



**TOWN OF LOXAHATCHEE GROVES**  
**UNIFIED LAND DEVELOPMENT CODE**  
**COMMITTEE AGENDA**  
**FRIDAY, NOVEMBER 18, 2016**

*Chair Mary McNicholas*

*Vice-Chair Karen Piesley*

*Member Christine St. John*

*Member Thais Gonzalez*

*Member Lawrence Corning*



**Town of Loxahatchee Groves**  
**UNIFIED LAND DEVELOPMENT CODE COMMITTEE**

Friday, November 18, 2016 at 10:30 a.m.

Meeting Location: Town Hall, 155 F Road

Chairperson: Mary McNicholas  
Vice Chairperson: Karen Piesley  
Committee Member: Christine St. John  
Committee Member: Lawrence Corning  
Committee Member: Thais Gonzalez

Town Manager William F. Underwood II  
Town Clerk Virginia Walton  
Planning Consultant Jim Fleischmann

**AGENDA**

**1. OPENING**

- a. Call to Order & Roll Call
- b. Approval of Agenda

**2. ORDER OF BUSINESS**

- a. Approval of Recommended Revisions to Agriculture Residential Permitted Uses (AR)
- b. Review of balance of Permitted Uses (AR)
- c. Review of Accessory Uses

**3. CLOSING COMMENTS**

- a. Public
- b. Set next meeting date and time

**4. ADJOURNMENT**

**Comments Cards:** Anyone from the public wishing to address this Committee must complete a Comment Card before speaking. This must be filled out completely with your full name and address and given to the Town Clerk. During the meeting, before public comments, you may only address the item on the agenda in which is being discussed at the time of your comment. During public comments, you may address any item you desire. Please remember that there is a three (3) minute time limit on all public comment. Any person who decides to appeal any decision of this Committee with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose, may need to ensure that a verbatim record of the proceedings is made which included testimony and evidence upon which the appeal is to be based. Persons with disabilities requiring accommodations in order to participate should contact the Town Clerk's Office (561-793-2418), at least 48 hours in advance to request such accommodation.

**NOTE:** Items highlighted in **blue** are topics of interest related to the issue of “mobile homes”. Items highlighted in **yellow** are revisions recommended or to be considered by the ULDC Committee. **Underlined** items are potential additions to the ULDC. **Struckthrough** items are potential deletions to the ULDC.

## **Article 20 - RESIDENTIAL ZONING DISTRICTS**

### **Section 20-005. - Purpose and intent of districts.**

- (A) Agricultural Residential (AR). Agricultural Residential zoning districts are intended to apply to areas of the Town designated as Rural Residential on the Future Land Use Plan Map of the Comprehensive Plan. The purpose is twofold. First, it is to protect, preserve and enhance the rural and agricultural character and life-style of existing very low density areas. Second, it is to protect the existing tree canopy and natural environment, promote and enhance wildlife habitat and natural systems, and reinforce the unique character of the Town through the establishment of native landscapes.

### **Section 20-010. - General provisions.**

The following requirements shall apply to the Agricultural Residential (AR) Zoning District.

- (A) **Accessory dwelling units. One accessory dwelling unit is permitted per parcel of land subject to the following standards:**

- (1) Parcel size. Parcels shall be five acres or greater.**
- (2) Maximum floor area. Accessory dwelling units shall contain no greater than 1,200 square feet of livable, floor space.**
- (3) Ownership. The accessory dwelling unit shall remain accessory to and under the same ownership as the principal dwelling.**
- (4) Electric utilities. Both the principal single family dwelling and the accessory dwelling shall be connected to the same electric utility meter.**
- (5) Compatibility. An accessory dwelling unit shall be architecturally compatible in character and subordinate in size to the principal dwelling unit.**

- (B) Animals and livestock. The breeding raising, and/or keeping of animals and livestock as an accessory use to a permanent dwelling shall be subject to the following standards:

- (1) Number. The number of animals and livestock permitted shall be based on parcel size as follows.
  - a. Livestock. Four livestock, not including swine, are permitted per every one acre of land, except that parcels of at least five acres are permitted eight livestock per every acre of land and parcels over ten acres in size shall have no limit to the number of livestock per acre.
  - b. Small domesticated farm animals. Fifteen small domesticated animals are permitted per every one-half acre of land.
  - c. Large domesticated farm animals. Two large domesticated animals are permitted per every one acre of land.
  - d. Poultry. Parcels under one acre shall be limited to four birds per every one-quarter acre.
  - e. Swine. One swine is permitted per property of one acre or greater, except for pot bellied pigs, which shall be considered livestock.

