

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-06

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO SPECIAL EXCEPTION USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 10-015, ENTITLED "DEFINITIONS" TO DEFINE "TEMPORARY EVENT,;" TO AMEND SECTION 20-015, ENTITLED "PERMITTED USES" (AGRICULTURAL RESIDENTIAL DISTRICT), TO REMOVE THE SPECIAL EXCEPTION REQUIREMENT FOR COMMERCIAL EQUESTRIAN OPERATIONS, ADD RODEO EVENTS AS A PRINCIPAL USE WITH SPECIAL EXCEPTION AND TEMPORARY EVENTS AS AN ACCESSORY USE WITH SPECIAL EXCEPTION APPROVAL, AND TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 25-015, ENTITLED "PERMITTED USES" (COMMERCIAL LOW AND COMMERCIAL LOW OFFICE DISTRICTS), TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN PRINCIPAL USES; TO AMEND SECTION 30-015, ENTITLED "PERMITTED USES" (INSTITUTIONAL AND PUBLIC FACILITIES DISTRICT) TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO AMEND SECTION 115-01, ENTITLED "TABLE OF PUBLIC NOTICE REQUIREMENTS" TO PROVIDE NOTICE REQUIREMENTS FOR THE DIFFERENT CATEGORIES OF SPECIAL EXCEPTIONS; TO AMEND ARTICLE 170, ENTITLED "SPECIAL EXCEPTION USES" TO DEFINE THE CATEGORIES FOR SPECIAL EXCEPTION REVIEW, AND TO PROVIDE FOR THE APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND RELATED MATTERS FOR THE CATEGORIES OF SPECIAL EXCEPTION REVIEW; TO AMEND ARTICLE 120, ENTITLED "QUASI-JUDICIAL HEARINGS," SECTION 120-015, ENTITLED "QUASI-JUDICIAL MATTERS" TO SPECIFY THE SPECIAL EXCEPTIONS THAT ARE CONSIDERED QUASI-JUDICIAL MATTERS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, due to its potentially time consuming and costly approval process, the Town Council has directed staff and the Unified Land Development Code (ULDC) Review Committee to prepare amendments to Article 170, entitled "Special Exception Uses" of the ULDC that will result in a more "user friendly" process for Town residents; and

WHEREAS, in response to the Town Council directive, the Town's staff has prepared proposed amendments to the Town's Unified Land Development Code (ULDC) and,

WHEREAS, the Town’s ULDC Review Committee considered the proposed ULDC amendments at its June 20, 2013, meeting and recommended that the Town Council approve the amendments to the ULDC proposed by staff subject to revisions which have been incorporated in Attachment A hereto; and,

WHEREAS, the Town’s Planning and Zoning Board considered the proposed ULDC amendments at its September 12, 2013, meeting and pursuant to Chapter 163, Part II, Florida Statutes, recommended that the Town Council approve the amendments to the ULDC as worded in Attachment A hereto; and,

WHEREAS, the Town Council of Town of Loxahatchee Groves finds that the adoption of this Ordinance, to revise ULDC provisions related to Special Exception Uses is consistent with the Town’s Comprehensive Plan, and in the best health and welfare interests of the Town, its property owners and residents.

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

Section 1: That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

Section 2: That the Town Council of the Town of Loxahatchee Groves, hereby amends the Town’s Unified Land Development Code (ULDC), by amending Section 10-015, entitled “Definitions” to define “Temporary Event,”; amending Section 20-015, entitled “Permitted Uses” (Agricultural residential District), to eliminate the special exception requirement for commercial equestrian operations, add Rodeo Events as a Principal Use with special exception approval and Temporary Events as an Accessory Use with special exception approval, and to specify the category of special exception necessary for certain uses in the zoning category;

amending Section 25-015, entitled “Permitted Uses” (Commercial Low And Commercial Low Office Districts), to specify the category of special exception necessary for certain Principal Uses; amending Section 30-015, entitled “Permitted Uses” (Institutional And Public Facilities District) to specify the category of special exception necessary for certain uses in the zoning category; amending Section 115-01, entitled “Table Of Public Notice Requirements” to provide notice requirements for the different categories of Special Exceptions; amending Article 170, entitled “Special Exception Uses” to define the categories for special exception review, and to provide for the application requirements, review procedures and related matters for the categories of special exception review, and amending Section 120-015, entitled “Quasi-Judicial Matters” to specify the special exceptions that are considered Quasi-Judicial Matters, as fully set forth in **Attachment “A”**, and incorporated herein by reference.

Section 3: Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

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

Section 5: Codification. The Town Clerk shall cause this ordinance to be codified as a part of the ULDC.

Section 6: Effective Date. This ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 5th DAY OF NOVEMBER, 2013.

ATTACHMENT A – Ordinance 2013-06

Special Exception Amendments

(Ref: Following Page)

Amendments to the following ULDC Sections:

1. Article 170. *Special Exception Uses*
2. Section 10-015. *Definitions*
3. Section 20-015. *Permitted uses* (Agricultural Residential District).
4. Section 25-015. *Permitted uses* (Commercial Low and Commercial Low Office District).
5. Section 30-015. *Permitted uses* (Institutional and Public Facilities District).
6. Section 115-01. *Table of public notice requirements.*
7. Section 120-015. *Quasi-judicial matters.*

Article 170. SPECIAL EXCEPTION USES

Section 170-005. – Purposes.

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 application requirements, 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 – Complete Special Exception Review per Sections 170-015, 170-020, and 170-025 of this code.
- (B) Category B – Modified Special Exception Review per Sections 170-015, 170-020, and 170-025 of this code.
- (C) Category C – Temporary Event Administrative Review. An Outdoor Event may qualify for a Category C special exception approval as a Temporary Event provided that applicants shall certify, by written affidavit on a form provided by the Town, that none of the following activities or facilities will occur on-site for a period exceeding twenty-four (24) consecutive hours:
 - (1) Signage advertising the event.
 - (2) Temporary buildings, tents or similar structures erected for the event.
 - (3) Electrical, plumbing or similar utility connections to be used during the event.
 - (4) Portable sanitary facilities imported for use during the event.
 - (5) Parking for event participants.

A Category C temporary event holder shall further certify that trash and garbage shall be policed and removed daily.

An outdoor event that cannot certify to the above shall be processed as a Category B special exception.

- (D) Private temporary events held for family and friends of the property owner, on the property owner's property, that occur for a period not to exceed twenty-four (24) hours shall not be required to obtain special exception approval under this article.

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) 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 special exceptions, the existing use, zoning and land use designations of lands abutting the subject property.
- (C) A For Category A 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. The Category B zoning confirmation letter shall include a property/building layout with dimensions provided by the applicant. For Category C special exceptions, a zoning confirmation letter from the Town Manager stating that the proposed event is granted a Category C special exception. In order to be granted a Category C special exception an affidavit shall be provided by the applicant certifying that the conditions of Section 170-010(C) shall be complied with.
- (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, including the category of review for such application.

Section 170-020. - Special exception use procedures.

- (A) Public notice shall be made in accordance with Article 115, "Public Hearing Notices."
- (B) All Category A 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 to the Town Council. Category C special exception uses require the authorization of the Town Manager.

- (C) Category A 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 special exception applications to determine whether the special exception use complies with the following standards. The Town Manager shall review Category B applications 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~~ a Category A special exception application, approve it, or approve it with conditions. In issuing its decision to grant a Category 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.
- (C) The Town Manager may deny a Category B application, approve it, or approve it with conditions. In addition, the Town Manager, based upon his initial determination of potential non-compliance with the standards listed in Section 170-025(A,) may determine that a potential Category B Special Exception is most appropriately processed as a Category A Special Exception, in which case it will be processed as a Category A Special Exception.

- (D) The Town Manager may deny a Category C application, approve it, or approve it with conditions, based upon a determination of compliance with Section 170-010(C) (1) - (5). The Town Manager, based upon his determination of non-compliance with Section 170-010(C) (1) - (5) may determine that a potential Category C Special Exception is most appropriately processed as a Category B Special Exception, in which case it will be processed as a Category B Special Exception.
- (E) Denials of Category B and C Special Exceptions may be appealed to the Town Council. An applicant shall file a written request for appeal within thirty (30) days of receipt of the written denial by the Town Manager.

Section 170-030. - Modification of special exceptions.

If the applicant wishes to amend a special exception use proposal, 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, in the case of a Category A special exception, and the Town Manager, in the case of a Category B or Category C 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 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, 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
 - (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, in the case of a Category A 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 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 and/or documentation 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~~ one 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.

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.

Temporary event. An Outdoor Event not to exceed a period of three (3) consecutive days, such as a fund raising, sporting, holiday, religious, fraternal or civic event where none of the following activities or facilities will occur or exist on-site for a period exceeding twenty-four (24) consecutive hours: (1) Signage; (2) buildings, tents or similar structures; (3) electrical, plumbing or similar utility connections; and/or (3) portable sanitary facilities.

Section 20-015. Permitted uses.

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

Principal Uses	Agricultural Residential (AR)
Single Family Dwelling	Permitted
Mobile Home	Permitted w/Special Exception <u>Category B</u>
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception <u>Category A</u>
Essential Services	Permitted
Commercial Equestrian Operations	Permitted w/Special Exception
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception <u>Category A</u>
Aviculture	Permitted subject to Article 80
Commercial Kennels	Not Permitted
Chipping and Mulching	Permitted subject to Article 80
Feed Lots	Not Permitted
Commercial Animal Manure Management	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80
Rescued Animal Care	Permitted w/Special Exception <u>Category A</u>
Outdoor Events	Permitted w/Special Exception subject to Article 80 and to a Special Exception <u>Category A</u>
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception <u>Category A</u>
Rodeo Events	Permitted w/Special Exception <u>Category A</u>

Accessory Uses	Agricultural Residential (AR)
Accessory Dwelling	Permitted
Groom's Quarter	Permitted
Caretaker's Quarter	Permitted
Home Offices	Permitted subject to Article 80
Residential Enterprise	Permitted subject to Article 80
Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception <u>Category B</u>
U-Pick Farms	Permitted w/Special Exception <u>Category B</u>
Private Kennels	Permitted
Private Stables	Permitted
Yard Sales	Permitted subject to Article 80
Veterinarian Services	Permitted
Dog Boarding	Permitted
Temporary Events	Permitted w/Special Exception <u>Category C</u>

Section 25-015. Permitted uses.

Plots located in the Commercial Low and Commercial Low Office zoning districts may be used for one or more the following uses.

Principal Uses	Commercial Low (CL)	Commercial Low Office (CLO)
Adult Entertainment	Permitted subject to Article 20	Not Permitted
Arcade, Video	Permitted	Not Permitted
Automobile Repair Garage	Permitted	Not Permitted
Bank or Financial Institution	Permitted	Permitted
Bar, Lounge, Tavern or Pub	Permitted	Not Permitted
Barber Shop, Beauty or Nail Salon	Permitted	Not Permitted
Pool Hall	Permitted	Not Permitted
Car Wash, Self-Service or Automated	Permitted	Not Permitted
Catering or Food Service Delivery	Permitted	Not Permitted
Child Care Center	Permitted	Not Permitted
Commercial Animal Manure Management	Not Permitted	Not Permitted
Commercial Chipping and Mulching	Permitted subject to Article 80	Not Permitted
Convenience Store	Permitted	Not Permitted
Dance/Night Club	Permitted	Not Permitted
Day Labor Hiring Center	Permitted w/Special Exception Category A	Not Permitted
Delicatessen	Permitted	Not Permitted
Theater or Auditorium	Permitted	Not Permitted
Dry Cleaning or Laundry Service	Permitted	Not Permitted
Employment Agency	Not Permitted	Not Permitted
Essential Services and Utilities	Permitted	Permitted
Exhibition of Wildlife Pets	Permitted subject to Article 80	Not Permitted
Gasoline Station	Permitted	Not Permitted
Shooting Range, Indoor	Permitted subject to Article 80	Not Permitted
Hotel	Permitted	Not Permitted
Holiday Wayside Stand	Permitted subject to Article 80	Permitted subject to Article 80
Laboratory (e.g., medical, dental, research)	Permitted	Permitted
Offices (e.g. business, professional, medical)	Permitted	Permitted
Package Liquor, Beer or Wine Store	Permitted	Not Permitted
Outdoor Events	Permitted subject to Article 80 and to a Special Exception Category B	Permitted subject to Article 80 and to a Special Exception Category B
Retail Plant or Produce Sales	Permitted	Not Permitted
Restaurant, Fast Food	Permitted	Not Permitted
Restaurant, Full Service	Permitted	Permitted
Restaurant, Take Out	Permitted	Permitted
Retail Services	Permitted	Not Permitted
Retail Store	Permitted	Not Permitted
Commercial Recreation (e.g. batting cages, rink)	Permitted	Not Permitted

Principal Uses (continued)	Commercial Low (CL)	Commercial Low Office (CLO)
Veterinary Clinic or Hospital	Permitted	Not Permitted
Warehouse, Self Storage	Permitted	Not Permitted
Wireless Communication Facilities	Permitted	Permitted
Adult Day Care	Permitted	Permitted
Schools, Public or Private	Permitted	Not Permitted
Gym or Fitness Center	Permitted	Permitted

Section 30-015. Permitted uses.

Plots located in the Institutional and Public Facilities zoning district may be used for one or more the following uses.

Principal Uses	Institutional and Public Facilities
Cemetery	Not Permitted
Congregate Living Facility	Permitted
Churches, Place of Worship	Permitted
Day Care, Preschool	Permitted
Essential Services	Permitted
Government Facilities and Services	Permitted
Holiday Wayside Stand	Permitted Subject to Article 80
Outdoor Events	Conditional Permitted subject to Article 80 and to a <u>Special Exception Category B</u>
Private Service Club or Lodge	Permitted w/ <u>Special Exception Category A</u>
Public Parks and Outdoor Events	Permitted
School, Public and Private	Permitted
Wireless Communication Facilities	Permitted w/ <u>Special Exception Category A</u>

Accessory Uses	Institutional and Public Facilities
Cemetery	Not Permitted
Day Labor Hiring Center	Permitted w/ <u>Special Exception Category B</u>
Child Care, Preschool, Adult Day Care	Permitted
Swimming Pool	Permitted

RESERVED: Section 115-010

RESERVED: Section 115-010 (2)

Section 120-015: *Quasi-judicial matters*

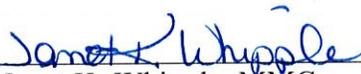
For purposes of this Article, the following matters, regardless of whether the final determination is made by the Town Council or a board, shall be considered to be quasi-judicial:

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

**PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN
LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS
3rd DAY OF DECEMBER, 2013.**

**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:



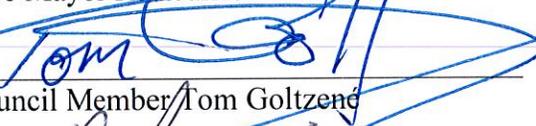
Janet K. Whipple, MMC
TOWN CLERK



Mayor David Browning



Vice Mayor Ron Jarriel

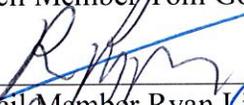


Council Member Tom Goltzenc

APPROVED AS TO LEGAL FORM:



Michael D. Cirullo, Jr.
Town Attorney



Council Member Ryan Liang



Council Member Jim Rockett

