit a limited number of customers to transaction business at the location of a Residential Enterprise; and,

WHEREAS, at its March 14, 2013, meeting, the Town’s Planning and Zoning Board reviewed the proposed amendments to the regulations at a public hearing and recommended approval of the amendments; and,

WHEREAS, the Town Council finds it in the best interest of the Town to amend the Residential Enterprise regulations as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, 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 III, entitled “Supplemental Regulations,” Article 80, entitled “Conditional Uses,” Section 80-020, entitled “Residential Enterprise,” of the Town of Loxahatchee Groves Unified Land Development Code is amended as follows:

Section 80-020 Residential Enterprise.

Residential enterprises as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be permitted in all residential zoning districts as a use accessory to a principal residential use and subject to the following limitations:

(A) Resident of property. The plot on which a residential enterprise is located shall be occupied by the owner who shall provide proof of a homestead exemption within one year of establishing the residential enterprise.

(B) Size of property. Residential enterprises shall be permitted on properties of five acres or more in size.

(C) Location of residential enterprise. A residential enterprise shall be conducted only within an accessory building on the property where the main dwelling is located, and not within the dwelling.

(D) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential enterprise.

(E) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential enterprise shall not exceed 0.01.

(F) Appearance of accessory buildings. The accessory buildings used for a residential enterprise shall be in the same style and have the same architectural appearance as the principal residential use.

(G) Employees or contractors. In addition to any person(s) who are the residents of the property, there shall be a maximum of two outside employees or contractors who assist with the residential enterprise.

(H) Clients or customers. ~~No client or customer shall be allowed on the premises to transact business of any nature.~~ Up to three (3) clients or customers may be present at the same time

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to transact business on the premises.

(I) Delivery. Merchandise or goods shall be shipped by way of the U.S. Postal Service, United Parcel Service, Federal Express or similar small package carrier. If other commercial carriers are required, the residential enterprise shall be deemed to require a Special Exception pursuant to Article 170.

(J) Commercial vehicles. Commercial vehicles associated with the residential enterprise shall be subject to Section 20-010(G).

(K) [Adult entertainment.] Adult entertainment or the production of adult entertainment materials is prohibited.

Exceptions to the foregoing limitations shall be subject to approval by the Town Council, and such requests shall be considered in conjunction with the criteria set forth in Section 170-025(A) for Special Exceptions.

Section 3. Repeal of Laws in Conflict. All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

Section 4. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5. 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 Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this ordinance may be re-numbered, 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 6. Effective Date. This Ordinance shall become effective immediately upon

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its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS ____ DAY OF _____, 2013.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS ____ DAY OF _____, 2013.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:

Mayor David Browning

TOWN CLERK

Vice Mayor Jim Rockett

APPROVED AS TO LEGAL FORM:

Council Member

Council Member

Office of the Town Attorney

Council Member

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TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING AND RESTATING ORDINANCE 2010-003, RELATING TO DUMPING OF MANURE AND HORSE BEDDING WITHIN THE TOWN; PROVIDING THAT ONLY THOSE PROPERTIES DESIGNATED AGRICULTURE OR IN THE PROCESS OF APPLYING FOR SUCH, OR DESIGNATED RESIDENTIAL, ON PROPERTY TAX RECORDS MAY RECEIVE MANURE AND HORSE BEDDING FOR AGRICULTURAL USE ON THE PROPERTY; AMENDING THE PERMITTED HOURS FOR DEPOSITING MANURE AND HORSE BEDDING; AMENDING PERMIT APPLICATION REQUIREMENTS FOR PROPERTY OWNERS AND HAULERS; ADDING PROVISIONS ON THE LOCATION OF DUMPING ON PROPERTY; AMENDING PROVISIONS RELATING TO HAULER PERMIT FEES; PROVIDING THAT EXCEPT AS AMENDED HEREIN, ORDINANCE 2010-003 IS RESTATED AND IN FORCE AND EFFECT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 6, 2010, the Town Council of the Town of Loxahatchee Groves adopted Ordinance 2010-003, to provide requirements for permits by landowners and transporters of manure and horse bedding in the Town; and,

WHEREAS, the Town Council believes that Ordinance 2010-003 should be amended to provide for additional items relating to permit requirements and fees; and,

WHEREAS, except as amended herein, Ordinance 2010-003 shall remain in full force and effect in the Town.