- f. Wildlife pets. Ten wildlife pets are permitted on properties of five acres or greater provided that the wildlife pets are permitted and licensed by the State of Florida.
  - g. Household pets. A maximum of ten household pets are permitted on a property.
- (2) Fences. All animals shall be kept within a fence to prevent the animals from accessing streets or adjacent properties. It shall be the responsibility of each animal owner to ensure that the fence is maintained in a state of good repair and that the animal is confined to the property.
  - (3) [Setback.] All structures, including pens, cages or enclosures, but excluding fences, that house or restrain animals of any type shall be setback a minimum of 50 feet from all property lines.
  - (4) Exceptions. Offspring under the normal weaning age for the species shall not be included in calculating the number of animals.
- (C) [Caretaker's quarters.] Caretaker's quarters are permitted on parcels with a bona fide agricultural use.
- (D) Construction trailers. One construction trailer may be placed on a plot for a period of time not to exceed one year during active construction of a permanent dwelling to serve as temporary living quarters for the owners of the home under construction. Construction trailers shall also be subject to the following standards.
- (1) Location. The construction trailer shall be in compliance with all setback requirements.
  - (2) Permit issued. No construction trailer shall be placed upon any such property until a building permit for construction of the dwelling has been issued. The permit shall be posted in such a manner that it can be observed from the exterior of the construction trailer.
  - (3) [Removal.] The construction trailer must be removed from the property upon completion of the permanent dwelling or other principal building(s) or at the end of the one year period, whichever occurs first. The Town Manager may grant one extension of a maximum six months, upon petition from the property owner, provided the petition demonstrates unexpected hardship, and steady construction progress such that construction can reasonably be completed within the six month extension period. A decision of the Town Manager to deny the request for extension may be appealed to the Town Council subject to the requirements of Article 145, "Administrative Appeals."
- (E) Fences, walls, hedges, gates and entry features. Fences, hedges, gates and entry features are permitted on all properties with a zoning designation of Rural Residential or Agricultural Residential. Walls are not permitted on a property line that abuts a road unless a Special Exception is granted by the Town.
- (1) Height. Fences and walls shall not exceed six feet in height in front yards and eight feet in height in side or rear yards. Hedges and natural vegetation shall not be subject to maximum height limitations. Height shall be measured adjacent to the fence or wall from the lowest grade on either side of the fence or wall.
  - (2) Appearance. The exterior surface of a wall shall be finished with paint, stucco, or other commonly accepted material, and continuously maintained in its original appearance. Dark or fluorescent colors are prohibited.
  - (3) Materials. Fences and walls shall not be electrified or contain any materials such as broken glass, spikes, nails, razors or barbs designed to inflict discomfort, pain, or injury to a person or animal, except as permitted below:
    - a. Barbed wire. Barbed wire shall be permitted for use as fencing material on all plots.

- b. Low voltage electric wire. Low voltage electric wire, otherwise known as hot wire, shall be permitted for use as fencing material on all plots.
- (4) Sight distance. Fences, walls and hedges shall comply with Article 105, "Sight Distance."
- (5) Decorative gates, features, and light posts. Decorative gates, features, and light posts attached to fences or walls may exceed the height of fences or walls by three feet provided that they are located in the front yard.
- (F) Groom's quarters. Groom's quarters are permitted on parcels where there are equestrian uses and a stable with 18 or more stalls.
- (G) Outdoor storage. Outdoor storage of merchandise and inventory, vehicles and equipment, refuse and other similar materials shall be subject to the following standards.
  - (1) Generally. All outdoor storage shall only be permitted when incidental to the use located on the premises or explicitly permitted as a primary use in Section 20-015, "Permitted uses."
  - (2) Location. Outdoor storage of merchandise and inventory, vehicles and equipment, refuse or similar materials shall not be located in any required setbacks, easements, or rights-of-way, except as permitted below:
    - a. Construction Vehicles, equipment and fill. Construction Vehicles, equipment, and fill may be temporarily stored in required setbacks, easements, or rights-of-way during construction in easements or rights-of-way.
    - b. Nursery plants and trees. Nursery plants and trees may be permanently stored in all required setbacks.
  - (3) Screening. All outdoor storage shall not be visible from roadways or neighboring properties except as permitted below:
    - a. Farm and land cultivation equipment. Farm and land cultivation equipment necessary for conducting a permissible agricultural use does not need to be screened from view provided that the vehicles are operable for immediate use, located on the plot upon which they are used, and are registered to an owner or lessee of said plot.
    - b. Equestrian transports. Equestrian transports do not need to be screened from view provided that the aggregate capacity of equestrian transports does not exceed the number of stables or horses kept on the property, whichever is greater.
    - c. Nursery plants and trees. Nursery plants and trees do not need to be screened from view.
    - d. Construction vehicles, equipment and fill. Construction vehicles, equipment, and fill do not need to be screened from view provided that the related construction activity is permitted, continuous and on-going.
    - e. Commercial and recreational vehicles. A maximum of two commercial or recreational vehicles may be stored on a plot of land without screening, provided that the vehicles are routinely operated/maintained by a permanent, full-time resident of the property.
    - f. Inactive vehicles and equipment. Vehicles and equipment that are in need of repair may be stored on a plot of land without screening provided that the vehicle or equipment has not been in a disassembled state or incapable of immediate use for more than seven consecutive days.
  - (4) Fluids. Vehicles and equipment that have been disassembled or incapable of immediate use for more than 28 consecutive days shall have all of its fluids drained and properly disposed.
- (H) Swimming pools. Swimming pools are permitted provided that the pool is located on the same plot as a primary use and it is fully enclosed with a fence or wall a minimum of four feet in height above the ground, measured adjacent to the fence or wall from the lowest grade on either side

