

TOWN OF LOXAHATCHEE GROVES

ORDINANCE NO. 2010-003

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO DUMPING OF MANURE AND HORSE BEDDING WITHIN THE TOWN; PROVIDING FOR AN EXCEPTION FOR THE DEPOSIT OF LIMITED AMOUNTS OF MANURE AND HORSE BEDDING WHEN SUCH IS TO BE USED FOR BONA FIDE AGRICULTURAL PURPOSES AS DEFINED HEREIN; PROVIDING THAT THE DUMPING OF MANURE AND HORSE BEDDING IN VIOLATION OF THIS ORDINANCE IS A PUBLIC NUISANCE AND URGING THE PALM BEACH COUNTY SHERIFF'S OFFICE TO PURSUE ALL REMEDIES AVAILABLE UNDER SECTION 403.413, FLORIDA STATUTES, FOR DUMPING WITHIN THE TOWN IN VIOLATION OF THIS ORDINANCE; PROVIDING FOR PERMITS FOR HAULERS AND PROPERTY OWNERS; ESTABLISHING FEES AND PENALTIES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council finds that the dumping of Manure and Horse Bedding, including without limitation from horses and livestock, within the Town has recently increased, creating concerns for public nuisance, and health and safety; and,

WHEREAS, Section 403.413, Florida Statutes, prohibits the dumping of litter, which would include Manure and Horse Bedding, within public rights of way and upon other public lands within the Town, but does not expressly prohibit such dumping on private property when the owner consents unless such will cause a public nuisance or be in violation of any state or local law, rule, or regulation; and,

WHEREAS, the Town Council recognizes that animal Manure and Horse Bedding when used appropriately, including in limited quantities, has a legitimate agricultural nutrient use, and therefore under certain circumstances the depositing of Manure and Horse Bedding intended for bona fide agricultural purposes and in limited quantities should not be prohibited; and,

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WHEREAS, the Town Council believes it fair and reasonable for properties owners and persons hauling Manure and Horse Bedding intended for deposit within the Town should obtain a permit from the Town certifying that the quantities of Manure and Horse Bedding being deposited upon a property is limited to the amount necessary for the bona fide agricultural use.

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

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

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

Section 3. It shall be prohibited for any person to deposit Manure and Horse Bedding on any property within the Town, regardless of the consent of the property owner, unless such person, and the property owner, has obtained a permit from the Town confirming that the Manure and Horse Bedding is to be used for bona fide agricultural purposes; and, in no case may the amount of Manure and Horse Bedding deposited exceed the amount set forth in the permit issued to the Property Owner by the Town. The determination of the appropriate quantity of Manure and Horse Bedding for use for bona fide agricultural purposes shall be based upon uses and custom associated with the specific agricultural use on the property, which may include recognized formulas of government agencies or published studies.

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Section 4. Notwithstanding the issuance of a permit, the depositing of manure and horse bedding shall be prohibited between the hours of 7:00 p.m. and 7:00 a.m. on Mondays through Saturdays, and prohibited at all times on Sundays.

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

Section 6. The Town Administration is authorized to use the Town's Code Enforcement process to enforce violations of this ordinance where a law enforcement officer has not otherwise issued violations of Section 403.413, Florida Statutes. In such instances, the fine shall be \$250 for the initial violation and \$500 for each subsequent violation, with each load or each day being a separate violation.

Section 7. Upon the issuance of a violation notice under Section 403.413, Florida Statutes, or this ordinance, any permits issued by the Town shall be suspended and all Manure and Horse Bedding deposit activity stopped until such time as a hearing is conducted or the fines paid. Should a person violate this ordinance on more than one (1) occasion during a calendar year, that person shall not be granted a permit from the Town for a period of one (1) calendar year from the date of the last violation.

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

a. Property Owners shall obtain a permit from the Town for each use of manure or horse bedding, regardless of the number of loads, during which time the Property Owner shall

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advise in writing the volume being used under the permit and the transporter for the material, and will certify that the manure or horse bedding is being used for bona fide agricultural purposes and that they have verified that the transporter for the materials has a permit from the Town. One of the conditions on the issuance of a permit to a property owner is that it shall provide consent for a Town representative to inspect the property solely for purposes of ensuring compliance with the terms of the permit. There shall be no charge for a Property Owner Permit.

b. Transporters shall obtain an annual permit from the Town for the deposit of Manure and Horse Bedding within the Town. In obtaining the permit, the transporter will acknowledge that it is aware of the Town's regulations relating to the deposit of manure and horse bedding, and that it will confirm upon receipt of a request for materials from a property owner within the Town that the purpose for such manure and horse bedding is for bona fide agricultural purposes, and that the property owner has obtained the necessary permit from the Town. All permits for transporters shall expire each September 30 regardless of the date of issuance. Transporters are responsible for the timely renewal of its annual permit. The annual permit fee shall be \$500.00, which may be adjusted by the Town Council by resolution.

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

Section 10. Repeal of Laws in Conflict. All Ordinances or part of Ordinances in conflict herewith are in the same are hereby repealed to the extent of such conflict.

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Section 11. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 12. Effective Date. This Ordinance shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 16th DAY OF March, 2010.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 6th DAY OF April, 2010.

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:


Anna Harper

Town Clerk

APPROVED AS TO LEGAL FORM:

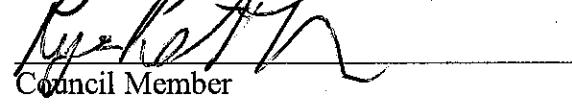

Town Attorney


David Browning
Mayor


Alan Dipp
Vice Mayor


Ronald Farrel
Council Member


James Rickett
Council Member


Cynthia
Council Member

MDC:aw

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