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. Ordinance 2020-003 is amended as set forth herein.

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

Section 2. It shall be prohibited for a property owner to permit the depositing of Manure and Horse Bedding onto real property within the Town except when the Manure and Horse Bedding is being used by the property owner for bona fide agricultural purposes in appropriately limited quantities after obtaining a permit from the Town.

Section 3. It shall be prohibited for any person to deposit Manure and Horse Bedding on any property within the Town, regardless of the consent of the property owner, unless such person, and the property owner, has obtained a permit from the Town confirming that the Manure and Horse Bedding is to be used for bona fide agricultural purposes; and, in no case may the amount of Manure and Horse Bedding deposited exceed the amount set forth in the permit issued to the Property Owner by the Town. With the exception of a Town Manager-approved permit for residential property hereinafter provided, the property on which the Manure and Horse Bedding is to be deposited must be designated as agricultural by the Palm Beach County Tax collector for property tax purposes; provided that when a property owner applies for the first time for a permit, the property owner may obtain its initial permit notwithstanding not having the agricultural use tax designation when the property owner certifies to the Town Manager that the property owner is making a good faith effort to obtain the agricultural use tax designation. This exception shall not apply to subsequent years Property owners of property designated as residential by the Palm Beach County Tax Collector may obtain a permit from the Town Manager when the property owner of the residential property demonstrates to the Town Manager that the Manure and/or Horse Bedding is solely for private, personal use on-site. The Town Manager shall advise the Town Council of all permits approved for residential properties. The determination of the appropriate quantity of Manure and Horse Bedding for use for bona fide

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

~~agricultural purposes shall be based upon uses and custom associated with the specific agricultural use on the property, which may include recognized formulas of government agencies or published studies. A permit issued to a property owner pursuant this Ordinance is limited to one transporter, and a property owner may have only one permit at a time.~~

Section 4. Notwithstanding the issuance of a permit, the depositing of manure and horse bedding shall be prohibited between the hours of ~~sunset and sunrise~~ 7:00 p.m. and 7:00 a.m. on Mondays through Saturdays, and prohibited at all times on Sundays. A hauler shall not dump Manure and Horse Bedding within fifty (50) feet of the property line or within seventy five (75) feet of any well on the property. The limitations in this Section do not apply to the spreading or use of the manure and horse bedding.

Section 5. The Town Council hereby finds that a violation of this ordinance presents a public nuisance for purposes of enforcement of Section 403.413, Florida Statutes, and law enforcement officers charged with the enforcement of state and local laws within the Town shall strictly enforce Section 403.413, Florida Statutes.

Section 6. The Town Administration is authorized to use the Town's Code Enforcement process to enforce violations of this ordinance where a law enforcement officer has not otherwise issued violations of Section 403.413, Florida Statutes. In such instances, the fine shall be \$250 for the initial violation and \$500 for each subsequent violation, with each load or each day being a separate violation. Each day a violation remains, and each haul for which there is no permit, constitutes a separate violation of this ordinance.

Section 7. Upon the issuance of a violation notice under Section 403.413, Florida Statutes, or this ordinance, any permits issued by the Town shall be suspended and all Manure

TOWN OF LOXAHATCHEE GROVES

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and Horse Bedding deposit activity stopped until such time as a hearing is conducted or the fines paid. Should a person violate this ordinance on more than one (1) occasion during a calendar year, that person shall not be granted a permit from the Town for a period of one (1) calendar year from the date of the last violation.