of the fence or wall. Screen enclosures which meet all requirements of the Florida Building Code shall also constitute compliance with this provision. Fences or walls shall be of such a design and material as will prevent unauthorized access to the pool area. All gates must be equipped with self-closing, self-latching mechanisms. All fences and gates shall comply with all requirements of the Florida Building Code pertaining to required barriers around public swimming pools.

(I) Existing manufactured homes. A manufactured home located in Loxahatchee Groves as of December 1, 2016 and containing an insignia indicating that the home was built in compliance with the national Department of Housing and Urban Development (DHUD) building code governing building standards for factory-built homes may remain at the existing location.

(J) Replacement of existing manufactured homes. A manufactured home located in Loxahatchee Groves as of December 1, 2016 may be replaced at the same location, due to damage by an act of God or fire provided that, prior to its damage, the home was determined to be real property by the Palm Beach County Property Appraiser, or had a current motor vehicle registration. The replacement home shall be serviced by the Town solid waste collection provider and by approved potable water, wastewater and electrical systems, as determined by the Town Manager.

**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 Category B
Manufactured Home	Permitted
Modular Home	Permitted
Public Schools	Permitted
Congregate Living Facility, Type I	Permitted
Non-Profit Community Recreational Facilities	Permitted w/Special Exception Category A
Essential Services	Permitted w/special exception
Commercial Equestrian Operations	Permitted

Wholesale Nursery	Permitted
Retail Nursery	Permitted w/Special Exception Category A
Aviculture	See Note 1 below
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 subject to Article 80 and to a Special Exception Category A
Outdoor Events	Permitted subject to Article 80 and to a Special Exception Category A
Agriculture	Permitted
Bona Fide Agriculture	Permitted
Wireless Communication Facilities	Permitted w/Special Exception Category A
Rodeo Events	Permitted w/Special Exception Category A

Note 1: The regulation of exhibition or sale of wildlife and personal possession of wildlife are preempted by state law and regulated by the State of Florida. See Sections 379.3761 and 379.762, Florida Statutes and Florida Administrative Code Chapters 68A-1.002 and 68A-6.

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 Category B
U-Pick Farms	Permitted w/Special Exception Category B
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 Category C

**Section 20-020. - Irrigation installation/maintenance and landscape maintenance operations.**

Irrigation installation/maintenance operations and landscape maintenance operations are expressly prohibited in the Agricultural Residential (AR) Zoning District.

**Section 20-025. - Minimum plot size and dimension.**

Plots located in Agricultural Residential (AR) Zoning District are subject to the following size and dimensional standards.

- (A) Minimum plot size. No plot shall be developed for a residential use unless the plot contains five or more acres.
- (B) Minimum dimension. No plot shall be developed for residential use unless the plot has a frontage (width) and depth of at least 200 feet.
- (C) Exceptions. The following exceptions shall apply:
  - (1) Nonconforming plots of prior record. Plots which were of public record prior to, and became nonconforming as a result of, the adoption of the Town of Loxahatchee Groves Unified Land Development Regulations may be developed for residential use despite not meeting the minimum plot size and dimensional requirements.

- (2) Nonconforming plots due to public right-of-way dedication. Any plot which becomes nonconforming as a result of the required dedication of a public right-of-way may be developed for residential use despite not meeting the minimum plot size and dimensional requirements.
- (3) Plot with frontage on curved street or cul-de-sac. On curving streets, such as culs-de-sac, the required frontage for lots between the points of curvature may be reduced by 40 percent, provided the centerline radius of the contiguous street is 125 feet or less.

**Section 20-030. - Plot coverage, floor-to-area ratio, and pervious area.**

Plots located in the Agricultural Residential (AR) zoning district are subject to the following standards.

