

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



**TOWN OF LOXAHATCHEE GROVES**  
Unified Land Development Code Review Committee  
Thursday, February 21, 2013 at 5:00 p.m.  
Central Palm Beach County Chamber of Commerce  
13901 Southern Blvd., Loxahatchee, Florida 33470

Committee Chairman Virginia Standish  
Committee Vice Chairman Katie Davis  
Committee Member Beck Hyslop  
Committee Member John Ryan  
Committee Member Howard Voren

Town Manager Mark Kutney  
Town Clerk Susan Eichhorn  
Town Planner Jim Fleischmann  
Town Planning Technician Braeden Garrett

TENTATIVE  
SUBJECT TO REVISION

**PUBLIC NOTICE/AGENDA**

*Public Comment will be taken after each Agenda item*

**1. OPENING**

- a. Call to Order – *Chair Standish*
- b. Roll Call – *Town Clerk Eichhorn*

**2. REGULAR AGENDA**

**a. New Business**

1. Attorney General Opinion

2. Hay Sales Amendment (Ordinance No. 2012-12)
3. Definitions – Art. 10 - ULDC

**b. Old Business**

1. Review of ULDC Articles:
  - Article 170 Special Exception Uses
  - Article 75 Nonconforming Uses, Structures and Plots
  
2. One Way Communication and Related Matters
3. Ethics
  - Palm Beach County Commission on Ethics
  - Town of Loxahatchee Groves Ethics Ordinance No. 2009-01

**3. CLOSING & ADJOURNMENT**

**The next meeting of the Unified Land Development Code Review Committee will be held on  
March 21, 2013**

**Comments Cards:** Anyone from the public wishing to address the ULDCRC 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 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 ULDCRC 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.



2. Regular Agenda a. New Business 1. Attorney General Opinion



## STATE OF FLORIDA

**PAM BONDI  
ATTORNEY GENERAL**

January 29, 2013

13-01

Mr. Michael D. Cirullo, Jr.  
Goren, Cherof, Doody & Ezrol, P.A.  
3099 East Commercial Boulevard  
Suite 200  
Fort Lauderdale, Florida 33308

Dear Mr. Cirullo:

As Town Attorney for the Town of Loxahatchee Groves, you have requested my opinion on substantially the following question:

Does section 604.50, Florida Statutes, exempt nonresidential farm buildings, farm fences, and farm signs from land development regulations adopted pursuant to Chapter 163, Florida Statutes?

In sum:

Section 604.50, Florida Statutes, exempts nonresidential farm buildings, farm fences, and farm signs from land development regulations adopted by the Town of Loxahatchee Groves pursuant to Chapter 163, Florida Statutes.

Section 604.50, Florida Statutes, makes provision for nonresidential farm buildings, farm fences, and farm signs:

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be

erected, used, operated, or maintained in a manner that violates any of the standards provided in s. 479.11(4), (5)(a), and (6)-(8).

The statute defines the terms used in the section for purposes of statutory construction.<sup>1</sup>

Prior to the adoption of Chapter 2011-7, Laws of Florida, this statute provided that "[n]otwithstanding any other law to the contrary, any nonresidential farm building is exempt from the Florida Building Code and any county or municipal *building code*."<sup>2</sup> (e.s.) The Legislature's removal of the term "building" from the language of the statute relating to county or municipal codes has resulted in your request for an opinion from this office.

The Town of Loxahatchee Groves has adopted land development regulations pursuant to Chapter 163, Florida Statutes, entitled the "Unified Land Development Code." The town's land development regulations contain typical setback requirements for properties in the town. Subject to consistency with the Right to Farm Act, the town has sought to enforce setback requirements upon nonresidential farm buildings, such as shade houses, corrals, and barns.<sup>3</sup> However, the change to section 604.50(1), Florida Statutes, which exempts nonresidential farm buildings, farm fences, and farm signs from "any county or municipal code" would prevent the town from enforcing its zoning regulations, such as setbacks for nonresidential farm buildings, farm fences, and

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<sup>1</sup> Section 604.50(2), Fla. Stat., defines these terms as follows:

- (a) "Farm" has the same meaning as provided in s. 823.14.
- (b) "Farm sign" means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm.
- (c) "Nonresidential farm building" means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

<sup>2</sup> See s. 604.50, Fla. Stat. (2002).

<sup>3</sup> See Ops. Att'y Gen. Fla. 09-26 (2009) and 01-71 (2001) in which this office concluded that a county could enforce land development regulations pursuant to s. 823.14, Fla. Stat., Florida's Right to Farm Act, so long as those regulations did not limit the operational activities of a bona fide farm operation inconsistent with the Right to Farm Act. Both of these opinions addressed s. 823.14, Fla. Stat., and were issued prior to the amendment to s. 604.50, Fla. Stat., in 2011 by CS/HB 7103.

farm signs if it is determined that section 604.50, Florida Statutes, provides an exemption for nonresidential farm buildings and farm fences and signs from the town's land development regulations.

It is a general rule of statutory construction, frequently expressed by Florida courts that:

When a statute is clear, courts will not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain intent. Instead, the statute's plain and ordinary meaning must control, unless this leads to an unreasonable result or a result clearly contrary to legislative intent.<sup>4</sup>

Section 604.50(1), Florida Statutes, clearly states that "[n]otwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign is exempt from . . . any county or municipal code or fee[.]" The Legislature has maintained an exception for code provisions implementing local, state, or federal floodplain management regulations. Applying the rule of construction set forth above compels the conclusion that the Town of Loxahatchee Groves has no authority to enforce "any county or municipal code or fee" provision on any nonresidential farm building, farm fence, or farm sign.

Further, a review of the legislative history surrounding the enactment of CS/HB 7103 during the 2010 and 2011 legislative sessions, suggests that this was the legislative intent. Staff analysis of the bill by both the House and the Senate states that the amendment to section 604.50, Florida Statutes, will

exempt farm fences from the Florida Building Code and farm fences and nonresidential farm buildings and fences from county or municipal codes and fees, except floodplain management regulations. It provides that a

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<sup>4</sup> See e.g., *State v. Burriss*, 875 So. 2d 408 (Fla. 2004); *State v. Egan*, 287 So. 2d 1 (Fla. 1973); *Van Pelt v. Hilliard*, 78 So. 693 (Fla. 1918); *Legal Environmental Assistance Foundation, Inc. v. Board of County Commissioners of Brevard County*, 642 So. 2d 1081 (Fla. 1994); *Goddard v. State*, 438 So. 2d 110 (Fla. 1st DCA 1983); Ops. Att'y Gen. Fla. 93-47 (1993) (in construing statute which is clear and unambiguous, the plain meaning of statute must first be considered); 93-2 (1993) (since it is presumed that the Legislature knows the meaning of the words it uses and to convey its intent by the use of specific terms, courts must apply the plain meaning of those words if they are unambiguous); and 92-93 (1992).

nonresidential farm building may include, but not be limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.<sup>5</sup>

The intent of the Legislature is the primary guide in statutory interpretation.<sup>6</sup> Where the language used by the Legislature makes clear its intent, that intent must be given effect.<sup>7</sup> Thus, absent a violation of a constitutional right, a specific, clear and precise statement of legislative intent will control in the interpretation of a statute.<sup>8</sup>

Your memorandum of law suggests that the word "code" as used in section 604.50(1), Florida Statutes, may not include the Town of Loxahatchee Groves' "Unified Land Development Code." While the Florida Statutes contain a number of definitions for the word "code,"<sup>9</sup> the fact that the Legislature provided no definition for purposes of section 604.50(1), or chapter 604, Florida Statutes, requires that the word be understood in its common and ordinary sense.<sup>10</sup> "Code" is generally defined as:

3. any set of standards set forth and enforced by a local government agency for the protection of public safety, health, etc., as in the structural safety of buildings (building code), health requirements for plumbing, ventilation, etc. (sanitary or health code), and the specifications for fire escapes or exits (fire code). 4. a systematically arranged collection or compendium of laws, rules, or regulations.<sup>11</sup>

Black's Law Dictionary defines "code" as "[a] complete system of positive law, carefully arranged and officially promulgated; a systematic collection or revision of laws, rules, or regulations[.]"<sup>12</sup>

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<sup>5</sup> See The Florida Senate Veto Message Bill Analysis for CS/HB 7103, dated July 12, 2010, and House of Representatives Staff Analysis, CS/HB 7103, dated April 14, 2010, and stating that section 6 of the bill "exempts farm fences from the Florida Building Code, and exempts farm fences and nonresidential farm buildings from county or municipal codes and fees, except for code provisions implementing local, state, or federal floodplain management regulations."

<sup>6</sup> See, e.g., *State v. J.M.*, 824 So. 2d 105, 109 (Fla. 2002); *St. Petersburg Bank & Trust Co. v. Hamm*, 414 So. 2d 1071 (Fla. 1982); *Barruzza v. Suddath Van Lines, Inc.*, 474 So. 2d 861 (Fla. 1st DCA 1985); *Philip Crosby Associates, Inc. v. State Board of Independent Colleges*, 506 So. 2d 490 (Fla. 5th DCA 1987).

<sup>7</sup> *Barruzza and Philip Crosby Associates, Inc.*, *supra*.

<sup>8</sup> *Carawan v. State*, 515 So. 2d 161 (Fla. 1987).

<sup>9</sup> See s. 320.822, Fla. Stat. (uniform standard code for recreational vehicles and park trailers), and s. 553.955, Fla. Stat. (providing that the word "code" is defined for purposes of those statutes as the Florida Energy Efficiency Code for Building Construction).

<sup>10</sup> See *Southeast Fisheries Association, Inc. v. Department of Natural Resources*, 453 So. 2d 1351 (Fla. 1984); *Millazzo v. State*, 377 So. 2d 1161 (Fla. 1979) (when a statute does not specifically define words of common usage, such words are construed in their plain and ordinary sense).

<sup>11</sup> Webster's New Universal Unabridged Dictionary (2003), p. 397.

<sup>12</sup> Black's Law Dictionary (8th ed. 2004), p. 273.

The term "land development regulations" is defined in section 163.3164, Florida Statutes, as:

"Land development regulations" means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213.<sup>13</sup>

You have advised that the Town of Loxahatchee Groves developed its land development code pursuant to Chapter 163, Florida Statutes. You state that while a collection of land development regulations would appear to fall within the general definition of "code," section 604.50, Florida Statutes, applies solely to "nonresidential farm buildings" and "farm fences." You contrast this with land development regulations which apply to "the development of land," but which include, as set forth in the definition above, such matters as zoning, building construction, and sign regulations.

I cannot draw such a distinction. The Town of Loxahatchee Groves "Unified Land Development Code" appears to be a "code" within the scope of that term as used in section 604.50(1), Florida Statutes. The Legislature clearly intended to exempt nonresidential farm buildings, farm fences, and farm signs from "any county or municipal code." Thus, recognizing the Legislature's intent, it is my opinion that nonresidential farm buildings, farm fences, and farm signs are exempted from regulation under the land development regulations of the town.<sup>14</sup>

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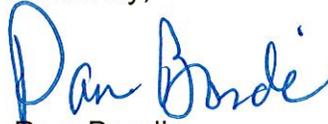
<sup>13</sup> Section 163.3164(26), Fla. Stat.

<sup>14</sup> Your letter states that "if Section 604.50 is intended to expand the exemption for nonresidential farm buildings, fences and signs to all municipal regulations, then Section 823.14, Florida Statutes, would be superfluous as to nonresidential farm buildings, fences and signs, since an exemption from a code means there cannot be duplication of codes." However, s. 604.50 and s. 823.14, Fla. Stat., the Florida Right to Farm Act, can be read in such a manner as to give effect to both. See *Ideal Farms Drainage District et al. v. Certain Lands*, 19 So. 2d 234 (Fla. 1944); *Mann v. Goodyear Tire and Rubber Company*, 300 So. 2d 666 (Fla. 1974), for the proposition that when two statutes relate to common things or have a common or related purpose, they are said to be *pari materia*, and where possible, that construction should be adopted which harmonizes and reconciles the statutory provisions so as to preserve the force and effect of each. Section 604.50, Fla. Stat., is the more specific statute and completely exempts nonresidential farm buildings, farm fences, and farm signs from regulation under the town's codes. Section 823.14, Fla. Stat., is intended by the Legislature to "protect reasonable agricultural activities conducted on farm land from nuisance suits." The Right to Farm Act would accommodate other types of land development regulation undertaken in compliance with the terms of the act, but the more specific subjects of s. 604.50, Fla. Stat., would be excluded from the terms of the act. Thus, these two statutes, both related to farming, can be read to give a scope of operation to each.

Mr. Michael D. Cirullo, Jr.  
Page Six

In sum, it is my opinion that section 604.50, Florida Statutes, exempts nonresidential farm buildings, farm fences, and farm signs from land development regulations adopted by the Town of Loxahatchee Groves pursuant to Chapter 163, Florida Statutes.<sup>15</sup>

Sincerely,



Pam Bondi  
Attorney General

PB/tgh

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<sup>15</sup> I would note that the Office of General Counsel, Florida Department of Agriculture and Consumer Services, has submitted a letter on this issue concluding that "it is the opinion of the Department of Agriculture and Consumer Services that this legislation applies to *all* local codes including land development regulations." (emphasis in original) See letter from Carol A. Forthman, Office of the General Counsel, Florida Department of Agriculture and Consumer Services, to Mr. Michael D. Cirullo, Jr., dated November 20, 2012.

Mr. Michael D. Cirullo, Jr.  
Page Seven

RE: MUNICIPALITIES – FARM BUILDINGS – SIGNS – FENCES –  
LAND DEVELOPMENT REGULATIONS – regulation of nonresidential  
farm building by municipalities. s. 604.50, Fla. Stat.



2. Regular Agenda a. New Business 2. Hay Sales Amendment

**Attachment A to Ordinance No. 2012-12**

**ATTACHMENT A  
RESIDENTIAL AGRICULTURAL SALES AND SERVICES  
ULDC AMENDMENTS  
(Ref: Following Page)**

Underlined text indicates additions to the current ULDC. ~~Strike through~~ text indicates revisions made by the Council at first reading of the ordinance on January 15, 2013.

## Attachment A to Ordinance No. 2012-12

### 1. ADD TO Section 10-015: Definitions

**Residential Agricultural Sales and Services:** Places of business as an accessory use to the principal use of single-family engaged in the sale from the premises solely of straw, hay, flake shavings, pellet shavings, feed and grain for livestock and domesticated animals.

### 2. ADD TO Section 20-015: Permitted Uses (AR District)

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

<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
Retail Nursery	Permitted w/Special Exception
U-Pick Farms	Permitted w/Special Exception
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
Residential Agricultural Sales and Services	Permitted subject to Article 80

\*Accessory Use. Uses naturally and customarily incidental, subordinate, and subservient to the principal use of the premises, and located on the same plot as the principal use. The area of an accessory use shall be subordinate to that of the principal use.

### 3. ADD TO Article 80: Conditional Uses

#### **Section 80-60: Residential Agricultural Sales and Services.**

Residential agricultural sales and services uses, as defined in Article 10, "Definitions, Abbreviations and Construction of Terms", may occur as an accessory use to the principal use of single-family dwelling in the Agricultural Residential (AR) zoning district subject to the following conditions and limitations:

- (A) Owner of property and business. The plot on which a residential agricultural sales and services use is located shall be occupied by the owner of said plot who shall also own and operate said residential agricultural sales and services use. The owner of the plot shall provide to the Town proof of a homestead exemption as soon as possible, but no later than one year following the establishment of the residential agricultural sales and services use.