Section 8. Permits shall be obtained by both property owners and transporters from the Town.

a. Property Owners shall obtain a permit from the Town for each use of manure or horse bedding, regardless of the number of loads, during which time the Property Owner shall advise in writing: (1) whether the real property on which the manure and/or horse bedding is to be dumped is designated agriculture or residential on the tax roll for property tax purposes; (2) the volume being used under the permit; (3) and the transporter for the material; (4), and will certify that the manure or horse bedding is being used for bona fide agricultural purposes, and for residential properties include sufficient information to enable the Town Manager to determine whether the use is for private, personal use on site; (5) confirming through a property site drawing or layout that the manure and horse bedding will not be dumped within fifty (50) feet of the property line or within seventy five (75) feet of any well on the property; and (6) that the property owner has verified that the transporter for the materials has a permit from the Town. One of the conditions on the issuance of a permit to a property owner is that it shall provide consent for a Town representative to inspect the property solely for purposes of ensuring compliance with the terms of the permit. There shall be no charge for a Property Owner Permit. The Property Owner shall spread the manure and horse bedding within seventy-two (72) hours of receipt of the materials.

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

b. Transporters shall obtain an annual permit from the Town for the deposit of up to twenty (20) loads of Manure and Horse Bedding within the Town. For purposes of this ordinance, a “load” shall be approximately twenty (20) to twenty-five (25) cubic yards. In obtaining the permit, the transporter will acknowledge that it is aware of the Town’s regulations relating to the deposit of manure and horse bedding, and that it will confirm upon receipt of a request for materials from a property owner within the Town that the purpose for such manure and horse bedding is for bona fide agricultural purposes, and that the property owner has obtained the necessary permit from the Town. All permits for transporters shall expire each September 30 regardless of the date of issuance. Transporters are responsible for the timely renewal of its annual permit. The annual permit fee shall be Five Hundred Dollars (\$500.00). A hauler may exceed twenty (20) loads permitted that it pays, in advance, an additional fee of forty dollars (\$40.00) per load. A transporter who applies for an application subsequent to transporting manure into the Town shall be charged a fee of Two Thousand Dollars (\$2,000.00), and for permitted haulers that exceed the permitted number of loads and do not pay in advance for additional loads, the cost per additional load shall be one hundred dollars (\$100.00); The application fees set forth herein which may be adjusted by the Town Council by resolution. No permit shall be issued to a transporter who has not remedied previous violations of this Ordinance.

Section 9. As used in this ordinance “bona fide agricultural purposes” means farming, pasture, grove, or forestry operations, including horticulture, floriculture, viticulture, dairy, livestock, poultry, bee and aquaculture, consistent with Section 823.14, Florida Statutes (Right to Farm) and Section 570.02, Florida Statutes (Agriculture).

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

Section 10. **Effect on Ordinance 2010-003.** Except as amended herein, Ordinance 2010-003 remains in full force and effect.

Section 11. **Repeal of Laws in Conflict.** All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

Section 12. **Severability.** If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 13. **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 Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this ordinance may be re-numbered, 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 14. **Effective Date.** This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 6th DAY OF March, 2012.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 3rd DAY OF April, 2012.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

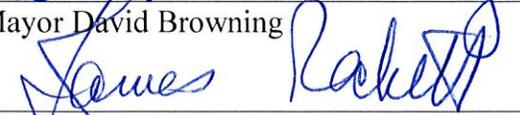
TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2012-03

ATTEST:


Janice M. Moore, Town Clerk


Mayor David Browning

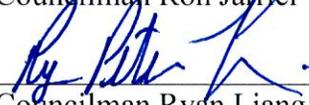

Vice Mayor Jim Rockett

APPROVED AS TO LEGAL FORM:


Michael D. Cirullo, Jr., Town Attorney

not present
Councilman Goltzené


Councilman Ron Jarriel


Councilman Ryan Liang

MDC:aw

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