

Verification of Exemption for Nonresidential Farm Building

Generally, nonresidential farm buildings are an allowed accessory use on an agricultural property when State of Florida Statutes and licensing requirements are met. Local and state requirements are listed below:

Floodplain Requirements: All structures which are partially or wholly within a Special Flood Hazard Area (“Flood Zone”) are subject to Floodplain Development Permitting issued through the Town of Loxahatchee Groves, including structures exempt from the Florida Building Code. A concurrent Floodplain Development application is required for non-residential farm building verification of exemption applications for proposed structures in the floodplain.

Zoning ADVISORY WARNING: Although current Florida Statutes and a 2013 AGO Advisory Legal Opinion state that a non-residential farm building on a farm is exempt from zoning requirements and land development regulations, staff strongly recommends that the following requirements be satisfied:

- Minimum setbacks. Within the Agricultural Residential District, the minimum building setbacks are:
 - Front Setback – 50 ft from front property line,
 - Rear Setback - 25 ft from any property line,
 - Side Setback – 25 ft from side property line, and
 - Side Street Setback for properties that abut a street on more than one side - 40 ft from property line if adjacent to a street.
- No portion of the structure may encroach into an easement.

Best Management Practices: Agricultural uses are granted exemption from local land development regulations as these uses are preemptively regulated by the State of Florida Department of Environmental Protection, Department of Agriculture and Water Management Districts. Best management practices (BMPs) have been developed by the Florida Department of Agriculture for agricultural commodities to protect public water supplies and minimize impacts to water resources. Information on BMPs for equine and other agricultural commodities are available on the web at:

<https://www.fdacs.gov/Agriculture-Industry/Water/Agricultural-Best-Management-Practices>

Florida Statute Requirements Related to Agricultural Exemptions

Florida Statute 553.73(10)(c) and Florida Building Code 102.2 (c)

(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(c) Nonresidential farm buildings on farms.

Florida Statute 604.50 Nonresidential Farm Buildings

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be erected, used, operated, or maintained in a manner that violates any standard provided in s. 479.11(4), (5)(a), and (6)-(8).

(2) As used in this section, the term: (a) **“Bona fide agricultural purposes”** has the same meaning as provided in s. 193.461(3)(b). (b) **“Farm”** has the same meaning as provided in s. 823.14. (c) **“Farm sign”** means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm. (d) **“Nonresidential farm buildings”** means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10) (c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

Florida Statute 823.14 (3) Definitions:

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

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

Florida Statute 193.461(3)(b) (3)(b) Subject to the restrictions specified in this section, only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term “bona fide agricultural purposes” means good faith commercial use of the land.

When is a Building Permit Required?

“Nonresidential farm buildings on farms” – means any nonresidential structure constructed on a farm for the purpose of supporting the production of farm or aquaculture products. (i.e. farm maintenance shops, farm office buildings that do not include dwelling units or barracks, packing sheds, drying sheds, loading docks and ramps, hay barns, horse barns without dwelling units or barracks under the same roof, cow barns, chicken coops, poultry facilities, milking parlors, hog parlors, veterinarian facilities located on the farm for the care and maintenance of the farm owner’s animals, clam raceways, walk-in coolers and similar agriculture and aquaculture primary structures, support structures and support facilities). **These structures are typically exempt from Building Permits.**

“Residential farm buildings on farms” – means any habitable or non-habitable residential structure or residential accessory structure; or any structure supporting residential uses, including primary or accessory uses. (i.e. dwellings, guest houses, horse barns with dwelling units or barracks under the same roof, carports, porches, hobby shops, workshops, free standing garages, pet shelters, storage buildings used for storing non-farm related vehicles or materials, docks used for recreational purposes, swimming pools, masonry fences or other structures used for landscaping or residential purposes or similar nonagricultural purposes). **These structures are not exempt from Building Permits.**

Obtaining an Agricultural Exemption Determination: To obtain an exemption determination from the Town of Loxahatchee Groves, an application form (§61) must be completed and submitted to the Building Division with the following information:

APPLICATION CHECKLIST:

1. **Proof of ownership** - This can be in the form of a recorded warranty deed, Property Appraiser, lease and owner's consent, or other verifiable means of proving ownership.
3. **Floor Plan** – A floor plan of each structure proposed for construction, depicting the agricultural use of all areas of each structure and the overall dimensions of the structure.
4. **Proof of Agricultural Classification** - Agricultural Classification from Property Appraiser (PBC Property Appraiser Approval Letter or PBC Property Appraiser webpage information).
5. **Exemption Affidavit** - A fully completed, signed and notarized Verification of Exemption Affidavit (form attached).
6. **Sign Plan** (if applicable) – Depict the proposed sign's size, location and site triangle measurements consistent with road safety standards.