## Attachment A to Ordinance No. 2012-12

- (B) Change of ownership. Any future change of ownership of the plot upon which a residential agricultural sales and services use is located or the residential agricultural sales and services use shall invalidate an approval to operate under this Section.
- (C) Annual business tax receipt required. Subject to review and written zoning confirmation by the Town, the owner of a residential agricultural sales and services use shall procure a Palm Beach County business tax receipt annually and provide a copy to the Town. The Town shall use said receipts to establish and maintain a registry of residential agricultural sales and services businesses.
- (D) Size of property. Residential agricultural sales and services uses shall be located on plots of five acres or more in size and comply with all lot frontage and setback requirements per Sections 20-25(B) and 20-035(A) to (D).
- (E) Location of residential agricultural sales and services use. A residential agricultural sales and services use shall be conducted as an accessory use solely on the property where the main single-family dwelling is located.
- (F) Activities requiring special exception approval. The following residential agricultural sales and services activities shall require a Special Exception pursuant to Article 170.
- ~~(1) The use of truck tractor(s) and semi-trailer(s) for residential agricultural sales and services product delivery to the plot.~~
- (1) The use of semi-trailers visible from the street or an adjoining residence for residential agricultural sales and services products storage.
- (G) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential agricultural sales and services use. All accessory storage buildings for residential agricultural sales and service uses shall be enclosed or completely screened from view from adjacent properties.
- (H) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential agricultural sales and services use shall not exceed 0.01.
- (I) Use of shipping containers and semi-trailers. Shipping containers and semi-trailers may be used to store residential agricultural sales and services products prior to their sale.

## Attachment A to Ordinance No. 2012-12

(1) For the purposes of this section, shipping containers shall be considered accessory buildings.

(2) A maximum of two semi-trailers may be used for outdoor storage of residential agricultural sales and services products on a plot of land without screening, subject to Section 80 – 60 (F), provided that such vehicles are routinely operated and maintained.

(3) Shipping containers and semi-trailers shall not be located in any required setbacks, easements, or rights-of-way.

~~(J) Employees or contractors. In addition to any person(s) who are the resident owners of the property and the residential agricultural sales and services use, a maximum of two additional employees or contractors shall be permitted at any given time to assist with the residential agricultural sales and services use.~~

~~(J) Outdoor storage. Outdoor storage associated with residential agricultural sales and services uses shall be subject to Section 20-010(G).~~

~~(K) Signage. One non-lit panel sign advertising the residential agricultural sales and services use and hours of operation may be erected on the plot. Such signs shall be no larger than twelve square feet in sign area and no higher than eight feet above the ground. Signs shall observe the site distance triangle requirement of Article 105, "Sight Distance" and comply with all applicable codes, including permitting requirements.~~

~~(L) Hours of operation. Hours of operation of a residential agricultural sales and services use shall be limited to 8:00 a.m. to 8:00 p.m. during week days five days per week and on Saturdays and 8:00 a.m. to 4:00 p.m. on Saturdays and Sundays 12:00 p.m. to 5:00 p.m. No on-site sales shall occur on Sundays.~~

~~(M) Residential agricultural Sales and Services Uses as of the effective date of this ordinance. A residential agricultural sales and services use as an accessory use to the principal use of single-family dwelling in the Agricultural Residential (AR) zoning district that was operating consistent with Section 80-60 (A) as of the effective date of this ordinance, as verified by a valid business tax receipt, may continue its current operation with the following limitations:~~

~~(1) Authorization pursuant to this paragraph to operate a residential agricultural sales and services use shall not include the operation of such use as a principal use or an accessory use to any principal use other than single-family dwelling.~~

## **Attachment A to Ordinance No. 2012-12**

- (2) Any future change in ownership of the plot upon which an agricultural sales and services business is located, or the residential sales and services use shall invalidate an approval to operate under this paragraph.

Exceptions to the foregoing limitations and conditions 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.



2. Regular Agenda a. New Business 3. Definitions – Art 10 ULDC

**Article 10**

**DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS**

- Section 10-005. Construction of terms.
- Section 10-010. Abbreviations.
- Section 10-015. Definitions.



**Section 10-005. Construction of terms.**

For the purpose of the ULDC, certain terms used herein are defined. When not inconsistent with the context:

- (A) Words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular number.
- (B) The word "shall" is always mandatory and not merely directory.
- (C) The word "may" is permissive.
- (D) The word "structure" shall include the word "building."
- (E) The word "used" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used.
- (F) The word "occupied" includes arranged, designed, built, altered, converted, rented or leased, or intended to be occupied.
- (G) The word "land" shall include water surface.
- (H) The word "person" includes individuals, firms, corporations, associations, trusts, joint ventures, partnerships, estate, syndicates, fiduciaries, government agencies, two or more persons having a joint or common interest, any combination of the preceding, and other similar entities.
- (I) The word "Town" shall mean the Town of Loxahatchee Groves, Florida.
- (J) The word "Council" shall mean the Town Council of the Town of Loxahatchee Groves, Florida.
- (K) The word "Councilmember" shall mean the members of the Town Council of the Town of Loxahatchee Groves.
- (L) The word "County" shall refer to Palm Beach County, Florida.
- (M) The word "Code" shall refer to the Unified Land Development Code of the Town of Loxahatchee Groves, Florida.
- (N) The word "Plan" shall mean the Town of Loxahatchee Groves Comprehensive Plan.
- (O) The word "Manager" shall mean the Town Manager of the Town of Loxahatchee Groves, Florida.
- (P) Any reference to the Town Manager, Town Attorney, Town Engineer, Town Planner, Code Enforcement Officer or other administrative official of the Town of Loxahatchee Groves, Florida, shall include their designees.
- (Q) Any reference to the Town Engineer shall include any of the engineering firms the Town may utilize for Town permit review, general development review, or infrastructure planning or review.

**Section 10-010. Abbreviations.**

The following abbreviations are used in the ULDC and are intended to have the following meanings:

(A)	ac	acre
(B)	du	dwelling unit
(C)	F.A.R.	Floor area ratio
(D)	FLUM	Future Land Use Plan Map of the Comprehensive Plan
(E)	ft.	foot
(F)	F.S.	Florida Statutes
(G)	LOS	Level of service
(H)	NVGD	National Vertical Geodetic Datum
(I)	sq. ft. or sf.	square feet
(J)	SFR	Single-family residence
(K)	ULDC	Unified Land Development Code

**Section 10-015. Definitions.**

(A) Any term not defined in this section shall have the meaning given by the most recent edition of Webster's Unabridged Dictionary.

*Abandonment.* To stop the use of property intentionally. When the use of property has ceased and the property has been vacated for six months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, substantially repair or use the property for a legally permissible use.

*Accessory building.* A separate building, subordinate in area and height to a principal building or use, as applicable, devoted to an accessory use on the same plot with the principal building or principal use.

*Accessory dwelling unit.* An accessory dwelling unit located on the same lot as a principal single family dwelling. An accessory dwelling is a complete, independent living facility equipped with a kitchen and provisions for sanitation and sleeping.

*Accessory use.* A use naturally and customarily incidental, subordinate, and subservient to the principal use of the premises, and located on the same plot as the principal use. The area of an accessory use shall be subordinate to that of the principal use.

*Acre.* Forty-three thousand five hundred-sixty square feet of land.

*Adult day care facility.* An establishment which provides day care and activities for adolescents or adults who require supervision due to physical or mental limitations.

*Adult Entertainment.* Any facility that features live persons, or taped or published images of persons, engaging in sexual activity or exposing specified anatomical areas, but specifically excluding naturist facilities.

## DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Agriculture.* As defined by F.S. § 570.02, as may be amended from time to time, which states: The science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, seafood shall also be included in this definition.

*Agriculture, bona fide.* A business that receives a reduction in property tax due to the use of part or of all of the property for the production of products as defined under "Agriculture" in Section 10-015. See Ch. 193.461 F.S. and Article 65 "Bona Fide Agricultural Uses" of this Unified Land Development Code.

*Alcoholic beverage.* Any beverage containing more than one percent of alcohol by weight.

*Alcoholic beverage establishment.* Any bar, lounge, saloon, bottle club, nightclub, private club, package store or any place or premises, other than a private residence or a fast-food or full service restaurant as defined herein, where alcoholic beverages are sold or dispensed for consumption by customers, patrons or members on or off of the premises, and not in conjunction with a meal. Establishments that provide only snack foods or prepackaged foods incidental to consumption of alcoholic beverages on the premises shall be considered alcoholic beverage establishments.

*Alter.* "Alter", "altered" or "alteration" shall mean any change in size, occupancy or use of a building or structure; any repair or modification to a building or structure, or use; the erection or placement of any sign; the excavation or filling of any water area; the addition or removal of fill and movement of earth; the addition, removal or modification of any paving or landscaping.

*Animal, domesticated.* Any animal that has been bred or raised to live in or about the habitation of humans.

*Animal, large.* Any animal with a body weight of more than 150 pounds.

*Animal, small.* Any animal, including small farm animal, with a body weight of 150 or fewer pounds, but not including swine or poultry.

*Animal manure management, commercial.* The handling, storage, and treating of animal manure and soiled bedding material on a consistent and active basis including the production and wholesale of organic compost for land application as a business or a for-profit activity.

*Animal manure management, private.* The handling, storage, and treating of animal manure and soiled bedding material on a consistent and active basis including the production and wholesale of organic compost for land application, for private or nursery use, excluding dumping and excluding filling.

*Archaeological resources.* Objects and materials which yield information important in history or prehistory and are physical evidence of past human activity. Archaeological resources may be identified using on-site investigations or site predictive models.

§ 10-015 LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE

*Arterial or arterial roadway.* A street having that meaning given in F.S. § 334.03, as may be amended from time to time. Arterials are identified in the Transportation Element of the Comprehensive Plan.

*Auditorium.* A building or complex of buildings that has facilities for cultural, entertainment, recreational, athletic and convention activities or performances.

*Automobile repair, garage.* General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning, etc.

*Aviary.* A place for keeping birds confined.

*Aviculture.* The raising and care of birds in captivity but not including small birds (e.g., parakeets) located in the home as pets.

*Back-out parking.* A parking lot design which forces a vehicle to use the public or private right-of-way to maneuver in and out of a parking stall.

*Bar, lounge or saloon.* Any place devoted primarily to the retailing and consumption on the premises of malt, vinous or other alcoholic beverages not served as an accessory to meals prepared on the premises, and any place where one or more signs are displayed indicating that alcoholic beverages are obtainable for consumption on the premises.

*Bed and breakfast.* An owner-occupied and operated detached dwelling unit, other than a hotel, rooming house or boarding house, where sleeping accommodations without individual food preparation facilities, are provided for transient guests, with at least one meal per day prepared within a centralized kitchen for guests included for a nightly fee, and which does not utilize outside services or employees, except for those customarily found in single-family residential neighborhoods such as housekeeping and landscape maintenance. Bed and breakfasts accept reservations directly on the premises and advertise themselves as bed and breakfasts.

*Boarding or rooming house.* An establishment providing transient lodging for a nightly fee that is not a hotel or bed and breakfast dwelling.

*Building.* Any structure having a solid roof and having walls on all sides, and used or built for the shelter or enclosure of persons, animals, chattels, or property of any kind.

*Building permit.* For purposes of concurrency/adequacy determination and required parking calculations, "Building Permit" means a permit required by the Florida Building Code, as may be amended from time to time, for the erection or construction of a new building, addition to an existing building, or change in occupancy that may require additional parking pursuant to Article 95, "Parking and Loading," or may impact services or facilities subject to concurrency requirements, including one or more additional dwelling units, or additional nonresidential building area. In any other context, the term refers to any permit required under the Florida Building Code, as may be amended from time to time.

## DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Caretaker(s) quarters.* A dwelling that provides housing for a person who is employed to maintain, repair and protect the property on which the dwelling is located.

*Carports.* A private garage not completely enclosed by walls and doors.

*Change of occupancy.* The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution therefore of a use of a different kind or class. Change of occupancy is not intended to include a change of tenants or proprietors unless accompanied by a change in the type of use.

*Child care center.* A place for the day care and/or instruction of children not remaining overnight, includes preschools.

*Chipping and mulching.* The use of equipment designed to cut tree limbs, brush or wood construction debris into small pieces including the production and wholesale of mulch for land application.

*Civic center.* A building or complex of buildings that house governmental offices and services, and/or which may include cultural, recreational, athletic, convention and entertainment facilities owned or operated by a governmental agency.

*Club, private.* Buildings and facilities or premises used or operated by associations and organizations of a fraternal or social character, not operated or maintained for profit. The term "private club" shall not include casinos, night clubs or other institutions operated as a business. Such organizations and associations shall be incorporated under the laws of Florida as nonprofit organizations.

*Code compliance officer or code inspector.* The officers and/or agents of the Town officially authorized by the Town to enforce the provisions of this Code.

*Collector or collector roadway.* A street having that meaning given in F.S. § 334.03, as may be amended from time to time.

*Commercial equestrian operations.* Businesses and activities other than for the personal enjoyment of the property owners or lessees, and their family and friends, that feature limited horse boarding, riding instruction, horse grooming and care instruction, horse training, horse breeding, guided or unguided horse back riding, and equestrian accessory uses, where the ratio of human participants to horses is consistently no greater than two to one, unless the use involves a one time group instruction on horse care, training, riding, or similar equestrian instruction, whereby all participants are engaged simultaneously in such instruction.

*Commercially zoned land.* Any land or water area whose zoning district classification is Commercial Low (CL) or Commercial Low Office (CLO).

*Community residential facility.* A residential building or buildings designed or altered to provide housing, food service, and personal services to persons unrelated to the owner or manager of the facility, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents, and which is licensed by the State of Florida or other government agency for such purposes.

*Completely enclosed building.* A building separated on all sides from adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls pierced only by windows and normal entrance or exit doors.

*Concurrency.* The statutory requirement that public facilities and services needed to support development shall be available at the same time or coincidental with the impact of such development, as provided by law.

*Contiguous.* Directly adjoining; immediately adjacent; contiguous plots have at least one side of each plot which touches one side of the other plot or plots with no separator between the plots including, but not limited to, a public right-of-way, private street, or canal.

*Day labor hiring center.* A profit or non-profit facility at which job seekers congregate to be hired by the day or by the job for short periods of time by third parties that are typically engaged in the construction, maintenance, agricultural or industrial trades. Job seekers must be present to receive and accept a job offer or be transported to a job site, and typically return to the facility for payment. Related support services may be offered to job seekers while they wait onsite.

*Density.* The maximum number of dwelling units permitted on a specific number of acres of land.

*Developed.* Land or water upon which a permitted building, structure, other improvement or use has been constructed or established, and including land that has undergone development as defined herein, but excluding solely underground utilities, pipes, wires, cable, culverts, conduits or other similar underground improvements and excluding structures bearing overhead power transmission lines that carry at least 500 kilovolts of electrical power, provided such lands contain no other buildings or structures. This term shall not include containers having a maximum capacity of forty gallons or less.

*Developer.* Any person undertaking any development as defined in this section.

*Development.* The meaning given in F.S. § 380.04, as may be amended from time to time, provided the term specifically includes any construction, clearing, filling, excavating, grading, or paving, whether or not any such activities are occurring on a previously improved property. The Loxahatchee Groves comprehensive plan specifically recognizes the right of property owners to subdivide their property into five acre single family residential parcels without such land division being deemed development under F.S. § 380.04.

*Development order.* An order authorizing the granting, denying, or granting with conditions of an application for a development permit.

*Development permit.* Any building permit, engineering permit, zoning permit, subdivision or plat approval, modification to a condition of plat approval, including an amendment or revision to a non-vehicular access line, site plan approval, amendment to the notation on the face of a plat, application for placement of a notation on the face of a plat, rezoning, variance or other official action of the Town having the effect of permitting the development of land, but

## DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

does not include any variance or other official action necessary solely for the purpose of issuing a permit, other than a building permit, pursuant to the Florida Building Code, as may amended from time to time.

*Display.* An arrangement of goods reflecting the occupation or business, wares or other objects used or sold on the premises, for the purpose of bringing the subject thereof to the attention of others without the use of a sign.

*District.* A portion of the territory of the Town of Loxahatchee Groves within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Code. The term is short for "zoning district."

*Drive-through facility.* Any place or premises used for the sale or dispensing of products to patrons who enter upon the premises in automobiles and purchase products through a window or door without leaving their vehicle.

*Driveway.* An area that connects the parking aisles of a parking lot, the parking area of a dwelling unit, a loading area, or otherwise provides vehicular access from private property, to the public right-of-way, to a private street, or to another driveway.

*Driveway entrance.* That portion of a driveway that immediately abuts the public right-of-way or a private street.

*Dumpster.* A container constructed of impervious material that is intended and designed to be used for the retention or storage of garbage, refuse or recyclable materials.

*Dwelling.* Any building, or part thereof, occupied in whole or in part, as the residence or living quarters of one or more persons, permanently or temporarily, continuously or transiently.

*Dwelling, detached.* A single dwelling unit physically detached from other buildings, dwelling units or structures.

*Dwelling, single-family.* A freestanding dwelling unit, sharing no walls with another dwelling unit, having all habitable areas within the building accessible from the interior of the building. Single-family dwellings shall not include trailer mobile homes, rooming or boarding houses, or dormitories, fraternities and sororities.

*Dwelling unit.* A room or group of rooms not less than 400 square feet in total floor area, with direct access from the outside of the building or through a common hall, which includes independent and complete kitchen and sanitary facilities designed to provide complete, long-term living accommodations exclusively for one family, and which have no access to another dwelling unit or are designed in such a manner that access to another dwelling unit may be eliminated by closing or sealing interior doorways or openings.

*Employment agency.* A business that charges a fee for providing information and placement services to candidates seeking employment and/or clients looking for qualified candidates. Candidates register with the agency, but do not wait on-site or at a central location for full

time, part time, or temporary assignments. Vocational guidance, employment counseling, resume writing, executive recruitment, payroll processing, and similar personnel services may also be offered.

*Environment.* Includes, but is not limited to, ambient air, surface water, land surface, subsurface soil strata or groundwater.

*Environmental regulation.* Any federal, state, county or Town law relating to pollution or protection of the environment. It includes, but is not limited to, any federal, state, county or Town statute, or regulation that pertains, in whole or part, to any existing or potential emission, discharge or release of any pollutant, contaminant, chemical, toxic waste, hazardous waste or solid waste into the environment. The term "environmental regulation" also includes, without limitation, any such statute or regulation relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of any pollutant, contaminant, chemical, toxic waste, hazardous waste or solid waste.

*Equestrian.* Of, relating to, or featuring horseback riding.

*Equipment, farm and land cultivation.* See "farm and land cultivation equipment."

*Essential services.* The erection, construction, alteration or maintenance by public utilities or governmental agencies, of underground or overhead sanitary sewer, communication, gas, electrical, steam or water transmission or distribution systems, and drainage facilities, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, transformer substations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

*Family.* Any of the following living together as a single housekeeping unit in a dwelling unit: any number of persons related by legal adoption, blood or a licit marriage; a group of not more than three persons who are not related by legal adoption, blood or licit marriage; or a group of persons that are disabled as defined by federal law.

*Family day care home.* The meaning given in F.S. § 402.302, and regulated by § 402.313, both as may be amended from time to time.

*Farm.* The land, buildings, structures, support facilities, machinery, and other appurtenances used in the production of farm and aquaculture products when such land is classified agricultural pursuant to F.S. § 823.14, as may be amended from time to time.

*Farm and land cultivation equipment.* Any operable vehicle and equipment necessary for conducting an agricultural or equestrian use. Landscape maintenance equipment used on the plot (e.g., lawn tractor) is also included in this definition, but shipping containers, and landscape maintenance vehicles associated with a business that provides such services off-site, are not included.

## DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Farm building or structure.* Any building or structure located on a plot classified as a farm, which is used to house or store farm products or materials and equipment necessary to farm operations. A farm structure shall also include fences, walls and hedges along the plot line of a farm.

*Farm operation.* All conditions or activities by the owner, lessee, agent, independent contractor, and supplier that occur on a farm in connection with the production or marketing of a farm's products.

*Farm product.* Any plant, as defined in F.S. § 581.011, as may be amended from time to time, or animal useful to humans and including, but not limited to, any product derived therefrom, or as defined in F.S. § 823.14, as may be amended from time to time.

*Fence.* A structure, solid or otherwise, which is a barrier and used as a boundary or means of protection, confinement or concealment.

*Floor area, gross floor area.* Where a specified minimum floor area is required in the ULDC for a dwelling or other building, "floor area" shall mean the total gross horizontal area of all of the floors within the external perimeter of the exterior enclosing walls, including Florida rooms, sun rooms and utility rooms which are fully enclosed and directly accessible from the interior of the dwelling, but excluding other utility rooms, unenclosed porches, terraces or breezeways, and carports or garages. For purposes of floor area ratio and parking calculations, "floor area" or "gross floor area" means the total gross horizontal area of all of the floors within the external perimeter of the exterior enclosing walls.

*Floor area ratio (F.A.R.).* The total gross floor area of all buildings or structures on a plot divided by the plot area.

*Food service.* Preparation and/or provision of food for consumption intended for individual portion service on or off the premises regardless of whether there is a charge for the food.

*Food service establishment.* Any place where food service is provided, and includes the site at which food is prepared and the site at which individual portions are provided, regardless of whether consumption is on or off the premises. The term does not include private homes where food is prepared or served for individual family consumption.

*Frontage of a building.* Shall mean the wall(s) of a building approximately parallel and nearest to a street(s).

*Frontage of property.* Shall mean any plot line which separates a plot from a street, or the line separating an ingress/egress easement within a plot from the remainder of the plot.

*Garage, private.* An accessory building or portion of a single-family dwelling designed or used for inside parking of self-propelled private passenger vehicles by the occupants of the dwelling.

*Gasoline station.* Any building, structure, or land used for retail sale and dispensing of vehicle fuel(s).

*Governmental facilities.* A building or complex of buildings that house the administrative offices of the Town of Loxahatchee Groves, any department, commission, district, authority, board, independent agency or instrumentality of the United States, the State of Florida, county, or any other governmental unit.

*Grade, established or finished.* The elevation of land above mean sea level in its final, graded condition.

*Guest cottage.* A structure or any part of a structure ancillary to a detached single-family dwelling unit, excluding mobile homes, and located on the same plot as the principle dwelling unit, that is occupied in whole or in part as the temporary residence or living quarter of one or more persons. This definition shall include any such living quarter that is connected to the principal dwelling unit by an open or enclosed breezeway or other structure that serves to merely connect the guest quarter to the principal dwelling, as contrasted with a customary home addition that is physically and functionally integral to the principal dwelling.

*Habitable room area.* The total floor area of a dwelling unit excluding closets, bathrooms, garages, utility rooms, storage areas, and rooms not accessible from the interior of the dwelling unit.

*Hazardous substances.* Any substance or material which, by reason of its toxic, caustic, corrosive, abrasive, explosive, pyric, or otherwise injurious properties, may be detrimental or deleterious to the health or safety of any person handling or using or otherwise dealing with such material or substances.

*Height.* For all buildings and structures, except as provided below, the vertical distance from the highest point of finished grade at the location of the building pad to the highest point of the roof surface for a flat roof, to the deck line for a mansard roof, to the mean height level between eaves and ridge for gable, hip and gambrel roofs, and to the highest point of any non-roofed structure, provided that any portion of the finished grade exceeding ten feet N.V.G.D. shall be included in the height calculation. Sign height is defined within Article 90, "Signs." For structures other than buildings and signs, height shall be the vertical distance from the finished grade below the structure to the highest point of the structure, provided that the height calculation of structures placed on berms shall include the height of the berm.

*Holiday wayside stand.* A temporary outside sales location for the retail sale of holiday items associated with the particular holiday for which the location is established, and not associated with or part of any existing use on the plot upon which it is located.

*Home occupation.* Conduct of a business in a home office.

*Home office.* An office designed for and operated as a business location within the confines of a dwelling unit, and carried on only by persons owning and living in the dwelling unit, and involving only written correspondence, phones, computers, or other common office equipment, and which is clearly incidental and secondary to the use of the dwelling for residential purposes. Home offices shall preclude any business operation that requires or permits

DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

customers, patrons, or other employees to visit the dwelling or is conducted within any structure other than the primary residence. The dwelling in which a home office is located shall have a homestead exemption.

*Hospital.* An institution providing primary health services, medical and/or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, handicap and other physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

*Hotel.* A public lodging establishment containing individual rooms or suites of rooms accessed primarily through an inside lobby, each having a private bathroom, for the purpose of providing overnight, transient lodging accommodations to the general public for compensation with or without meals, which has common, on-site facilities for reservations, cleaning services and on-site management, and may provide additional, accessory services such as restaurants, meeting rooms, health and fitness, spa, entertainment and/or recreational facilities.

*Household pet.* An animal that resides in the dwelling with its owner, kept for companionship and enjoyment.

*Impervious area.* Any area with a surface that is covered or hardened so as to prevent or impede the percolation of water into the soil mantle, including swimming pools, water bodies and areas covered with brick pavers.

*Inflammable liquid.* Any liquid, which under operating conditions gives off vapors which, when mixed with air, is combustible and explosive.

*Kennel, private.* Any building or land used, designed or arranged to facilitate the non-commercial, private care of domestic animals, such as dogs and cats, owned by the occupants of the premises and not used for a commercial or not-for profit organization such as a dog club.

*Kennel, commercial.* A commercial establishment, including any building or land, used for the raising, boarding, breeding, sale, or grooming of domesticated animals (e.g. dogs and cats), not necessarily owned by the occupants of the premises, for profit.

*Kitchen, complete.* A room or area within a building designed or used primarily for providing food storage and food preparation that contains, at least a sink with piped water, refrigerator and conventional gas or electric range or cook stove facilities.

*Land, platted.* Any land recorded by plat in the Palm Beach County Public Records, and can be referenced by a plat name, plat book and page.

*Land, unplatted.* Any land or part thereof not recorded by plat in the Palm Beach County Public Records and cannot be referenced by plat name, plat book and page.

*Library.* A building or room in which literary, musical, artistic or reference materials, such as books, manuscripts, recordings, films, paintings, etc., are kept for public use.

§ 10-015 LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE

*Livestock.* Grazing animals, such as cattle, horses, sheep, goats, other ruminants, swine, ostriches, emus and rheas, which are used for private use or commercial purposes, or as defined by F.S. § 585.01, as may be amended from time to time.

*Loading area.* An area provided off of any public or private right-of-way for the temporary parking of trucks being loaded or unloaded.

*Lot.* A parcel or tract of land designated and identified as a single unit of area in a subdivision plat officially recorded in the Palm Beach County Public Records.

*Lot line.* The property boundary lines of a lot.

*Medical center.* A public or private facility, which staff includes state-licensed physicians and nurses, which provides health-related services or treatment designed to prevent medical problems, maintain a healthful condition, or restore an individual to a condition of health.

*Mobile home.* A structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

*Museum.* A building or room devoted to the procurement, care, study or display of antiques, objects of historical, scientific or cultural interests, or other objects of lasting interest or value.

*Nightclub.* A restaurant, dining room, bar or other similar establishment where music is played at or above normal conversation sound level such that the music is primary entertainment and not merely background music for ambiance, or where floor shows or other forms of lawful entertainment are provided for guests.

*Nonconforming building.* A building or structure, or portion thereof, other than a sign, lawfully existing at the effective date of these regulations, or any amendment hereto, that does not comply with the provisions of these regulations, other than use regulations.

*Nonconforming plot.* A plot of record lawfully existing at the effective date of these regulations, or any amendment hereto, that does not comply with the provisions of these regulations, other than use regulations.

*Nonconforming use.* The use of a structure or premises, lawfully existing at the effective date of these regulations, or any amendment hereto, for any purpose not permitted for a new use in the zoning district in which it is located.

*Nonresidential plot.* A plot of land other than a residential plot.

*Nonresidentially zoned land.* Land or water area within any zoning district other than the Agriculture Residential (AR) zoning district.

*Not-for-profit corporation.* A corporation of which no part of the corporate income is distributable to its members, directors or officers as defined by F.S. ch. 617, as may be amended from time to time.

DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Nursery.* A place where plants are propagated and/or grown to usable size sale, or for experimentation, and which may include such accessory uses as the limited and incidental sale of accessory items, the provision of landscape design services, and delivery and installation of plants purchased from the nursery. This term expressly excludes lawn and landscape maintenance businesses and mulching operations as commercial or principal uses.

*Nursery, retail.* A nursery, the products of which are sold directly to the ultimate consumer.

*Nursery, wholesale.* A nursery, the products of which are sold to a retailer and not directly to the ultimate user.

*Opaque.* Any non-translucent, nontransparent, nonliving material which provides a visual barrier from one side to the other.

*Outdoor event.* A carnival, circus, concert, festival, commercial promotion, show, competition, sale and other similar types of events, as well as any outdoor activity that is not a permitted principal or accessory outdoor use of the premises shall be classified as an outdoor event. Outdoor events shall also include permitted accessory uses of a scale, intensity or frequency that exceeds the customary and incidental scale, intensity or frequency of the given accessory use.

*Package store.* An establishment where the sale of alcoholic beverages in containers for consumption off the premises is the predominate purpose of the establishment.

*Parking.* The temporary, transient storage of vehicles or equipment as an accessory use to a dwelling or other use for a period generally not exceeding 24 hours, while their operators are engaged in other activities. This definition excludes the storage of vehicles or equipment.

*Parking facility.* An area designated for the parking of private passenger vehicles not on a street or other thoroughfare. It shall not include storage of new or used cars for sale, service, rental, or any other purpose than specified above.

*Parking facility, full circulation.* A parking lot design which permits a car entering a parking lot to circulate in front of all parking stalls and restart the same movement again without using a street or alley and without backing up and then turning around.

*Parking facility, partial circulation.* Parking lot design which permits a car entering a parking lot to circulate in front of all parking stalls without using any public or private street right-of-way, and without the need to back up and turn around, but which does not allow complete recirculation through the parking facility without using a street or alley and without the need to back up and turn around.

*Parking aisle.* The area immediately adjacent to the car parking stalls which permits maneuvering of the cars entering and leaving a parking stall, and which connects the parking stalls to the driveway.

*Parking stall or "parking space."* The space that is necessary to park a car, excluding aisles and driveways, and conforming to the minimum dimensions and other requirements of this Code.

*Pervious area.* Area maintained in its natural condition, or covered by a material that permits infiltration or percolation of water directly into the soil mantle.

*Place of worship.* A building, or part thereof, designed and arranged for religious services, on land held in fee simple ownership or on a long-term lease, a minimum of five years duration, by a chartered religious organization, which utilizes the building for regular, continuing religious services.

*Plat.* A map or delineated representation of a tract or parcel of land showing the designation of such land as lot(s), block(s), parcel(s), or other portions thereof, however the same may be designated. The verb "to plat", in whatever tense used, means to prepare a plat in accordance with Town of Loxahatchee Groves' and Florida's minimum platting requirements, showing the division or subdivision of land into lots, blocks, parcels, tracts or other portions thereof, however the same may be designated. "Plat" does not refer to a boundary plat unless the term "boundary plat" is used specifically.

*Platted land.* See, "land, platted."

*Plot.* Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is occupied or to be occupied by a building, structure, or use, and their accessory buildings and accessory uses, together with such yards and open spaces as are required by this Code as a unit. A plot may consist of one or more platted lots, or portions of a platted lot and/or unplatted land.

*Plot, corner.* A corner plot is a plot of which at least two adjacent sides abut for their full length upon a street, provided that such two sides intersect at an interior angle of not more than 135 degrees. Where a plot is on a curve, if tangents through the intersections of the lot lines with the street lines make an interior angle of not more than 135 degrees, such a plot is a corner plot. In the case of a corner plot with a curved street line, the corner shall be considered to be that point on the street line nearest to the point of intersection of the tangents herein described.

*Plot coverage.* The percentage of the plot area covered or occupied by buildings or roofed structures or portions thereof. Swimming pools, decks, barbecue pits, terraces and other appurtenances not roofed-over shall not be included in computing plot coverage.

*Plot depth.* The mean horizontal distance between the front and rear plot lines.

*Plot, flag.* A plot not meeting the minimum frontage requirement and where access to a public street is established by a narrow private street or easement.

*Plot, interior.* A plot other than a corner plot.

*Plot line.* The boundary lines of a plot. Has the same meaning as, "property line."

*Plot line, front.* The plot line coinciding with, or adjacent and parallel, to the street line. For corner plots and through plots, the front plot line shall be determined using the methodology set forth in the definition of "street line, front" as it applies to corner and through plots.

DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Plot line, rear.* The plot line opposite and most distant from the front plot line. In the case of a triangular or gore-shaped lot wherein the two side plot lines converge in the rear, the rear plot line shall be considered to be a line ten feet in length within the plot parallel to and at the maximum distance from the front plot line.

*Plot line, residential.* Any plot line of a residential plot.

*Plot line, side.* Any plot line other than a front or rear plot line. A side plot line separating a plot from a street is called a corner side plot line, and is considered a street line. A side plot line separating a plot from another plot or plots is called an interior or side plot line.

*Plot, residential.* A plot with an Agricultural Residential (AR) zoning district classification.

*Plot, through.* A plot abutting two streets, not at their intersection, if any, which may be an interior plot or also a corner plot.

*Plot width, required.* The minimum required horizontal distance between the side plot lines at the full depth of the required front yard.

*Porch.* A roofed-over space attached to the outside of an exterior wall of a building, which has no enclosure other than the exterior walls of such building. Open mesh screening shall not be considered an enclosure.

*Potable water.* Water which is satisfactory for drinking, culinary and domestic purposes and which meets the quality standards of the Florida Department of Environmental Regulation, Chapter 17-22, Florida Administrative Code, as may be amended from time to time.

*Portable storage unit.* Any container designed for the storage of personal property which is typically rented to owners or occupants of residences or businesses for their temporary use, and which may be delivered to a residence or business and later retrieved from the premises by vehicle and stored in a commercial storage facility until needed by the renter. Portable storage units shall not include shipping containers.

*Poultry.* Domesticated birds kept for eggs or meat, but excluding any emu or ostrich.

*Principal building.* A building occupied by, and devoted to, a permitted principal use.

*Principal use.* The primary use of a parcel of land as distinguished from secondary or accessory uses. There may be more than one principal use on a parcel of land unless prohibited within a given zoning district.

*Private property.* All lands and water areas owned by other than the Town, county, state, federal government or any of its subdivisions.

*Private road.* A road or driveway that is privately owned and limited to the use of the owner or a group of owners who share the use and maintenance. A private road is not owned by a government entity.

§ 10-015 LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE

*Property owner.* The person or entity holding title to real property as indicated in the current tax roll of Palm Beach County, unless the Town has received by certified mail an official document establishing that a person or entity other than the person or entity shown on the tax roll is the actual owner.

*Public property.* All streets, canals, waterways, other rights-of-way, lands, and improvements owned by a governmental agency.

*Quarry.* A place where natural materials or deposits are excavated for use as building materials, road materials, land fill, etc. at a different location. The excavation of materials for use on the premises where the excavation occurs shall not be included in this definition.

*Refuse.* Unwanted or undesired material or substance including rubbish, junk, trash, garbage, excess fill or compost, and animal manure.

*Residential enterprise.* A low impact home-based business on property that has a homestead exemption.

*Residential plot.* See "plot, residential."

*Residential zoning district.* Agricultural Residential (AR) zoning district.

*Residentially zoned land.* Any land or water area within a residential zoning district.

*Restaurant.* A building or room, where food is prepared and served for pay, which may include consumption on the premises.

*Restaurant, fast food.* A restaurant which functions for the purpose of serving either short-order meals or individual food items, but is not a full service restaurant as defined herein. A fast food restaurant may or may not have drive-thru window.

*Restaurant, full service.* A restaurant which functions for the purpose of serving complete meals both ordered from a menu and brought to the customer via table service by a restaurant employee, prepared and cooked in a kitchen within the restaurant for on-premises consumption, but shall include cafeterias. Full service restaurants do not have drive-through windows.

*Retail store.* A commercial establishment for the sale of merchandise directly to the ultimate consumer.

*Right-of-way.* An area of land and/or water that has been dedicated, deeded, reserved, or otherwise conveyed to the public for public use, ownership and control, and intended to be occupied by uses such as a street, walkway, trail, utility infrastructure, canal or other storm water conveyance. The term "right-of-way" shall mean "public right-of-way" unless preceded by the word "private," which for the purpose of the ULDC shall have the same meaning as an easement.

*Right-of-way line.* See "street line."

*Right-of-way line, ultimate.* See "street line, ultimate."

DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Roof line.* The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

*Setback.* The minimum distance measured from a property line, or ultimate street line if the plot abuts a street, and any part of any building or structure on the plot, unless a specific improvement is specifically excepted as a permitted encroachment or called out separately with a different setback. All areas in between the setback line and the plot or street line, as applicable, are yards.

*Setback line.* The line or vertical plane representing the setback distance and yard depth, also described as the edge of any required yard, demarcating the vertical plane that separates a required yard from the 'buildable' portion of the plot where principal structures may be erected.

*Setback line, required.* The line representing the minimum required setback/yard depth.

*Setback, required.* The minimum setback required by any ULDC provision. A minimum setback requirement creates a minimum yard requirement, and a minimum yard requirement has the same effect as requiring a minimum setback.

*Shipping container.* Any container originally designed for transporting cargo, or a container that is similar in design or function to such a container, but excluding a portable storage unit.

*Shopping center.* A group of three or more individual tenant spaces in a nonresidential building, each of which shares at least one common wall with another unit.

*Shopping center outparcel.* A plot containing a commercial building that provides its own required parking, landscaping and pervious areas, which is contiguous on at least one side to a shopping center or other larger commercial development, and which is connected to the larger development through parking or access facilities.

*Site plan.* A drawing illustrating a proposed development and prepared in accordance with the specification set forth in Article 155 of these regulations.

*Storage of vehicles.* The keeping of vehicles or equipment upon a plot for a period exceeding 24 hours that does not constitute "parking" as defined herein. Whenever storage of vehicles is permitted within these regulations, parking is also permitted by inference.

*Street.* A thoroughfare or any other vehicular accessway recorded in the public records of Palm Beach County, Florida, as right-of-way, reservation, ingress/egress easement or similar instrument for the sole purpose of providing access to and from abutting properties. Streets may be publicly dedicated or private.

*Street lines.* Shall mean the lines that form the boundaries of a public street right-of-way, public or private ingress/egress easement, or other access reservation or conveyance.

*Street line, front.* For corner lots, the front street line shall be the shorter of the two street lines unless they are each equal or within 50 feet of equal length, in which case the Town

Manager shall designate one such street line as the front street line and designate one rear lot line based upon neighboring building orientation and access considerations. For through lots, both street lines shall be front street lines.

*Street line, ultimate.* The street line that would result from dedication of right-of-way or granting of an access easement based upon the total public or private right-of-way prescribed for any given street by these regulations, the Comprehensive Plan, Palm Beach County Code, or any other official plan.

*Structural alteration.* Any change, except for repair or replacement, in supporting members of a building or structure, such as bearing walls, columns, beams or girders.

*Structure.* Anything constructed, installed, erected or portable, the use of which requires a location in or on the ground, or attached to something having location upon the ground, such as buildings, trailers, fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs.

*Surface water management system.* The collection of devices, improvements or natural systems whereby surface waters are controlled, impounded, or obstructed. The term includes dams, impoundments, reservoirs and appurtenant works as defined in F.S. § 373.403(1—4), as may be amended from time to time, as well as all artificial structures including, but not limited to, ditches, canals, conduits, channels, culverts, pipes, and other construction that conveys, impounds, or controls surface water.

*Swale.* Land within a street other than the travel surface, and land adjacent to a street that holds, is designed to hold, or is required by the ULDC to contain and/or to convey storm water runoff from a street and private property abutting the street.

*Swine.* Any of various stout-bodied short-legged omnivorous artiodactyl mammals (family Suidae) with a thick bristly skin and a long flexible snout; especially a domesticated one descended from the wild boar.

*Trailer.* A manufactured structure inspected, approved and licensed by the State of Florida Department of Motor Vehicles, constructed so as to permit occupancy thereof as sleeping or living quarters, or use for storage or conveyance for tools, equipment or machinery on a construction site, and so designed that it is or may be mounted on wheels and conveyed on highways and streets, propelled or drawn by other motive power from one location to another.

*Translucent.* Any material which allows the passage of light, but does not permit a clear view of any object or person.

*U-pick farm.* A farm which allows customers to hand pick fruits, vegetables and other crops for a price usually charged by the size of the container.

*Use.* The purpose of which land or a structure thereon is designed, arranged or intended to be occupied or utilized, or for which it is utilized, occupied or maintained.

DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Use (v).* "Use" or "used" shall mean the continuation of an existing use, establishment of a new use, or any expansion or change of an existing use, of a building, structure or part thereof, or of any land or water area.

*Use of land.* Includes use of water surfaces and land under water to be the extent covered by zoning districts, and over which the Town of Loxahatchee Groves has jurisdiction.

*Use, nonresidential.* A use other than residential use (see use, residential).

*Use, principal or main.* The primary use of the plot as distinguished from secondary or accessory uses. There may not be more than one principal or main use on a plot unless specifically permitted by district regulations.

*Use, residential.* A use such as a one-family dwelling for living or sleeping of persons, not commercial or institutional in character such as a lodging establishment or nursing home.

*Variance.* A modification of, or deviation from, a regulation of the ULDC which is authorized and approved by the Town Council after it finds through competent substantial evidence that the literal application of the provisions of the Code would cause unnecessary hardship in the use or development of a specific plot, building, or structure, and that such modification or deviation satisfies the criteria for the granting of variances set forth in Article 150 of these regulations.

*Vehicle, commercial.* Any operable vehicle designed, intended or used for the transportation of people, goods or things, other than private passenger vehicles, agricultural equipment and personal recreation vehicles, provided that any vehicle with a commercial sign placed upon it shall be considered a commercial vehicle. The term "commercial vehicle" shall include, but is not limited to the following:

- a. *Semi trailer.* All two or more axle vehicles designed to be coupled to and drawn by a motor vehicle.
- b. *Truck.* A motor vehicle designed with or modified to contain a bed, platform, cabinet, rack or other equipment for the purpose of carrying items or things or performing commercial activities and weighing 8,000 pounds or more. This term includes, but is not limited to, wreckers, tow trucks, dump trucks, utility or service vehicles, and moving vans.
- c. *Truck-tractor.* A motor vehicle having four or more wheels designed to draw a semi-trailer and often equipped with a "fifth wheel" for this purpose.
- d. *Bus.* Any vehicle designed or modified for transportation of 15 or more people in seats permanently placed in the vehicle.
- e. *Business vehicle.* Any vehicle upon which a business name is displayed. This term includes, but is not limited to, taxis, limousines, ambulances, and vans, but excludes security vehicles which are providing security services to the area where the vehicle is parked.

*Vehicle and equipment, construction.* Any equipment used in land clearing and development, building construction, utility construction, or road construction.

*Vehicle, personal recreation.* Any operable motor vehicle or trailer designed and used for general recreation purposes or temporary living quarters for recreational, camping, or travel use, including but not limited to: camping trailers; travel trailers; truck campers; motor homes, but excluding mobile homes which are considered housing; watercraft; and, trailers designed or used for transporting watercraft or other recreational vehicles, but excluding any trailer classified as a commercial vehicle or which is pulled or designed to be pulled specifically by a commercial vehicle.

*Vehicle, private passenger.* A motor vehicle weighing less than 8,000 pounds, designed and used for personal transportation, including cars, pickup trucks, sport utility vehicles, mini-vans, and motorcycles.

*Vehicle, recreational.* Shall mean one of the following:

- a. *Camping trailer.* A vehicular, portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle, and unfolded at the site to provide temporary living quarters for recreational, camping or travel use.
- b. *Truck camper.* A truck equipped with a portable unit, designed to be loaded onto, or affixed to, the bed or chassis of the truck and constructed to provide temporary living quarters for recreational, camping or travel use.
- c. *Motor home.* A vehicular unit which does not exceed the length and width limitations provided in F.S. § 316.515, as may be amended from time to time, is built on a self-propelled motor vehicle chassis, and is primarily designed to provide temporary living quarters for recreational, camping or travel use.
- d. *Off-road vehicle.* A motorized vehicle designed and intended solely for recreational activities and not as a means of transportation on public streets.
- e. *Travel trailer, including fifth-wheel travel trailer.* A vehicular, portable unit mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle. It is primarily designed and constructed to provide temporary living quarters for recreational, camping or travel use. It has a body width of no more than eight and one-half feet and an overall body length of no more than 40 feet when factory-equipped for the road.

*Vehicular use area.* Parking facilities, driveways, and any area designed or used for vehicular circulation, parking, loading, stacking or storage.

*Water management area.* A portion of a development that is a functional part of the "surface water management system" and is designed for the normal impoundment, storage, or conveyance of surface water or stormwater.

*Waterway.* A stream, canal or body of water.

## DEFINITIONS, ABBREVIATIONS, AND CONSTRUCTION OF TERMS § 10-015

*Wayside stand.* A structure designed and used for the sale or display of farm products produced on the premises on which said structure is located.

*Wetlands.* Those areas which are inundated by water, with sufficient frequency to support, and normally do support an assemblage of organisms that is adapted to saturated or seasonally saturated soil conditions for growth and reproduction including, but not necessarily limited to swamps, marshes, bogs, sloughs, wet meadows, river flood plains, mud flats and wet prairies.

*Wildlife pets.* Shall include only those animals 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.

*Wireless communication facility.* An antenna, stealth facility or wireless communication tower.

*Yard.* A space on the same plot with a structure or use, open and unobstructed from the ground to the sky unless specifically excepted by the ULDC. Yard measurements shall be the minimum horizontal distances. Yards shall extend and be measured inward from the respective plot lines except for yards abutting streets, in which case they shall be measured from ultimate street lines.

*Yard, front.* A yard extending across the full width of the plot between the front street line and the nearest line of the buildings or structures on the plot. For plots along culs-de-sac, the front yard shall be measured parallel to the arc of the cul-de-sac.

*Yard, rear.* A yard extending across the full width of the plot between the rear plot line and nearest line of a building or structure.

*Yard, required.* The minimum yard depth required by these regulations. Any yard space supplied in excess of the minimum amount specified shall not be deemed to be a required yard. Note: a minimum setback requirement creates a minimum yard requirement, and a minimum yard requirement has the same effect as requiring a minimum setback.

*Yard, side.* A yard extending from the front yard to the rear yard, between the side plot line, or side street line if applicable, and the nearest line of any building or structure on the plot. The width of a side yard shall be the shortest distance between the side plot line or side street line and the nearest use or building or structure on the plot.

*Yard sale or garage sale.* The sale of a residential occupant's personal or household belongings to the public from the occupant's residence, either inside or outside of the building.



2. Regular Agenda b. Old Business 1. Review of Special Exceptions

## SPECIAL EXCEPTION RECOMMENDATIONS

The purpose of this report is to analyze the Town’s special exception approval process, including uses and procedural requirements, in order to assist the Town Council in potentially streamlining application requirements and the approval process.

### A. Uses Requiring Special Exception Approval

A list of uses that require special exception approval, by Town zoning district, is presented in Table 1. (NOTE: Mobile Homes are permitted uses in the AR Zoning District, subject to special exception approval, per Town Ordinance 2011-008). Special Exception approval requirements and procedures are included in ULDC Article 170.

**Table 1  
Special Exception Uses by Zoning District**

Zoning District	Special Exception Use	Note
<b>Agricultural Residential</b> (ULDC Section 20-015)	Non-Profit Community Recreational Facility	Principal Use
	Commercial Equestrian Operations	Principal Use
	Retail Nursery	Principal or Accessory Use
	Rescued Animal Care	Principal Use
	Outdoor Events	Principal Use
	Wireless Communication Facilities	Principal Use
	Mobile Homes	Principal Use
	U-Pick Farms	Accessory Use
	Day Labor Hiring Center	Permitted Use
	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
<b>Commercial Low Office</b> (ULDC Section 25-015)	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
<b>Institutional and Public Facilities</b> (ULDC Section 30-015)	Private Service Club or Lodge	Permitted Use
	Wireless Communication Facilities	Permitted use
	Day Labor Hiring Center	Accessory Use
<b>Parks and Recreation Conservation</b>	NA	NA
	NA	NA

Special exception uses, due to their unique characteristics and potential impacts upon neighboring uses or the Town, require individual review of their location, design, configuration and/or operation in order to insure that they are appropriate at a particular location.

