

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, March 21, 2013 at 5:30 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 Planning Consultant 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*
- c. Approval of Agenda

2. REGULAR AGENDA

a. New Business

1. Definitions – Art. 10 - ULDC

b. Old Business

1. Review of ULDC Articles:

- Article 75 Nonconforming Uses, Structures and Plots
- Article 170 Special Exception Uses

3. CLOSING & ADJOURNMENT

**The next meeting of the Unified Land Development Code Review Committee will be held on
April 18, 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.a.1. Definitions – Art. 10 - ULDC

Please Note: it was the intent of the Town Manager to provide input on the definitions prior to the agenda packet being transmitted. However, due to work load resulting from the Elections, Moratorium Planning, and a number of other issues, the staff was not able to address this item as early as was hoped.

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.b. 1. Article 75 Nonconforming Uses, Structures and Plots

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.

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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.b. 1. Article 170 Special Exception Uses

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	
Agricultural Residential (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	
	Commercial Low (ULDC Section 25-015)	Day Labor Hiring Center	Permitted Use
		Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC
Commercial Low Office (ULDC Section 25-015)	Outdoor Events	Permitted Use subject to Section 80-025 of the ULDC	
Institutional and Public Facilities (ULDC Section 30-015)	Private Service Club or Lodge	Permitted Use	
	Wireless Communication Facilities	Permitted use	
	Day Labor Hiring Center	Accessory Use	
Parks and Recreation Conservation	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**

Zoning District	Special Exception Use	Special Exception
Agricultural Residential (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
Commercial Low (ULDC Section 25-015)	Day Labor Hiring Center (Permitted Use)	Category A
	Outdoor Events (Subject to Section 80-025)	Category C
Commercial Low Office (ULDC Section 25-015)	Outdoor Events (Subject to Section 80-025)	Category C
Institutional and Public Facilities (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
Parks and Recreation	NA	NA
Conservation	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

Application Type	Required Public Hearings	Timing of Notice (number of days prior to public hearing that notice must be given)	Newspaper Notice Format	Mail Notice Radius	Sign Posting Required	Other Notice
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		Posting at Town Hall
	Town Council (first reading)	10 days	Yes	Posting at Town Hall
	Town Council (second reading)	10 days	Yes	Posting at Town Hall
Land use plan amendment (not small scale)	Local Planning Agency	See Sec. 166.041(3)9(c)2		Posting at Town Hall
	Town Council (first reading)		See Sec. 166.041(3)9(c)2	Posting at Town Hall
	Town Council (second reading)		See Sec. 166.041(3)9(c)2	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)

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.