

**TOWN OF LOXAHATCHEE GROVES**

**ORDINANCE NO. 2014-05**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, AMENDING THE TOWN'S UNIFIED LAND DEVELOPMENT CODE TO ELIMINATE REGULATIONS RELATING TO GUNS, FIREARMS AND GUN RANGES TO ADDRESS STATE PREEMPTIONS OF THE REGULATION OF THESE SUBJECTS; PROVIDING FOR INTENT OF THE TOWN TO COMPLY WITH THE STATE'S PREEMPTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 790.33, Florida Statutes, preempts to the state the field of regulation of firearms and ammunition, except for zoning ordinances “that encompass firearms businesses” so long as they are not intended to restrict or prohibit the sale of firearms and ammunition as a means of regulating such; and,

**WHEREAS**, Section 790.333, Florida Statutes, preempts to the state the field of regulation of firearms and ammunition use at sport shooting and training ranges; and,

**WHEREAS**, the Florida Attorney General has opined that the preemption in Section 790.333, Florida Statutes, includes zoning; and,

**WHEREAS**, Section 790.33, Florida Statutes, provides substantial penalties for any willful intrusion into the state's preemption on the regulation of firearms and ammunitions, including fines of up to \$5,000, termination of employment or removal from office, and damages of up to \$100,000.00; and,

**WHEREAS**, the Town's Unified Land Development Code contains zoning regulations relating to shooting and gun ranges, the goal of which was not to restrict gun and ammunition sales and use, but to provide use and development standards for such uses; and,

**WHEREAS**, the Town of Loxahatchee Groves, Florida, believes it is in the best interest of the Town to remove all references to guns, firearms, and gun and shooting ranges in the Unified Land Development Code in order to avoid the potential of conflict with state law, and to defer to the state for regulations of such pursuant to the state’s preemptions as evidenced by Sections 790.33 and 790.333, Florida Statutes.

**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.** Part II, entitled “Zoning Districts,” Article 25 entitled “Commercial Zoning Districts,” Section 25-015, entitled “Permitted Uses,” of the Town’s Unified Land Development Code, is amended as follows:

**Section 25-015. - Permitted uses.**

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

<b>Principal Uses</b>	<b>Commercial Low (CL)</b>	<b>Commercial Low Office (CLO)</b>
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 Mgmt.	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	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
<u>Shooting Range</u>	<u>See Note 1 below</u>	<u>See Note 1 below</u>
<del>Shooting Range, Indoor</del> Archery Range	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	Permitted subject to Article 80 and to a Special Exception
Retail Plant or Produce Sales	Permitted	Not Permitted
Restaurant, Fast Food	Permitted	Not Permitted
Restaurant, Full Service	Permitted	Permitted
Restaurant, Take Out Only	Permitted	Permitted

Retail Services	Permitted	Not Permitted
Retail Store	Permitted	Not Permitted
Commercial Recreation (e.g., batting cages, rink)	Permitted	Not Permitted
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

**Note 1: The regulation of guns and shooting ranges is preempted by state law and regulated solely by the State of Florida. See Sections 790.33 and 790.333, Florida Statutes**

**Section 3.** Part II, entitled “Zoning Districts,” Article 35 entitled “Parks and Recreation Zoning Districts,” Section 35-015, entitled “Permitted Uses,” of the Town’s Unified Land Development Code, is amended as follows:

**Section 35-015. - Permitted uses.**

Plots located in the Parks and Recreation zoning district may be used for one or more of the following specified uses.

<b>Principal Uses</b>	<b>Parks and Recreation</b>
<del>Gun or</del> Archery Range	Permitted subject to Article 80
<u>Shooting Range</u>	<u>See Note 1 below</u>
Boat Ramp, Fishing Pier and Dock	Permitted
Botanical Garden	Permitted
Walking and Biking Trail	Permitted
Essential Services	Permitted
Nature Trail	Permitted
Outdoor Events	Permitted subject to Article 80
Lake or Pond	Permitted
Public Park	Permitted

**Note 1: The regulation of guns and shooting ranges is preempted by state law and regulated solely by the State of Florida. See Sections 790.33 and 790.333, Florida Statutes**

**Section 4.** Part III, entitled Supplemental Regulations,” Article 80, entitled “Conditional Use,” Section 80-040, entitled “Archery and gun ranges,” of the Town’s Unified Land Development Code, is amended as follows:

**Section 80-040. - Archery ~~and gun~~ ranges.**

Target areas for archery ~~and gun~~ ranges shall provide sufficient separation and barriers sufficient to preclude any intrusion of such activities (including noise above nuisance levels) upon adjacent properties. ~~All gun ranges shall be within a building located on a parcel that has a land use designation of Commercial Low Retail and shall also conform to the Best Management Practices for Environmental Stewardship of Florida Shooting Ranges as outlined by the Florida Department of Environmental Protection.~~

**Section 5.** Part IV, entitled “Parking and Loading, Access and Subdivision, Sight Distance,” Division I, entitled “Space Requirements, Size and Use, Section 95-010, entitled “Minimum parking space requirements,” of the Town’s Unified Land Development Code, is amended as follows:

**Section 95-010. - Minimum parking space requirements.**

The minimum parking requirements for each use is outlined below, however, for uses not specifically listed, the parking requirements for the most similar use shall be used as determined by the Town Manager. When the number of required parking spaces results in a fractional space, any such fraction shall require a full parking space. In the case of mixed uses (not including shopping centers), the total requirement for parking spaces shall be the sum of the various uses computed separately. In stadiums, sports arenas, religious facilities, bars and other places of assembly in which occupants utilize benches, pews, stools or other similar seating facilities, every 20 lineal inches of such seating shall be counted as one seat for the purpose of computing parking requirements. Every building, use or structure which complies with the parking requirements of this article may provide additional parking spaces as needed.

(E) *Recreational uses:*

Uses	Minimum Parking Requirements
Gun or Archery Range	One parking space per target position
Other Recreational Uses	Determined by agency facilitating and maintaining the use

**Section 6:** It is the intent of the Town Council that the Town's ordinances and Unified Land Development Code be interpreted and administered consistent with the state's preemptions of the regulation of fields of guns and ammunition, and gun ranges.

**Section 7.** All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

**Section 7:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

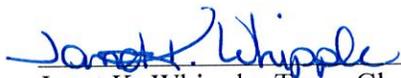
**Section 8:** This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, ON FIRST READING, THIS 20<sup>th</sup> DAY OF May, 2014

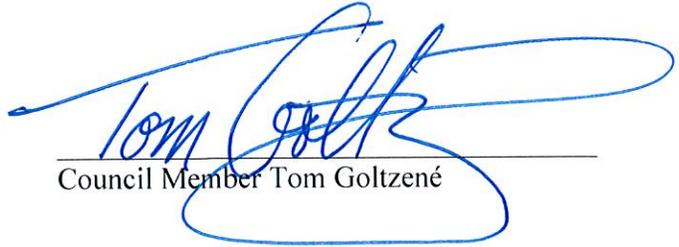
PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN LOXAHATCHEE GROVES, ON SECOND READING AND PUBLIC HEARING, THIS 3<sup>rd</sup> DAY OF June, 2014

TOWN OF LOXAHATCHEE GROVES,  
FLORIDA

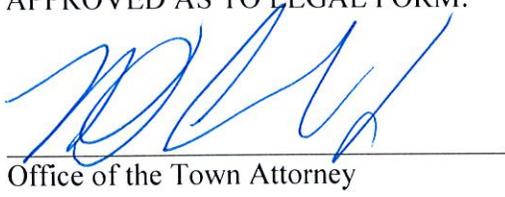
ATTEST:

  
Janet K. Whipple, Town Clerk

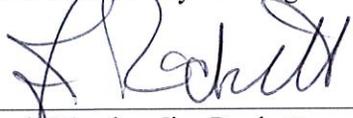
  
\_\_\_\_\_  
Mayor David Browning  
  
\_\_\_\_\_  
Vice-Mayor Ron Jarriel

  
Council Member Tom Goltzené

APPROVED AS TO LEGAL FORM:

  
Office of the Town Attorney

absent  
Council Member Ryan Liang

  
Council Member Jim Rockett