The purpose of a special exception approval is to require a review of the location, design, configuration and operation of a use in order to insure that it is appropriate at a particular location and compatible with neighboring uses within a given zoning district.

Most of the uses listed in Table 1, due to their potential impacts, should require a complete Special Exception review, including: Non-Profit Community Recreational Facility; Commercial Equestrian Operation; Retail Nursery (principal use); Rescued Animal Care; Wireless Communication Facility; Day Labor Hiring Center (permitted use); and Private Service Club or Lodge.

Other uses listed in Table 1, including Mobile Home (permitted principal use), Retail Nursery (accessory use), U-Pick Farms (accessory use), and Day Labor Hiring Center (accessory use), due to their potential to generate lesser impacts, can be subjected to an expedited Special Exception review and approval process. The modified process may include reduced site plan submittal requirements, as directed by the Town Manager, and a modified review and approval process.

Per Ordinance 2011-008, mobile homes in the Agricultural Residential (AR) District are permitted as principal uses, subject to special exception approval. A mobile home is defined (ULDC 10-015) as a structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis and designed to be used as a dwelling when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

Mobile homes may also be used for permitted accessory uses in the AR District, including Accessory Dwelling, Groom's Quarter and Caretaker's Quarter. Per Section 20-015 of the ULDC, these uses do not require special exception approval.

Based upon the above, key characteristics of a mobile home include: transportable in one or more sections, minimum 8-feet in width, designed to be used as a dwelling unit, and contains plumbing, heating, air-conditioning and electrical systems. Any structure without all of these characteristics would not be classified a mobile home under the ULDC. Only a structure meeting these characteristics and determined to be the principal use of a property would need Special Exception approval.

An Outdoor Event is defined as a carnival, circus, concert, festival, commercial promotion, show, competition, sale and other similar type of event. Further, any other outdoor activity that is not a permitted principal or accessory outdoor use is also classified as an outdoor event.

Outdoor events require different levels of approval depending upon which zoning district they are located, as follows:

1. Agricultural Residential (AR) district: Permitted use requiring Special Exception approval.
2. Commercial Low (CL) and Commercial Low Office (CL-O) districts: Permitted use requiring Special Exception and compliance with ULDC Article 80: Conditional Uses.
3. Institutional and Public Facilities (INST) and Parks and Recreation (PARKS) districts: Permitted use requiring compliance with ULDC Article 80: Conditional Uses.

## **B. Special Exception Requirements and Procedures**

**1. Application Requirements:** Applications must meet the general application requirements of ULDC Article 110-025: Minimum Required Information for All Applications. In addition to the general application requirements, an applicant must meet the following supplemental application requirements: Special Exception application requirements of ULDC Article 170-015; and Site Plan application requirements (i.e. required as part of a Special Exception application).

The General and Special Exception applications are relatively routine and simple to complete, requiring basic property, owner, applicant and agent information and a description of the proposed use.

The Site Plan Application, including its required attachments, is complex and can require a substantial amount of effort to prepare. However, depending upon the nature of the application, the Town Manager may, under certain circumstances (Ref: ULDC Section 155-010) waive specific requirements resulting in considerable savings.

ULDC Section 110-015 provides for an optional pre-application meeting with Town staff. Site plan application requirements waivers may be granted at, or as a result of, the pre-application meeting. However, in order to allow staff adequate time to prepare for a pre-application meeting, it is recommended that all applicants be required to file a Zoning Confirmation Request Form (copy attached) prior to the meeting.

**2. Review and Approval Process:** A Special Exception application will be reviewed by the new Planning and Zoning Board (recommendation only) and the Town Council (approval or denial). Public notice is required, per ULDC Article 115-010, as follows: Newspaper notice, mail notification of properties within a 1,000 foot radius, posting of signs on the property, and a Town Council

public hearing prior to taking action. Town Council action may be by resolution or ordinance.

Under the Town's cost-recovery policy, an applicant is responsible for the following public notice costs: Legal ad for a public hearing, mail notification of neighboring property owners, and the cost of producing and posting signs on the subject property.

Under ULDC Section 120-015, Special Exceptions are determined to be quasi-judicial matters, regardless of whether a final decision is made by the Town Council or a board or committee.

Per ULDC Section 120-010(K), a quasi-judicial matter is defined as a proceeding resulting in a decision impacting a limited number of persons or property owners, or identifiable parties and interests, where the decision is contingent upon facts arrived at from distinct alternatives presented at a hearing, and where the decision is based on the application of policy rather than setting of policy. From this definition, the final decision-making body must conduct a public hearing on the matter prior to rendering its decision.

### **C. Recommendations**

**1. Create Special Exception Categories:** The purpose of a Special Exception approval is to require a review of the location, design, configuration and operation of a use in order to insure that it is appropriate at a particular location and compatible with neighboring uses within a given zoning district.

It is appropriate to categorize special exception uses based upon their potential impacts upon neighboring properties, including but not limited to traffic generation, environmental concerns, hours of operation, noise, light, compatibility, etc. Most of the uses listed in Table 1, due to their potential impacts, should undergo a complete Special Exception review.

Other uses listed in Table 1, including mobile home (principal use) and Retail Nursery, U-Pick Farms, and Day Labor Hiring Center as an accessory use, due to their potential to generate lesser impacts, can be subjected to a modified review and approval process.

Outdoor Events, due to their potentially limited duration, and range of short-term impacts, should be addressed separately from other Special Exception categories.

Based upon the above discussion, it is recommended that the following three Special Exception categories be created:

- Category A – Full Special Exception review.
- Category B – Abbreviated Special Exception review.
- Category C – Temporary Events.

Recommended categories of special exceptions, by zoning district, are presented in Table 2.

**Table 2  
Recommended Special Exception Categories by Zoning District**

<b>Zoning District</b>	<b>Special Exception Use</b>	<b>Special Exception</b>
<b>Agricultural Residential</b> (ULDC Section 20-015)	Non-Profit Community Recreational Facility (Principal Use)	Category A
	Commercial Equestrian Operations (Principal Use)	Category A
	Retail Nursery (Principal Use)	Category A
	Wireless Communication Facilities (Principal Use)	Category A
	Rescued Animal Care (Principal Use)	Category A
	Retail Nursery (Accessory Use)	Category B
	Mobile Home (Principal Use)	Category B
	U-Pick Farms (Accessory Use)	Category B
	Outdoor Events (Principal Use/Accessory Use)	Category C/ Category B
<b>Commercial Low</b> (ULDC Section 25-015)	Day Labor Hiring Center (Permitted Use)	Category A
	Outdoor Events (Subject to Section 80-025)	Category C
<b>Commercial Low Office</b> (ULDC Section 25-015)	Outdoor Events (Subject to Section 80-025)	Category C
<b>Institutional and Public Facilities</b> (ULDC Section 30-015)	Private Service Club or Lodge (Permitted Use)	Category A
	Wireless Communication Facilities (Permitted Use)	Category A
	Day Labor Hiring Center (Accessory Use)	Category A
<b>Parks and Recreation</b>	NA	NA
<b>Conservation</b>	NA	NA

**2. Simplify Special Exception Application and Approval Process:** In order to simplify and streamline the Town’s approval process, particularly for uses with fewer or short-term potential impacts, the following actions are recommended to expedite the preparation of Special Exception applications:

- Require all potential applicants to complete a Zoning Confirmation Request Form (Ref: Exhibit 1) and staff to provide a written response, including a determination of the applicable Special Exception category.
- Temporary events applicants who certify to the following will not be required to obtain a Special Exception approval: No overnight signage on-site; no overnight buildings, tents or similar structures; no electrical, plumbing or similar utility connections; no proposed sanitary facilities – facilities must be currently available on-site; no overnight parking; and trash and garbage will be policed and removed on the day of the event.
- Based upon the staff response to a Zoning Confirmation Request Form, convene a pre-application meeting with the applicant.
- Determine application waivers to be administratively granted at the pre-application meeting and confirm in writing or request additional information in order to make a later determination.
- Special Exception B applicants may be approved administratively based upon a determination by the Town Manager that potential impacts do not require a full special exception review.
- Include completed Zoning Confirmation Request Forms, staff responses and a summary of application waivers as information items on Town Council agendas.

**3. Revise Public Notice Requirements:** Special Exception A applicants will continue to be required to meet all current public notice requirements. Revise ULDC Section 115-010. *Table of Public Notice Requirements* as presented in Table 3, including the following revisions:

- Special Exception B applicants may be approved administratively; however, abutting property owners will be notified and the application and approval documentation will be posted at the Town administrative offices.
- Special Exception C applicants will continue to be required to meet previous public notice requirements, with the exception that written notice will be limited to abutting property owners.

**4. Code Revisions:** To implement the above recommendations, ULDC code revisions (Refer to pages 10 – 12) are proposed (NOTE: Additions are underlined and deletions are struck through). Current ULDC language for sections to be revised is presented in Exhibit 2.

**Table 3 Proposed Revisions  
ULDC Section 115-010. Table of Public Notice Requirements**

**Section 115-010: Table of public notice requirements**

<b>Application Type</b>	<b>Required Public Hearings</b>	<b>Timing of Notice (number of days prior to public hearing that notice must be given)</b>	<b>Newspaper Notice Format</b>	<b>Mail Notice Radius</b>	<b>Sign Posting Required</b>	<b>Other Notice</b>
Administrative Appeal	Town Council	10 days	Standard Ad	Applicant Only	No	Posting at Town Hall
Variance	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception A	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Special Exception B	<u>Not Required</u>	<u>Not Required</u>	<u>Not Required</u>	<u>Abutting Properties</u>	<u>None</u>	<u>Posting at Town Hall</u>
Special Exception C	<u>Town Council</u>	<u>10 days</u>	<u>Standard Ad</u>	<u>Abutting Properties</u>	<u>Yes</u>	<u>Posting at Town Hall</u>
Site Plan	Town Council	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall
Plat	Town Council	10 days	Standard Ad	Within 1,000 feet	No	Posting at Town Hall
Rezoning initiated by the property owner	Local Planning Agency	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Not Required	Not Required	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Standard Ad	Within 1,000 feet	Yes	Posting at Town Hall

Rezoning initiated by the City for fewer than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council	30 days	Standard Ad	All owners of property proposed for rezoning shall be notified	No	Posting at Town Hall
Rezoning initiated by the City for more than 10 contiguous acres	Local Planning Agency	10 days	Not Required	Not Required	No	Posting at Town Hall
	Town Council (first reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall
Amendments to the Unified Land Development Code (ULDC)	Town Council (second reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall
	Local Planning Agency	10 days	No	Not Required		Posting at Town Hall
	Town Council (first reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall
	Town Council (second reading)		See Sec. 166.041(3)9(c)2		No	Posting at Town Hall

Land use map amendment (small scale per Section 163.3187(1)(c) F.S.)	Local Planning Agency	See Sec. 166.041(3)9(c)2		Yes	Posting at Town Hall
	Town Council (first reading)	10 days	Yes	Posting at Town Hall	Posting at Town Hall
	Town Council (second reading)	10 days	Yes	Posting at Town Hall	Posting at Town Hall
Land use plan amendment (not small scale)	Local Planning Agency	See Sec. 166.041(3)9(c)2		Yes	Posting at Town Hall
	Town Council (first reading)	See Sec. 166.041(3)9(c)2		Yes	Posting at Town Hall
	Town Council (second reading)	See Sec. 166.041(3)9(c)2		Yes	Posting at Town Hall

**Section 120-015: Quasi-judicial matters.**

(D) Category A and Category C Special Exceptions

**Section 170-010: Applicability.**

This Article specifies the procedure processing and disposition of applications for special exception uses as set forth in the schedule of district regulations, and categorized as follows:

(A) Category A – Full Special Exception Review.

(B) Category B – Modified Special Exception Review. The Town Manager, based upon his initial assessment of potential impacts, may determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception.

(C) Category C – Temporary Events. Temporary events applicants who certify that the following temporary event activities or facilities will not occur on-site for a period exceeding twenty-four (24) consecutive hours shall not be required to obtain a Category C Special Exception:

- (1) Signage.
- (2) Buildings, tents or similar structures.
- (3) Electrical, plumbing or similar utility connections.
- (4) Sanitary facilities-facilities must be currently available on-site.
- (5) Overnight parking.

Further, the temporary event applicant shall certify that trash and garbage shall be policed and removed daily.

**Section 170-015: Supplemental application requirements.**

(B) For Category A Special Exceptions. The the existing use, zoning and land use designations of lands within fifteen hundred feet (1,500) of the subject property. For Category B and Category C Special Exceptions, the existing use, zoning and land use designations of lands abutting the subject property.

(C) A For Category A and Category C Special Exceptions, a site plan meeting the requirements of Article 155, "Site Plans". For Category B Special Exceptions, a zoning confirmation letter from the Town Manager stating that all applicable provisions of the code are satisfied.

**Section 170-020: Special exception use procedures.**

(B) All Category A and Category C special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Council. ~~The paragraphs will automatically re-letter once B is deleted.~~ Category B special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Manager and notification of the Town Council.

(C) Category A and Category C ~~Special~~ special exception uses are matters that are quasi-judicial in nature as defined by Section 120-020: "Ex parte communications on quasi-judicial proceedings prohibited". All matters that are defined as quasi-judicial in nature shall utilize the quasi-judicial hearing procedures set forth therein. The petitioner shall bear the burden of providing competent substantial evidence that the special exception use should be granted.

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

(A) The Town Council shall review ~~the application~~ Category A and Category C applications to determine whether the special exception use complies with the following standards. The Town Manager shall review ~~the application~~ Category B applications to determine whether the special exception use complies with the following standards, as applicable.

(B) The Town Council may deny ~~the application~~ a Category A or Category C application, approve it, or approve it with conditions. In issuing its decision to grant a Category A or Category C special exception, the Town Council may place more restrictive requirements and conditions on applicants than are provided in the code when conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located. The Town Manager may deny a Category B application, approve it, or approve it with conditions.

**Section 170-035: Expiration of special exceptions.**

(A) The Town Council, in the case of a Category A or Category C special exception, and the Town Manager, in the case of a Category B special exception, may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both; provided that in the absence of such a time limit, a special exception approval shall expire unless:

- (1) The applicant submits all development permit applications and construction drawings (if applicable) that are necessary to establish the special exception use within twelve (12) months of Town Council approval, or Town Manager approval, as applicable, and
- (2) The applicant obtains all necessary development permits (including payment of all fees) within 18 months of Town Council approval, or Town Manager approval, as applicable, and

(C) The Town Council, in the case of a Category A or Category C special exception, and the Town Manager, in the case of a Category B special exception, may grant an extension if the applicant submits the extension request within thirteen (13) months of the date of Town Council or Town Manager approval and the applicant can demonstrate good cause for the delay. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant.

**Section 170-040: Effect of approval or denial.**

(A) The use for which a special exception has been granted by the Town Council or Town Manager shall not be commenced by the owner, his or her agent or lessee until such time as the decision is deemed to be final (i.e., all appeal times have expired) and all of the improvements stipulated in the grant of special exception necessary for the orderly use of the property have been accomplished.

**EXHIBIT 1  
TOWN OF LOXAHATCHEE GROVES  
ZONING CONFIRMATION REQUEST FORM**

**Applicant Information**

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

FAX Number \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

**Property Information**

Property Control Number: \_\_\_\_\_

Owner: \_\_\_\_\_

Property Address: \_\_\_\_\_

General Location: \_\_\_\_\_

Parcel Size (acres): \_\_\_\_\_; Frontage (feet); \_\_\_\_\_ Depth (feet): \_\_\_\_\_

Property Accessed From: \_\_\_\_\_

Attach Property Survey (if required by staff)

**Request (Please Be Specific)**

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**Staff Use**

Date Received: \_\_\_\_\_; Staff Assigned: \_\_\_\_\_

Date of Staff Response (attach): \_\_\_\_\_

**EXHIBIT 2  
TOWN OF LOXAHATCHEE GROVES  
CURRENT CODE LANGUAGE**

**Section 120-015. - Quasi-judicial matters.**

For the purposes of this article, the following matters, regardless of whether the final determination is made by the Town Council or a board, shall be considered to be quasi-judicial:

- (A) Site plans.
- (B) Plats.
- (C) Conditional use approvals.
- (D) Special Exceptions.
- (E) Variances.
- (F) Administrative appeals.
- (G) Site-specific rezonings.
- (H) Any other matters the Town Attorney determines are subject to quasi-judicial hearing.