For further information contact Town of Loxahatchee Grove Permitting at (561) 793-2418.

***** THIS LIST IS INTENDED ONLY AS A GUIDE FOR APPLICATION SUBMITTAL*****

ADDITIONAL MATERIALS MAY BE REQUESTED IF REQUIRED



NONRESIDENTIAL FARM BUILDING APPLICATION & AFFIDAVIT
This application shall be used to document nonresidential farm buildings.

APPLICATION DATE: _____

OWNER:	
ADDRESS:	
CITY/STATE/ZIP CODE:	
PHONE:	
EMAIL:	
PROJECT / WORK DESCRIPTION (INCLUDING SQUARE FOOTAGE):	
<input type="checkbox"/> OWNER BUILDER	
<input type="checkbox"/> CONTRACTOR (CERT. HOLDER):	License #:
DBA (COMPANY NAME):	
CONTACT PERSON:	
ADDRESS:	
CITY/STATE/ZIP CODE:	
PHONE:	
EMAIL:	

THIS PROPOSED STRUCTURE WILL BE SUBJECT **TO REVIEW FOR FLOODPLAIN MANAGEMENT REGULATION** BY THE TOWN OF LOXAHATCHEE GROVES FLOODPLAIN MANAGER OR DESIGNEE. THE PROPOSED STRUCTURE WILL BE ALSO BE SUBJECT **TO REVIEW BY FIRE RESCUE**, UNLESS THE APPLICANT, BY CHECKING THE BOX BELOW REPRESENTS THAT THE OWNER OF THE STRUCTURE WILL NOT ALLOW OCCUPANCY OF MORE THAN 35 PERSONS, OR ALLOW THE STRUCTURE TO BE USED BY THE PUBLIC FOR DIRECT SALES OR EDUCATIONAL OUTREACH.

THIS REVIEW DOES NOT IN ANY WAY CREATE ANY RIGHTS ON THE PART OF THE APPLICANT TO OBTAIN A PERMIT FROM A STATE OR FEDERAL AGENCY AND DOES NOT CREATE ANY LIABILITY ON THE PART OF THE COUNTY FOR THE REVIEW IF THE APPLICANT FAILS TO OBTAIN REQUISITE APPROVALS OR FULFILL THE OBLIGATIONS IMPOSED BY A STATE OR FEDERAL AGENCY OR UNDERTAKE ACTIONS THAT RESULT IN A VIOLATION OF STATE OR FEDERAL LAW. **ALL APPLICABLE STATE OR FEDERAL PERMITS MUST BE OBTAINED BEFORE ANY DEVELOPMENT IS COMMENCED.**

NOTICE: IN ADDITION TO THE REQUIREMENTS OF THIS REVIEW, THERE MAY BE ADDITIONAL RESTRICTIONS APPLICABLE TO THIS PROPERTY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY AND THERE MAY BE ADDITIONAL PERMITS REQUIRED FROM OTHER GOVERNMENTAL ENTITIES SUCH AS WATER MANAGEMENT DISTRICTS, STATE AGENCIES OR FEDERAL AGENCIES.



NONRESIDENTIAL FARM BUILDING AFFIDAVIT

I HEREBY CERTIFY THAT ALL THE INFORMATION CONTAINED IN THIS APPLICATION IS TRUE AND CORRECT. Before me, the undersigned authority personally appeared _____ who is being duly sworn says:

As witnessed by my signature, I do hereby affirm that said property located at _____ is being used as a farm for the production of farm or aquaculture products as set forth in Section 823.14, Florida Statutes. The proposed structure is a nonresidential farm building, as defined in Florida Statute 604.50, which is used for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under Florida Statute 193.461, and is not intended to be used as a residential dwelling, and therefore is exempt from Building Code requirements in the Town of Loxahatchee Groves. I further certify and swear that the building and all items (including all equipment, vehicles, machinery and materials) stored within the structure shall be used primarily for agricultural purposes on the subject property. I understand that if the proposed structure or items stored within the structure are used primarily for any other purpose, than as described above, a code violation will occur.

I HEREBY CERTIFY THAT I WILL NOT ALLOW OCCUPANCY OF MORE THAN 35 PERSONS IN THIS STRUCTURE AND WILL NOT ALLOW IT TO BE USED BY THE PUBLIC FOR DIRECT SALES OR EDUCATIONAL OUTREACH. (Check, if Applicable)

I assume full responsibility as Owner, and will be personally responsible to ensure compliance with the requirements of this Affidavit.

OWNER (or Authorized Agent)

DATE

(PRINT NAME)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 20____ by _____, who is personally known or has produced _____

Name of Person Acknowledging as identification and who did or did not take an oath.

(Name – type, stamp or print clearly)

(Signature)

My Commission Expires on: _____ Notary's seal or stamp: