

TOWN OF LOXAHATACHEE GROVES

ORDINANCE NO. 2013-11

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO HISTORICAL LEGACY USES AND APPROVALS; AMENDING THE TOWN OF LOXAHATCHEE GROVES UNIFIED LAND DEVELOPMENT CODE (ULDC), TO AMEND SECTION 75-035, ENTITLED “USES AS OF OCTOBER 1, 2006” TO ADD THE TERM HISTORICAL LEGACY TO THE SECTION TITLE; TO SPECIFY THE CATEGORY OF SPECIAL EXCEPTION NECESSARY FOR CERTAIN USES IN THE ZONING CATEGORY; TO REQUIRE THAT THE PROPERTY ON WHICH THE USE IS LOCATED SHALL HAVE BEEN OWNED AND SUBJECT TO A HOMESTEAD EXEMPTION IN THE NAME OF THE OPERATOR; TO REQUIRE THAT THE USE DOES NOT PRESENT A THREAT TO PUBLIC HEALTH; TO REQUIRE THAT THE USE IS NOT CURRENTLY THE SUBJECT OF A TOWN CODE ENFORCEMENT ACTION; TO REQUIRE THAT THE OWNER-OPERATOR SUBMIT AN AFFIDAVIT STIPULATING TO COMPLIANCE WITH CERTAIN CONDITIONS; TO REQUIRE REVIEW AND INSPECTION BY THE TOWN; PROVIDING THAT CERTAIN USES ARE NOT ELIGIBLE FOR APPROVAL UNDER THIS SECTION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Council has directed staff and the Unified Land Development Code (ULDC) Review Committee to prepare corrective amendments to Section 75-035 that will result in a process to permit “historical legacy” uses in the Agricultural Residential (AR) zoning district.

WHEREAS, In response to the 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 October 17, 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 Exhibit A hereto; and,

WHEREAS, the Town’s Planning and Zoning Board considered the proposed ULDC amendments at its December 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 “Exhibit A” hereto; and,

WHEREAS, the Town Council of Town of Loxahatchee Groves finds that the adoption of this ordinance, to revise Section 75-035, entitled “Uses as of October 1, 2006”, 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 75-035, entitled “Uses as of October 1, 2006”, as fully set forth in “**EXHIBIT 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 4th DAY OF MARCH, 2014.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 18th DAY OF March, 2014.

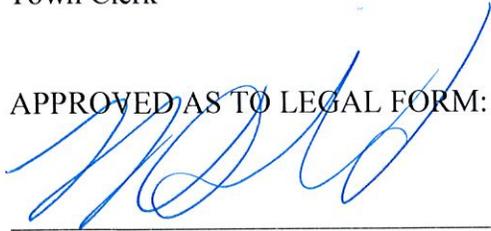
**TOWN OF LOXAHATCHEE GROVES,
FLORIDA**

ATTEST:



Janet K. Whipple, MMC
Town Clerk

APPROVED AS TO LEGAL FORM:



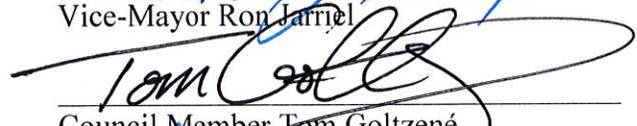
Office of the Town Attorney



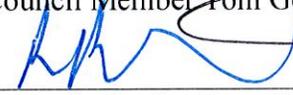
Mayor David Browning



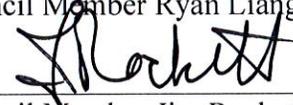
Vice-Mayor Ron Jarrrel



Council Member Tom Goltzené



Council Member Ryan Liang



Council Member Jim Rockett



EXHIBIT A

Historical Legacy Amendments

(Ref: Following Page)

Amendments to the following ULDC Section:

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

NOTE: Underlined text is an addition to Section 75-035 and ~~struck through text~~ is a deletion to Section 75-035.

Section 75-035. - Historical Legacy 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. Such uses, referred to as "Historical Legacy Uses", but may be 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 on the property as of October 1, 2006; and
- (B) The applicant shall apply for a Category B Special Exception pursuant to Section 170-010(B) of this Code; and
- (C) ~~The application for the Special Exception shall be filed within eight months of the effective date of these regulations.~~ A historical legacy use shall comply with either of the following criteria: (1) Be located on a property owned by a resident with a homestead exemption within the Town; or (2) be located on a separate property within the Town, either contiguous or non-contiguous to the homesteaded property. In either case, the business owner's homestead exemption shall have been in effect and the historical legacy business shall have been in continuous operation within the Town since October 1, 2006.
- (D) The use does not present a threat to public health or safety.
- (E) The property upon which the use is located is not currently the subject of a Town code enforcement action, with the exception of a property containing a use that qualifies for a Historical Legacy Category B Special Exception.
- (F) The owner-operator has submitted an affidavit: (1) certifying compliance with Sections (A) –(E) above (2) limiting the continued operation of the use to both the Parcel Control Number (PCN) and operator; (3) agreeing not to diversify the existing business; (4) agreeing that no signs visible from the road which advertise or promote the use will be erected on the property; (5) agreeing to maintain, and provide a copy to the Town, an active annual local business tax receipt; (6) acknowledging that, in the event of the transfer of the property to a new owner the right to operate the use shall cease; (7) acknowledging that, in the event of the owner's loss of his or her homestead exemption on the property, the right to operate the use shall cease; and (8) agreeing to conditions imposed by Town Staff including, but not limited to, access, parking, hours of

operation, noise generation, location of the business activities upon the property, number of on-site employees, clients or customers allowed, deliveries, waste disposal, proof of insurance, etc.

(G) The owner-operator has undergone a review and inspection by the Town to determine compliance with Sections (A) – (F) above.

(H) The following uses are not eligible for approval under this section:

(1) Adult entertainment establishment, as defined in Section 10-015: *Definitions*.

(2) Recreational vehicle or mobile home park, where parking spaces are rented or sold and provided with one or more of the following services: potable water, electrical and/or sewage disposal.

(3) Junk dealer, as defined in Section 17-75(a) of the Palm Beach County Code of Ordinances.

(4) Additional uses determined by Town staff to be non-compliant with Articles 45: *Property Maintenance* and Article 50: *Public Nuisances*.

(I) All Historical Legacy Special Exception B approvals by the Town Manager shall be placed on Consent Agenda for Town Council acceptance.