**Section 170-005. - Purpose.**

Special exception uses may be compatible with the other land uses permitted in a zoning district but, because of their unique characteristics and potential impacts on the surrounding neighborhood and the Town as a whole, require individual review of their location, design, configuration, and/or operation in order to ensure that the use is appropriate at a particular location.

**Section 170-010. - Applicability.**

This article specifies the procedure processing and disposition of applications for special exception uses as set forth in the schedule of district regulations.

**Section 170-015. - Supplemental application requirements.**

In addition to the general application requirements, the applicant shall provide the following materials:

- (A) The existing and proposed use of the property
  
- (B) The existing use, zoning, and land use designations of lands within 1,500 feet of the subject property
  
- (C) A site plan meeting the requirements of Article 155, "Site Plans."

(D) Any other information as may be required for a determination of the nature of the proposed use and its consistency with the criteria for the approval of a special exception use.

**Section 170-020. - Special exception use procedures.**

(A) Public notice shall be made in accordance with Article 115, "Public Hearing Notices."

(B) All special exception uses and their related accessory uses including enlargement or modification of an existing special exception use require the authorization of the Town Council. The paragraphs will automatically re-letter once (B) is deleted.

(C) Special exception uses are matters that are quasi-judicial in nature as defined by Section 120-020: "Ex parte communications on quasi-judicial proceedings prohibited." All matters that are defined as quasi-judicial in nature shall utilize the quasi-judicial hearing procedures set forth therein. The petitioner shall bear the burden of providing competent substantial evidence that the special exception use should be granted.

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

(A) The Town Council shall review the application to determine whether the special exception use complies with the following standards:

(1) That the use will not cause a detrimental impact to the value of existing contiguous uses, uses in the general area, and to the zoning district where it is to be located.

(2) That the use will be compatible with the existing uses on contiguous property, with uses in the general area and zoning district where the use is to be located and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values and existing similar uses or zoning.

(3) That adequate landscaping and screening are provided to buffer adjacent uses from potential incompatibilities.

(4) That adequate parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

(5) That the use will not have a detrimental environmental impact upon contiguous properties and upon properties located in the general area or an environmental impact inconsistent with the health, safety and welfare of the community.

(6) That the use will not have a detrimental effect on vehicular, pedestrian or equestrian traffic, or parking conditions, and will not result in the generation or creation of traffic inconsistent with the health, safety and welfare of the community.

(7) That the use will not utilize turning movements in relation to its access to public roads or intersections, or its location in relation to other structures or proposed structures on or near the site that would be hazardous or a nuisance.

(8) That the use will not have a detrimental effect on the future development of contiguous properties or the general area, according to the Comprehensive Plan.

(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.

(10) That the use will not overburden existing public services and facilities.

(B) The Town Council may deny the application, approve it, or approve it with conditions. In issuing its decision to grant a special exception, the Town Council may place more restrictive requirements and conditions on applicants than are provided in the code when the conditions are based upon site considerations and its use, and the potentially resulting impacts upon the surrounding area or zoning district where the subject property is located.

**Section 170-030. - Modification of special exceptions.**

(A) If the applicant wishes to amend a special exception use approval, the proposed amendment shall be processed and reviewed in accordance with the procedures set forth in this article for new special exception uses.

**Section 170-035. - Expiration of special exceptions.**

(A) The Town Council may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun or completed or both; provided, that in the absence of such time limit, a special exception approval shall expire unless:

(1) The applicant submits all development permit applications and construction drawings (if applicable) that are necessary to establish the special exception use within 12 months of Town Council approval, and

(2) The applicant obtains all necessary development permits (including payment of all fees) within 18 months of Town Council approval; and

(3) The development permits remain valid until the project is complete; and

(4) The conditions and limitations of the special exception are satisfied.

(B) It shall be the responsibility of the property owner to ensure that a special exception approval does not expire.

(C) The Town Council may grant an extension if the applicant submits the extension request within 13 months of the date of Town Council approval and the applicant can demonstrate good cause for the delay. Good cause may include, but shall not be limited to, delay caused by governmental action or inaction or other factors beyond the control of the applicant.

**Section 170-040. - Effect of approval or denial.**

(A) The use for which a special exception has been granted by the Town Council shall not be commenced by the owner, his or her agent or lessee until such time as the decision is deemed to be final (i.e., all appeal times have expired) and all of the improvements stipulated in the grant of special exception necessary for the orderly use of the property have been accomplished.

(B) Approval of a special exception use shall run with the use once established (i.e., not expired or revoked) unless otherwise stipulated as a condition of approval.

(C) Upon denial of an application for a special exception use, there shall be a two year waiting period before any applicant may submit an application for the same or substantially similar application and for the same property as that which was initially denied.

(D) Whenever the Town Council has taken action to approve a special exception use, the commission shall not consider any application to modify the conditions of approval for a period of 12 months from the date of such action, unless the commission waives the time period in order to prevent injustice.



2. Regular Agenda b. Old Business 1. Article 75

**Article 75**

**NONCONFORMING USES, STRUCTURES AND PLOTS**

- Section 75-005. Purpose and intent.
- Section 75-010. Uses and structures existing as of October 1, 2006.
- Section 75-015. Determination of a nonconformity.
- Section 75-020. Nonconforming uses.
- Section 75-025. Nonconforming structures.
- Section 75-030. Nonconforming plots of record.
- Section 75-035. Uses as of October 1, 2006.

75:1



**Section 75-005. Purpose and intent.**

The purpose and intent of this article is to regulate and limit the development and continued existence of lawfully established uses, structures and plots established on or after October 1, 2006, that do not conform to the requirements of these regulations. The provisions of this article are designed to generally curtail substantial investment in nonconformities and bring about their eventual elimination in order to preserve the integrity of these regulations. Any nonconforming use, structure or plot that does not conform to the requirements of this Code and that lawfully existed as of the effective date of these regulations, and any use, structure or plot that has become nonconforming as a result of the adoption of these regulations or any subsequent amendment hereto may be continued or maintained only in accordance with the terms of this article as well as all other provisions in this Code pertaining to nonconformities. Where a period of time is specified in this article, or in any other article of this Code, for the removal or discontinuance of nonconforming structures or uses, said period shall be computed from the effective date of such reclassification or change of regulations.

**Section 75-010. Uses and structures existing as of October 1, 2006.**

Notwithstanding other provisions contained in this article, all uses, structures and plots of land that were legal and conforming to the Palm Beach County Unified Land Development Code as of October 1, 2006, shall be deemed to be legal and conforming to these regulations, as may be amended from time to time. The existence of uses and structures, as well as their legality and their conformity to the Palm Beach County Unified Land Development Code as of October 1, 2006, shall be subject to verification by the Town Council, and the burden of proof shall be borne by the property owner. If, however, such use is abandoned for a period of 180 consecutive days or more, the use of the property shall be required to conform to all other provisions of these regulations.

For purposes of this section, the term "*abandoned*" shall mean the willful and intentional discontinuance of a use, and shall not include any discontinuance resulting from a natural disaster.

**Section 75-015. Determination of a nonconformity.**

The Town Council shall make a determination as to the existence of a nonconformity based upon evidence furnished by the applicant for the determination. Town staff may make use of affidavits and investigation as necessary, however, the applicant shall bear the burden of proof that the property is entitled to nonconforming status.

The question as to whether a nonconforming use exists shall be a question of fact, and the determination of Town staff may be appealed pursuant to the procedures of Article 145, "Administrative Appeals."

**Section 75-020. Nonconforming uses.**

(A) *Extension of nonconforming use of structure.* The nonconforming use of a structure may be extended throughout any part of the structure clearly designed for such use but not so used at the effective date of the ordinance that created the nonconforming use. Any nonconforming use that occupied a portion of a structure not originally designed or intended for such use shall not be extended to any other part of the structure or any other structure on the plot.

(B) *Extension of nonconforming use of land.* The nonconforming use of land shall not be extended or moved to any area on the plot not so used at the effective date of the ordinance that created the nonconforming use.

(C) *Repair, alteration, enlargement of structures used for nonconforming uses.* No structure utilized for a nonconforming use shall be enlarged, extended or structurally altered, unless the use is changed to one which complies with the provisions of this Code, provided that repairs and maintenance may be carried out in any one year period in an amount not to exceed 25 percent of the assessed value of the structure for that year, and further provided that such work does not increase the cubical content of the structure nor the floor area devoted to the nonconforming use, nor increase the number of dwelling units. Improvements specifically required by this Code, for example, bringing the site into compliance with Article 85, "Landscaping," shall be exempt from this subsection. Nothing herein shall prevent compliance with applicable laws or statutes relative to the safety and sanitation of a structure occupied by a nonconforming use.

(D) *Discontinuation of nonconforming use of land.* If for any reason a nonconforming use of land ceases or is discontinued for a period of more than six months, the land shall not thereafter be used for a nonconforming use. Maintenance of a local business tax receipt for the nonconforming use shall not in and of itself be considered proof that the use has been in continuous operation.

(E) *Discontinuation of nonconforming use of a structure.* If for any reason the nonconforming use of a structure ceases or is discontinued for a period of six months or more, the structure shall not thereafter be used for a nonconforming use. Maintenance of a local business tax receipt for the nonconforming use shall not in and of itself be considered proof that the use has been in continuous operation.

(F) *Reconstruction.* If any structure in which there is a nonconforming use is damaged by fire, flood, explosion, collapse, wind, war, other catastrophe, or demolition to such an extent that the cost of rebuilding, repair and reconstruction will exceed 51 percent of the current county tax-assessed value of the structure, it shall not be again reconstructed and used except in full conformity with the regulations of the zoning district in which it is located.

(G) *Uses that are nonconforming due to density.* Uses that become nonconforming due to adoption of density requirements in this Code may be repaired, replaced, or restored to the same density despite any event where the structure is damaged, destroyed or redeveloped so as to require substantial improvement.

#### **Section 75-025. Nonconforming structures.**

(A) *Additions, extensions or alterations of nonconforming structures.* Any additions, extensions or alterations to such existing nonconforming structures shall comply with all applicable provisions of this Code.

(B) *Reconstruction.* In the event any nonconforming structure is damaged or destroyed by fire, flood, explosion, collapse, wind, war, other catastrophe, or demolition, such that the cost of repair or replacement would exceed 51 percent of the current county tax-assessed value of the structure, the structure and its associated on-site improvements shall not be reconstructed unless the structure and its associated on-site improvements will be in conformance with all requirements of this Code, except that nonconforming single-family dwelling units on residential plots, inclusive of accessory pools and structures over 250 square feet permanently located on slabs, may be reconstructed to the same dimensional requirements as the original structure, provided the original foundation is to be utilized.

(C) *Discontinuance of use.* If the use of a nonconforming structure for a conforming nonresidential use ceases for any reason for a period of six months or more, the structure shall not thereafter be occupied, unless the structure and accessory plot improvements comply with all Code requirements. Maintenance of an occupational license for the nonconforming use shall not in and of itself be considered proof that the use has been in continuous operation.

**Section 75-030. Nonconforming plots of record.**

(A) A nonconforming plot of record may be used for any use permitted by the zoning district within which the plot is located, provided the plot complies with all development standards except for required plot size and dimensions, and provided that specific uses required to have different plot area or dimensional requirements than generally required for other uses within the same zoning district, shall not be permitted on a nonconforming plot of record that does not comply with said plot size and dimensional requirements, unless the Town grants a variance for the size, setback, or dimensional requirement pursuant to the procedures and standards of Article 150, "Variances."

(B) In order to ensure the reasonable use of property, the revised development standards shall apply to nonconforming lots of record as follows:

- (1) *Setbacks.* Setbacks for new development or redevelopment of a primary structure on a nonconforming plot of record may be reduced as follows:
  - a. *Nonconforming plots of one acre or less:* All required setbacks may be reduced by 50 percent.
  - b. *Nonconforming plots of between one and five acres:* All required setbacks may be reduced by 25 percent.
- (2) *Plot coverage.* The combined area of all buildings and roofed structures on a nonconforming plot of record may be increased as follows:
  - a. *Nonconforming plots of one acre or less:* Maximum plot coverage may be increased by five percent of plot area.
  - b. *Nonconforming plots of between one and two acres:* Maximum plot coverage may be increased by two percent of plot area.

§ 75-030 LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE

- (3) *Pervious area.* The minimum pervious area for new development and redevelopment of a nonconforming plot of record may be reduced as follows:
  - a. *Nonconforming plots of less than one acre:* Required pervious area may be reduced by an additional five percent of plot area.

**Section 75-035. Uses as of October 1, 2006.**

Certain uses that were in existence as of October 1, 2006 are not contained in the table of permitted uses for the Agricultural Residential (AR) zoning district, but may allowed to continue to exist, subject to following:

- (A) The applicant shall have the burden of proof to demonstrate that the use was in existence as of October 1, 2006; and
- (B) The applicant shall apply for a Special Exception; and
- (C) The application for the Special Exception shall be filed within eight months of the effective date of these regulations.



2. Regular Agenda b. Old Business 2. One Way Communication & Related Matters

**From:** Mike Cirullo [<mailto:MCirullo@cityatty.com>]  
**Sent:** Thursday, February 07, 2013 8:32 AM  
**To:** Mark Kutney  
**Cc:** Susan Eichhorn  
**Subject:** RE: ULDC MAILING LIST

Mark, my responses are in red:

To Mark Kutney, Susan Eichhorn & Virginia Standish,

As per our discussion at the first meeting of the ULDC Committee, in compliance with the Sunshine Law, we are allowed "one way" communication between members outside of the public meetings concerning our thoughts about the ULDC.

"One way" meaning there can be ideas put forward, however there can be no responses to those ideas until the public meeting is held.

At such time the ideas would be publically reiterated and discussion could ensue.

Also, any of these "one way" communications would be part of the public record.

I would like to ask 4 questions and have the Town Manager respond.

1. Is my understanding of the above correct and if so would you confirm that this is allowable? **Not as phrased. You cannot have “communication between members outside of the public meetings.” A member may send out an email but any response, indirect or otherwise, would be prohibited. By sending out a one-way communication, a member has precluded anyone else from providing any feedback on the issue until a meeting. Although one-way communication is not a per se violation, its regular use or responses to any of them could lead to a violation. Again, although not illegal if the one-way is strictly adhered to, but given the possible issues I would strongly discourage such communications.**
2. Must all of these communications be sent to the Town Manager for distribution to all committee members or is it allowable that I have an email list created with all the email addresses of the committee members as well as that of the Town Manager & Clerk, in order to facilitate the timely distribution of this "one way" communication by any member of the committee? **I would advise that all communications received by or sent by members also be copied to the Town Clerk. This way there are copies on the Town’s server which are accessible in the event of a public records request. This would include members forwarding copies of emails received from non-members relating to their work on the committee.**

3. If both question 1 & 2 are answered in the affirmative it is understood that all correspondence would be part of public record however the question would be whether to have the email list public or private? **The email list once generated, including within this email, is public record.**
4. Would it be advisable to create a separate email list where residents could enter ideas or public comments that the members of the committee could read between meetings? **I do not see the benefit of this. All emails are public records, including those received by the members. This request highlights the issues with #1 above. A non-member of the board may hit reply all or forward a response to other members of the board, thereby serving as a “conduit” which is not permitted under Florida’s Sunshine Law.**

**Given the issues associated with emails, including sunshine law and public records requests, I would discourage their use and attempt to communicate at meetings using information provided to them by the Town Administration (through their collection of correspondence or memos, etc.).**

**REMEMBER, TEXT MESSAGES ARE ALSO PUBLIC RECORDS, AND IN MANY CASES THERE ARE RETENTION ISSUES, SO DO NOT USE TEXT TO COMMUNICATE. THE ATTORNEY GENERAL ALSO BELIEVES THAT COMMUNICATIONS VIA BLOGS AND ONLINE ARTICLES (WHERE MEMBERS OF THE SAME COMMITTEE POST COMMENTS) CAN BE VIEWED AS SUNSHINE AND PUBLIC RECORDS**

**From:** Mike Cirullo [<mailto:MCirullo@cityatty.com>]  
**Sent:** Tuesday, February 12, 2013 3:32 PM  
**To:** Mark Kutney  
**Subject:** RE: Imperative determinations

Mark, see my responses, in red:

Dear Mr. Kutney,

It is imperative for the productive function of the ULDC Committee that the Town attorney make steadfast determinations concerning certain issues that will be argued by members of the Committee concerning agriculture. Unless these issues are resolved there will be no forward movement in many areas.

Please have him determine if the following statements are true.

1. The Town **may not** pass codes, regulations and ordinances that are in conflict with the Florida Constitution. **Correct**
2. The Town **must honor** the definitions of terms used in the Florida Constitution. **Terms are not generally defined within the Florida Constitution. In particular, the term “agriculture” is not defined within it. Terms are usually defined in Florida Statutes. For example, Section 1.01, Florida Statutes, includes a definition for “agriculture,” “agricultural purposes,” and “agricultural uses.” However, the section specifically provides that the definitions are to be used in construing statutes. The Town may define a term that is defined in the statutes since our definition *is limited to our code*. Therefore, it would not apply to the application of a statute. If there are specific terms about which the ULDC Committee is concerned, then they can be reviewed to make sure that there is no unintended constitutional issues by our use of the same term or word in our ULDC that is otherwise defined for purposes of the Florida Constitution or statutes.**
3. The Town **may not change** the definitions as written in the Florida Constitution. **Correct. The Florida Constitution (or state statutes) cannot be amended by the Town.**
4. The Town **may not deny the rights** of agricultural classification to any lands that are classified as agricultural land pursuant to s. [193.461](#) . **See response to #1. In any particular case we would need to make sure we do not conflict with the Constitution or a statute on point. Note that under the Town’s Home Rule, the Town has the power to regulate in the absence of prohibition or preemption by state law. Under the Right to Farm Act, the Town is prohibited from duplicating regulations. Upon the adoption of BMPs by state or agency rule making, then the Town cannot regulate. I have highlighted the operative language in the statute in red, below. The ULDC Committee may want to review and confirm the existence of BMPs on any subject about which it is concerned in light of 823.14 (and 163.3162(3), which also prohibits duplication of regulations “if such activity is regulated through implemented best management practices...). The Town should, as part of the ULDC review, codify the**

requirement in Section 163.3163(4)(a), but in the meantime, we should include that form as part of the permitting process. Similarly, the Town will adhere to AGO 13-01 relating to nonresidential farm buildings, farm fences and farm signs.

Please see below excerpts from the FRTF Act.

823.14 Florida Right to Farm Act.—

3) DEFINITIONS.—As used in this section:

(a) “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(b) “Farm operation” means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

(c) “Farm product” means any plant, as defined in s. [581.011](#), or animal or insect useful to humans and includes, but is not limited to, any product derived therefrom.

(6) LIMITATION ON DUPLICATION OF GOVERNMENT REGULATION.—It is the intent of the Legislature to eliminate duplication of regulatory authority over farm operations as expressed in this subsection. Except as otherwise provided for in this section and s. [487.051](#)(2), and notwithstanding any other provision of law, a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. [193.461](#), where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or water management districts and adopted under chapter 120 as part of a statewide or regional program. When an activity of a farm operation takes place within a wellfield protection area as defined in any wellfield protection ordinance adopted by a local government, and the adopted best management practice or interim measure does not specifically address wellfield protection, a local government may regulate that activity pursuant to such ordinance. This subsection does not limit the powers and duties provided for in s. [373.4592](#) or limit the powers and duties of any local government to address an emergency as provided for in chapter 252.

163.3163 Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land.—

(1) This section may be cited as the “Agricultural Land Acknowledgment Act.”

(2) The Legislature finds that nonagricultural land which neighbors agricultural land may adversely affect agricultural production and farm operations on the agricultural land and may lead to the agricultural land’s conversion to urban, suburban, or other nonagricultural uses. The Legislature intends to reduce the occurrence of conflicts between agricultural and nonagricultural land uses and encourage sustainable agricultural land use. The purpose of this section is to ensure that generally accepted agricultural practices will not be subject to interference by residential use of land contiguous to sustainable agricultural land.

(3) As used in this section, the term:

(a) “Contiguous” means touching, bordering, or adjoining along a boundary. For purposes of this section, properties that would be contiguous if not separated by a roadway, railroad, or other public easement are considered contiguous.

(b) “Farm operation” has the same meaning as defined in s. [823.14](#).

(c) “Sustainable agricultural land” means land classified as agricultural land pursuant to s. [193.461](#) which is used for a farm operation that uses current technology, based on science or research and demonstrated measurable increases in productivity, to meet future food, feed, fiber, and energy needs, while considering the environmental impacts and the social and economic benefits to the rural communities.

(4)(a) Before a political subdivision issues a local land use permit, building permit, or certificate of occupancy for nonagricultural land contiguous to sustainable agricultural land, the political subdivision shall require that, as a condition of issuing the permit or certificate, the applicant for the permit or certificate sign and submit to the political subdivision, in a format that is recordable in the official records of the county in which the political subdivision is located, a written acknowledgment of contiguous sustainable agricultural land in the following form:

#### ACKNOWLEDGMENT OF CONTIGUOUS SUSTAINABLE AGRICULTURAL LAND

I, (name of applicant) , understand that my property located at (address of nonagricultural land) , as further described in the attached legal description, is contiguous to sustainable agricultural land located at (address of agricultural land) , as further described in the attached legal description.

I acknowledge and understand that the farm operation on the contiguous sustainable agricultural land identified herein will be conducted according to generally accepted agricultural practices as provided in the Florida Right to Farm Act, s. [823.14](#), Florida Statutes.

Signature: (signature of applicant)

Date: (date)

(b) An acknowledgment submitted to a political subdivision under paragraph (a) shall be recorded in the official records of the county in which the political subdivision is located.

(c) The Department of Agriculture and Consumer Services, in cooperation with the Department of Revenue, may adopt rules to administer this section.

History.—ss. 2, 9, ch. 2011-7; HJR 7103, 2011 Regular Session; s. 14, ch. 2012-83.

**From:** Mark Kutney [<mailto:mkutney@loxahatcheegrovesfl.gov>]

**Sent:** Wednesday, February 06, 2013 2:50 PM

**To:** Mike Cirullo

**Cc:** Susan Eichhorn; 'Irmijim@bellsouth.net'; Braeden Garrett; 'Beverly Tew ([tewardtaylorinc@yahoo.com](mailto:tewardtaylorinc@yahoo.com))'; 'Russ Elgin'; Cynthia Bedgood

**Subject:** FW: Imperative determinations

Mike:

FYI and our discussion during our conference call on Friday.

Best regards,  
Mark

Mark A. Kutney, AICP, ICMA-CM  
Town Manager



**TOWN OF LOXAHATCHEE GROVES**

14579 Southern Blvd, Suite 2  
Loxahatchee Groves, FL 33470  
(561) 793-2418: Phone  
(561) 793-2420: Fax  
[www.loxahatcheegroves.org](http://www.loxahatcheegroves.org)

**Note:** Please direct all future correspondence to [mkutney@loxahatcheegrovesfl.gov](mailto:mkutney@loxahatcheegrovesfl.gov)

**From:** Howard Voren [<mailto:voren@comcast.net>]

**Sent:** Wednesday, February 06, 2013 12:23 PM

**To:** Mark Kutney; Susan Eichhorn; Standish

**Subject:** Imperative determinations

Dear Mr. Kutney,

It is imperative for the productive function of the ULDC Committee that the Town attorney make steadfast determinations concerning certain issues that will be argued by members of the Committee concerning agriculture. Unless these issues are resolved there will be no forward movement in many areas.

Please have him determine if the following statements are true.

1. The Town **may not** pass codes, regulations and ordinances that are in conflict with the Florida Constitution.
2. The Town **must honor** the definitions of terms used in the Florida Constitution.
3. The Town **may not change** the definitions as written in the Florida Constitution.
4. The Town **may not deny the rights** of agricultural classification to any lands that are classified as agricultural land pursuant to s. [193.461](#)

Please see below excerpts from the FRTF Act.

823.14 Florida Right to Farm Act.—

3) DEFINITIONS.—As used in this section:

(a) “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(b) “Farm operation” means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

(c) “Farm product” means any plant, as defined in s. [581.011](#), or animal or insect useful to humans and includes, but is not limited to, any product derived therefrom.

(6) LIMITATION ON DUPLICATION OF GOVERNMENT REGULATION.—It is the intent of the Legislature to eliminate duplication of regulatory authority over farm operations as expressed in this subsection. Except as otherwise provided for in this section and s. [487.051\(2\)](#), and notwithstanding any other provision of law, a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. [193.461](#), where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or water management districts and adopted under chapter 120 as

part of a statewide or regional program. When an activity of a farm operation takes place within a wellfield protection area as defined in any wellfield protection ordinance adopted by a local government, and the adopted best management practice or interim measure does not specifically address wellfield protection, a local government may regulate that activity pursuant to such ordinance. This subsection does not limit the powers and duties provided for in s. [373.4592](#) or limit the powers and duties of any local government to address an emergency as provided for in chapter 252.

163.3163 Applications for development permits; disclosure and acknowledgment of contiguous sustainable agricultural land.—

(1) This section may be cited as the “Agricultural Land Acknowledgment Act.”

(2) The Legislature finds that nonagricultural land which neighbors agricultural land may adversely affect agricultural production and farm operations on the agricultural land and may lead to the agricultural land’s conversion to urban, suburban, or other nonagricultural uses. The Legislature intends to reduce the occurrence of conflicts between agricultural and nonagricultural land uses and encourage sustainable agricultural land use. The purpose of this section is to ensure that generally accepted agricultural practices will not be subject to interference by residential use of land contiguous to sustainable agricultural land.

(3) As used in this section, the term:

(a) “Contiguous” means touching, bordering, or adjoining along a boundary. For purposes of this section, properties that would be contiguous if not separated by a roadway, railroad, or other public easement are considered contiguous.

(b) “Farm operation” has the same meaning as defined in s. [823.14](#).

(c) “Sustainable agricultural land” means land classified as agricultural land pursuant to s. [193.461](#) which is used for a farm operation that uses current technology, based on science or research and demonstrated measurable increases in productivity, to meet future food, feed, fiber, and energy needs, while considering the environmental impacts and the social and economic benefits to the rural communities.

(4)(a) Before a political subdivision issues a local land use permit, building permit, or certificate of occupancy for nonagricultural land contiguous to sustainable agricultural land, the political subdivision shall require that, as a condition of issuing the permit or certificate, the applicant for the permit or certificate sign and submit to the political subdivision, in a format that is recordable in the official records of the county in which the political subdivision is located, a written acknowledgment of contiguous sustainable agricultural land in the following form:

#### ACKNOWLEDGMENT OF CONTIGUOUS

## SUSTAINABLE AGRICULTURAL LAND

I, (name of applicant) , understand that my property located at (address of nonagricultural land) , as further described in the attached legal description, is contiguous to sustainable agricultural land located at (address of agricultural land) , as further described in the attached legal description.

I acknowledge and understand that the farm operation on the contiguous sustainable agricultural land identified herein will be conducted according to generally accepted agricultural practices as provided in the Florida Right to Farm Act, s. [823.14](#), Florida Statutes.

Signature: (signature of applicant)

Date: (date)

(b) An acknowledgment submitted to a political subdivision under paragraph (a) shall be recorded in the official records of the county in which the political subdivision is located.

(c) The Department of Agriculture and Consumer Services, in cooperation with the Department of Revenue, may adopt rules to administer this section.

History.—ss. 2, 9, ch. 2011-7; HJR 7103, 2011 Regular Session; s. 14, ch. 2012-83.

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2. Regular Agenda b. Old Business 3. Ethics



# Palm Beach County Commission on Ethics

Manuel Farach - Chair • Robin N. Fiore - Vice Chair  
 Ronald E. Harbison • Daniel T. Galo • Patricia L. Archer



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## 2013 Ethics Awareness

[Ask for an Opinion](#)

## Next Meeting

March 7, 2013 - 1:30 p.m. -  
 Governmental Center - 6th floor  
 BCC Chambers

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## Mission Statement

The mission of the Palm Beach County Commission on Ethics is to foster integrity in public service, to promote the public's trust and confidence in that service, and to prevent conflicts between private interests and public duties. [More...](#)

## Current Events

The Palm Beach County Commission on Ethics is pleased to announce the release of its 2012 Annual Report. The Commission has processed 85 advisory opinions in 2012 and a total of 249 advisory opinions since we began work in June, 2010. In addition to advisory opinions, the Commission has processed 16 Complaints and 33 inquiries in 2012, 58 additional advisory opinion referrals, and received 560 hot line calls. Visits to the COE website exceeded 394,000. **[For more details, click here see our 2012 Annual Report.](#)**

On April 2, 2012, the countywide lobbyist registration ordinance became effective. The provisions of the 2003 county lobbyist registration ordinance, as amended, now apply to municipal lobbyists in 35 municipalities.

COE Staff has requested that the Palm Beach County Board of County Commissioners proclaim March 7, 2013, *Ethics Awareness Day*. In addition to offering outreach programs throughout the month of March, the COE will present several public events to celebrate ethics within our community.

On August 27, 2012, the COE went live on Facebook. Visit us at [www.facebook.com/PBCCOE](http://www.facebook.com/PBCCOE) to keep current on ethics issues in the community and receive updates from the Commission on Ethics.

On October 3, 2012, the COE went live on Twitter. Visit us at @PBCCOE.

[Gift Reporting Forms/ Voting](#)  
[Conflict Forms/ Outside](#)  
[Employment Waivers](#)

[Charitable Solicitation Logs](#)

[Active Vendors Database/](#)  
[Lobbyist Registry](#)

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### Executive Director's Welcome

Thank you for visiting the Palm Beach County Commission on Ethics Website. It is a tremendous honor to serve the people of Palm Beach County. At the commission, we are dedicated to providing you accurate, easy to understand information about the ethics laws governing Palm Beach County. I hope you find our website convenient and useful.



The Ethics Commission receives and investigates complaints and is charged with enforcement of the Palm Beach County Code of Ethics, Lobbyist registration and Post Employment Ordinances. The commission also issues advisory opinions to county officials, employees and others subject to its jurisdiction such as county vendors, lobbyists and their employers.

The commission is composed of five members appointed by various civic, educational and professional associations. The position of commissioner is nonpartisan and nonpolitical. The key to our ethics commission is independence. I invite you to find out more about us and to take an active role in the new ethics movement in and for Palm Beach County.

Megan C. Rogers  
Interim Executive Director

*"Honesty, Integrity, Character"*

2633 Vista Parkway West Palm Beach, FL 33411 **Hotline:** 561-233-0724 or 877-766-5920 **E-mail:** [ethics@palmbeachcountyethics.com](mailto:ethics@palmbeachcountyethics.com)



# Palm Beach County Commission on Ethics

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## Training

### Elected Officials, Employees and Advisory Board Members

Pursuant to Article XIII, sec. 2-446, all Palm Beach County employees and officials are required to receive training in the Palm Beach County [Code of Ethics](#) and sign an acknowledgement form. This Web page is designed to help you complete these tasks:

### Videos

Mac users [click here](#) to view our video streaming content.

- [Code of Ethics Employee and Elected Official Training Video](#)
- [Code of Ethics Employee Training Video](#) **(EMPLOYEES ONLY - NOT ELECTED OFFICIALS OR ADVISORY BOARD MEMBERS)**
- [Code of Ethics Advisory Board Members Training Video](#)
- [Code of Ethics Gift Law Specific Training](#)
- [Lobbyist Registration Ordinance \(Effective Date April 2, 2012\)](#)

### Ordinances and Guides

- [Code of Ethics Guide for Employees](#)
- [Code of Ethics Guide for Elected Officials and Advisory Board Members](#)
- [Code of Ethics Ordinance \(Effective Date June 1, 2011\)](#)
- [Florida Commission on Ethics Guide to the Sunshine Law and State Code of Ethics for Public Officers and Employees](#)



**ACKNOWLEDGEMENT OF RECEIPT  
PALM BEACH COUNTY CODE OF ETHICS  
TRAINING FOR MUNICIPAL EMPLOYEES,  
ELECTED/APPOINTED OFFICIALS AND  
ADVISORY BOARD MEMBERS**

Legal Name: \_\_\_\_\_ (Please print clearly)

Employee Identification Number: \_\_\_\_\_

Department/Board: \_\_\_\_\_

**Check those items that apply**

I acknowledge that I have read a copy of the Palm Beach County Code of Ethics (printed or posted on the intranet/internet) and completed additional training by:

- Watching the Code of Ethics Training Program on the Intranet/Internet.
- Watching the Code of Ethics Training Program on DVD.
- Attending a live presentation given on \_\_\_\_\_, 20\_\_.

I understand that I am responsible for understanding and abiding by the Palm Beach County Code of Ethics as I conduct my assigned duties during my term of employment. I also understand that the information in this policy is subject to change. Policy changes will be communicated to me by my supervisor or through official notices.

\_\_\_\_\_  
(Legal Signature)

\_\_\_\_\_  
(Date)

**Employees:** Submit signed form to your Department Head  
**Department Heads:** Submit signed forms to Records, Human Resources  
**Advisory Board Members:** Submit signed forms to Appropriate Municipal Representative

**PLEASE SUBMIT THIS FORM TO APROPRIATE PARTY AS HIGHLIGHTED ABOVE  
PLEASE DO NOT SUBMIT THIS FORM TO THE COMMISSION ON ETHICS**

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2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735  
Hotline: 877.766.5920 E-mail: [ethics@palmbeachcountyethics.com](mailto:ethics@palmbeachcountyethics.com)  
Website: [www.palmbeachcountyethics.com](http://www.palmbeachcountyethics.com)

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE 2009-01**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING ORDINANCE 2007-06, THE “ETHICS CODE” FOR THE TOWN OF LOXAHATCHEE GROVES, TO PROVIDE FOR ADDITIONAL RESTRICTIONS ON THE ABILITY OF TOWN COUNCIL MEMBERS TO EITHER CONTACT OR COMMUNICATE WITH INDIVIDUALS OR ENTITIES THAT HAVE PETITIONS OR APPLICATIONS PENDING WITH THE TOWN; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 18, 2007, pursuant to Section 9 of the Town Charter, the Town Council adopted Town of Loxahatchee Groves Ordinance No. 2007-06, also known as the Town of Loxahatchee Groves Code of Ethics; and

**WHEREAS**, following consultation with Town staff, and discussion amongst the Town Council, the Town Council desires to amend the Town’s Code of Ethics to provide for additional restrictions on the ability of Town Council Members to either contact or communicate with individuals or entities that have petitions or applications pending with the Town; and

**WHEREAS**, the Town Council of the Town of Loxahatchee Groves has determined that the enactment of this amendment to the Town Code of Ethics is in the best interests of the citizens of the Town of Loxahatchee Groves, protects the integrity of Town government, fosters public confidence in the actions of the Town, and will assist in ensuring that the Town's elected and appointed officials abide by the highest ethical standards; and

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Loxahatchee Groves, Florida, as follows:

**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.** That Article I of the Town of Loxahatchee Groves Code of Ordinances, entitled “Code of Ethics”, as enacted pursuant to the adoption of Town Ordinance 2007-06, be, and the same is hereby amended to read as follows:

**ARTICLE I. CODE OF ETHICS.**

**Sec. 1-20 Short title.**

This article shall be known and cited as the "Town of Loxahatchee Groves Code of Ethics for Public Officers."

**Sec. 1-21. Intent and purpose.**

The purpose of this article is to strengthen the quality of representative government through ethical principles governing the conduct of the Town's elected and appointed officials. It is important to assure that, that the policies and decisions made by public officers are made through established processes of government, that public officers do not utilize public office for private or personal benefit, that public officers avoid action which creates the appearance of impropriety, and that the public have confidence in the integrity of Town government and the Town's public officers.

**Sec. 1-22. Definitions.** References in this article to the Florida Statutes shall be interpreted as meaning Florida Statutes as amended from time to time.

*Business entity* shall have the meaning ascribed in Section 112.312(5), Florida Statutes.

*Candidate* shall have the meaning ascribed in Section 112.312(6), Florida Statutes.

*Conflict* or *conflict of interest* shall have the meaning ascribed in Section 112.312(8), Florida Statutes.

*Gift* shall have the meaning ascribed in Section 112.312(12), Florida Statutes.

*Public officer* shall have the meaning ascribed in Section 112.313(1), Florida Statutes.

*Relative* shall have the meaning ascribed in Section 112.312(21), Florida Statutes.

**Sec. 1-23. Acknowledgment.**

All public officers of the Town and candidates for Town elective office, upon appointment, election, or qualifying, are strongly encouraged to submit a signed statement to be provided by the Town Clerk acknowledging that they have received, read, understand, and agree to be bound by the Town of Loxahatchee Groves Code of Ethics for Public Officers.

**Sec. 1-24. Applicability of Chapter 112, Florida Statutes.**

Nothing in the Town of Loxahatchee Groves Code of Ethics for Public Officers shall be interpreted or construed as conflicting with Section 112.311 et seq., Florida Statutes, as amended from time to time, which is also applicable to public officers of the Town. This article is intended to supplement state law provisions governing ethics in government.

**Sec. 1-25. Standards of conduct.**

In furtherance of the public trust assumed by public officers of the Town upon their election or appointment to public office or employment, the following standards of conduct shall be applicable to public officers of the Town:

(a) *Core Values.* Each public officer pledges his or her commitment to the Core Values of the Town of Loxahatchee Groves, as follows:

- (1) *Leadership by example.* A public officer will display leadership by:
  - A. Subscribing to the Town of Loxahatchee Groves Code of Ethics for Public Officers; and
  - B. Promoting a sense of community, community values, and community spirit and by embracing diversity within the community, while focusing on the importance and values of family; and
  - C. Practicing a "can do" attitude rather than an attitude of negativity; and
  - D. Developing vision or focus on the future, and supporting the achievement of vision; and
  - E. Being responsive; and
  - F. Having fun and enjoying one's role as a public officer of the Town; and
  - G. Recognizing and fostering leadership throughout the Town government and the residential and business communities of the Town; and
  - H. Balancing statesmanship and political and professional goals; and

- I. Maintaining a positive image, while working towards the best interests of the Town and its citizens.
- (2) *Empowerment (mindset/orientation) attitude.* A public officer will display an empowerment attitude by:
- A. Encouraging citizens to be active, responsible partners in Town government that function with public officers of the Town to achieve a shared vision; and
  - B. Empowering Town administration to continuously improve the quality of and the services provided by Town government; and
  - C. Encouraging entrepreneurship by governing the Town as a successful, ethical business model; and
  - D. Maximizing revenue while minimizing tax burdens on citizens.
- (3) *Customer focus and involvement (volunteerism/action).* A public officer will encourage and promote customer focus and involvement by:
- A. Encouraging citizens and residents to be involved in government and bridging the gap between Town government and community; and
  - B. Promoting specific avenues by which citizen input is gathered and information is disseminated by the Town; and
  - C. Encouraging citizen involvement in decision-making; and
  - D. Supporting data-based decision-making.
- (4) *Continuous improvement.* A public officer will work towards continuous improvement through:
- A. Self-improvement through education, personal growth, and personal learning; and
  - B. Supporting process improvement in Town systems and key process improvements through knowledge-based decision-making; and

- C. Supporting and encouraging personal wellness and professional development throughout Town government; and
- D. Supporting innovation through technology; and
- E. Promoting effective use of customer feedback to improve quality of government and the providing of government services.

(b) Each public officer shall be dedicated to the concepts of effective and democratic local government, respecting the principals and spirit of representative democracy, and setting a positive example of good citizenship by scrupulously observing the letter and spirit of applicable laws, rules, and regulations.

(c) Each public officer shall pledge himself or herself to affirm the dignity and worth of the services rendered by Town government and to maintain a constructive, creative, and practical attitude towards urban affairs incorporating a deep sense of social responsibility as a public servant.

(d) Each public officer shall be dedicated to the highest ideals of honor and integrity in all public and personal relationships and shall conduct themselves in a manner which maintains and promotes public confidence in Town government.

(e) Each public officer shall recognize that the main function of local government, at all times, is to serve and promote the best interests of the public.

(f) Each public officer pledges to keep the community informed on the affairs of Town government, emphasize and practice friendly and courteous service to the public, and seek to improve the quality and image of public service.

(g) Each public officer pledges that he or she will not misuse the office or position, will not participate in debate on any matter which may come before the Town Council for decision and which may benefit a family member, client, or business acquaintance, and will not seek or accept any personal profit or gain, or unwarranted favor or privilege for himself or herself, or any relative or other person.

(h) Each public officer pledges not to improperly influence or attempt to influence other public officers.

(i) A public officer shall not engage in, solicit, negotiate for, or promise to accept private employment or render services for private interests or conduct a private business when such employment, service, or business creates a conflict with the proper discharge of his or her official duties as a public officer.

(j) Notwithstanding the provisions of Section 286.0115, Florida Statutes, as may be amended from time to time, and in full recognition of the provisions thereof, An elected public officer shall not have any contact with, in any form, nor engage in communication or discussion with applicants, petitioners, or their agents or representatives seeking action or other relief from the Town Council on matters related to a pending application or other petition. If there is no application pending, the public officer has the discretion to decide whether or not to contact or engage in communication or discussion with the applicant or petitioner or their representatives concerning a matter for which an application or petition may be submitted.

(k) A public officer shall not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with one's official duties as a public officer.

(l) Florida's Gift Law, as amended from time to time and as codified at Section 112.3148, Florida Statutes, is hereby incorporated herein by reference. A public officer shall not directly or indirectly solicit, accept, or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form if: (1) it could be reasonably inferred or expected that the gift was intended to influence the performance of a public official's duties; or (2) the gift was intended to serve as an inducement for an improper action or as a reward not otherwise permitted under Florida law.

(m) Each public officer agrees to be honest, fair, and respectful to others in performing his or her duties as a public officer and agrees to refrain from and avoid conduct creating an appearance of impropriety or which is otherwise unbecoming a public officer, including but not limited to making false accusations or personal attacks against another public officer, or behaving in a rancorous or contentious manner.

(n) A public officer shall not use the provisions of this Code of Ethics to further frivolous claims against one another. Frivolous claims shall be those forwarded with knowledge that the claim contains one or more false allegations or those made with reckless disregard as to whether the complaint or claim contains false allegations of fact material to a violation of this Code of Ethics.

(o) Each public officer pledges to uphold and adhere to the provisions of the Charter of Town.

(p) A public officer shall not knowingly violate any federal, state, or local law, rule or regulation.

(q) Each public officer serving on the Town Council or an advisory board of the Town, when appearing before any other governmental body or within

the contents of any written communication, pledges to inform the recipient of the oral or written communication that the issue before such governmental body or in writing has or has not been addressed officially by the Town Council or the advisory board of which he or she is a member; and further pledges to inform the recipient(s) of the oral or written communication of any official position taken by the Town Council or an advisory board and indicate that his or her appearance or written correspondence is or is not authorized by the Town Council or an advisory board. When a member of the Town Council is representing the Town Council before another governmental body, said member of the Town Council shall, at a minimum, update the other members of the Town Council and the Town manager at the next scheduled Town Council meeting.

(r) A public officer shall not disclose confidential information acquired in one's capacity as a public officer to others or use such confidential information to further one's personal interests.

(s) No public officer shall undermine the duties, responsibilities, and role of the Town manager, as provided in the Charter and the Code of Ordinances and as assigned by the Town Council.

(t) Each public officer shall disclose all personal relationships in any instance whether there could be a conflict of interest or an appearance of conflict.

(u) Nothing herein shall be construed to apply to the solicitation or acceptance of contributions to the campaign of an announced candidate for elective Town office, as governed by Chapter 106, Florida Statutes.

(v) No public officer; however, shall be prohibited from giving or receiving:

- (1) An award publicly presented in recognition of public service;
- (2) Commercially reasonable loans made in the ordinary course of a lender's business; or
- (3) Reasonable entertainment, meals, or refreshments furnished in connection with public events, appearances, or ceremonies related to official duties or Town government business.

(w) No-Consistent with the provisions of section (j), above, a public officer ~~shall be~~ is not prohibited from making an inquiry for information or providing assistance on behalf of a citizen or interested person if no fee, reward, or other thing of value is promised to, given to, or accepted by the public officer or a relative of a public officer, whether directly or indirectly, in return therefor. In order to make an inquiry on behalf of a citizen or interested person, the citizen or interested person, or any entity that they represent or are associated with, must not have an application or petition pending with the Town. However, no public

officer shall "influence peddle" or use his or her position as a public officer to gain favors or benefits inconsistent with Town policy or applicable law on behalf of any citizen or other person.

(x) Pursuant to Chapter 104.271, F.S., any candidate for public office who, in a primary election or other election, willfully charges an opposing candidate participating in such election with a violation of any provision of Chapter 104, F.S., as amended from time to time, which charge is known by the candidate making such charge to be false or malicious, is guilty of a felony of the third degree, punishable as provided in Section 775.082, F.S., or Section 775.083, F.S., and, in addition, after conviction shall be disqualified to hold office.

Any candidate who, in a primary election or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code. An aggrieved candidate may file a complaint with the Florida Elections Commission pursuant to Section 106.25, F.S. The Florida Elections Commission shall adopt rules to provide an expedited hearing of complaints filed under this subsection. Notwithstanding any other provision of law, the Florida Elections Commission shall assess a civil penalty of up to \$5,000 against any candidate found in violation of this subsection, which shall be deposited to the account of the General Revenue Fund of the state.

**Sec. 1-26. Orientation of elected officials.**

(a) Newly elected members of the Town Council are encouraged to attend and successfully compete, within twelve (12) months of the administration of the oath of office, the Institute for Elected Municipal Officials (IEMO) or similar program deemed qualified by the Town Council.

(b) Newly elected members of the Town Council shall receive a structural orientation on Town government from the Town manager and the Town attorney within ten (10) business days of the administration of the oath of office.

**Sec. 1-27. Enforcement.**

Violation of any of the provisions of this article may constitute grounds for suspension or removal from office, pursuant to applicable statutory and constitutional procedures. Any advisory board member who violates any of the provisions of this article may be removed from any and all boards pursuant to applicable statutes and local ordinances. Any elected public officer that violates the Town of Loxahatchee Groves Code of Ethics shall also be subject to censure by a four-fifths vote of the Town Council.

**SECTION 3. Severability.** Should any section, provision, paragraph, sentence, clause or word of this Ordinance or portion hereof be held or declared by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall be

considered as eliminated and shall not affect the validity of the remaining portions or applications of this Ordinance.

**SECTION 4. Codification.** It is the intention of the Town Council of the Town of Loxahatchee Groves, that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the Town of Loxahatchee Groves, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or other word or phrase in order to accomplish such intention.

**SECTION 5. Conflicts.** That all Ordinances or parts of Ordinances, Resolutions or parts thereof in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**SECTION 6. Effective Date.** This Ordinance shall take effect immediately upon passage.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 20<sup>th</sup> DAY OF January, 2009.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 3<sup>rd</sup> DAY OF February 2009.

ATTEST:

Matthew Lyman  
TOWN CLERK

APPROVED AS TO LEGAL FORM:

DNT  
Office of the Town Attorney

TOWN OF LOXAHATCHEE  
GROVES, FLORIDA

David Browning  
Mayor David Browning

Marge Herzog  
Vice Mayor Herzog

Autrey  
Council Member Autrey

Louda  
Council Member Louda

Lepp  
Council Member Lepp

SSG:DNT:dnt  
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