- (A) Plot coverage. The combined area of all buildings and roofed structures shall not exceed 15 percent of the plot area.
- (B) Floor-to-area ratio. Uses other than a single family residence shall not exceed a combined floor-to-area ratio of 15 percent.
- (C) Pervious area. The minimum pervious area shall be 70 percent of the plot area.
- (D) Exceptions. The following exceptions shall apply:
  - (1) Plot coverage and floor-to-area ratio calculations shall not apply to buildings used for growing plants including, but not limited to, greenhouses, shade houses, and hydroponics nurseries.
  - (2) To the extent that an applicant needs to exceed plot coverage and/or floor-to-area ratio for a bona fide agricultural use, the applicant shall obtain a Special Exception pursuant to Article 170, and must demonstrate that the requirement prohibits, restricts, or otherwise limits a generally accepted farming practice.

**Section 20-035. - Setbacks.**

All buildings and structures in the Agriculture Residential (AR) zoning district shall comply with the following minimum required setbacks:

- (A) Front setback. One hundred feet.
- (B) Side setback. Fifty feet.
- (C) Rear setback. Fifty feet.
- (D) Side street setback. For properties that abut a street on more than one side, a side street setback of a minimum of 80 feet shall be provided.
- (E) Exceptions. A nonconforming residential lot may utilize the following setbacks for a single-family dwelling unit only.
  - (1) Minimum setback requirements:
    - (a) If the minimum depth dimension is nonconforming:  
Front: Thirty percent of lot depth.  
Rear: Twenty percent of lot depth.
    - (b) If the minimum width dimension is nonconforming:  
Side interior: Fifteen percent of lot width.

Side street: Twenty percent of lot width.

- (c) Nonconforming lots that are 100 feet or less in width and 100 feet or less in depth may apply a 25-foot setback from the affected property line.
- (2) The maximum lot coverage is 40 percent of the total lot area or the maximum allowed coverage, whichever is more restrictive.
- (3) Accessory structures shall comply with all applicable Code requirements.
- (4) To the extent that an applicant desires to decrease the required setback or increase the height of a structure to more than 35 feet for a bona fide agricultural use, the applicant shall obtain a Special Exception pursuant to Article 170, and demonstrate that the requirement prohibits, restricts, or otherwise limits a generally accepted farming practice.

**Section 20-040. - Height.**

No buildings or structure, or part thereof, shall be erected or maintained to a height exceeding 35 feet in the Agriculture Residential (AR) zoning district except for those specifically excepted from height limitations are identified in Section 15-015, "Exceptions from height limitations."

**PLEASE REVIEW THE FOLLOWING DEFINITIONS FOR CONFIRMATION AT  
THE NOVEMBER 18, 2016 ULDC REVIEW COMMITTEE MEETING. IF YOU  
HAVE REVISIONS, BRING THEM TO THE MEETING**

**DEFINITIONS PRESENTED TO TOWN COUNCIL ON NOVEMBER 1, 2016  
TO BE FINALIZED**

**Manufactured home.** A structure requiring a building permit, and often referred to as a mobile home, constructed in a factory and transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chassis/undercarriage that provides structural support after installation on a permanent engineered foundation (i.e. concrete slab, stem-wall or poured or driven piles), and designed to be used as a dwelling unit when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.. The Florida Department of Economic Opportunity, as evidenced by a plate attached to the structure, certifies that the factory-built structure is in compliance with the Florida Manufactured Buildings Act (Florida Statutes Part IV, Chapter 553).

**Modular home.** A structure requiring a building permit, constructed in a factory designed to be used as a dwelling unit which is permanently affixed to an engineered foundation (i.e. concrete slab, stem-wall or poured or driven piles) and built in accordance with the provisions of the Florida minimum building codes intended to regulate site-built construction, including plumbing, electrical, fire, accessibility and energy codes. The Florida Department of Economic Opportunity, as evidenced by a

plate attached to the structure, certifies that the factory-built structure is in compliance with the Florida Manufactured Buildings Act (Florida Statutes Part IV, Chapter 553).

**DEFINITION APPROVED BY THE ULDC REVIEW COMMITTEE  
BUT NOT YET PRESENTED TO TOWN COUNCIL.**

**Essential services.** The erection, construction, alteration or maintenance by public utilities or governmental agencies, of solid waste collection equipment and accessories, or underground or overhead sanitary sewer, communication, gas, electrical, steam or water transmission or distribution systems, and drainage facilities, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, transformer substations and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

## **Article 80 - CONDITIONAL USES**

### **Section 80-005. - Purpose and intent.**

Certain uses may be harmonious under special conditions and in specific locations within a zoning district, but may not be appropriate under the general conditions of the zoning district regulations as stated. These uses are set forth in this article subject to specific limitations intended to protect the health, safety, and welfare, ensure compatibility with adjacent properties, contribute to the community as a whole, comply with the policies and objectives of the Town of Loxahatchee Groves Comprehensive Plan, and provide flexibility of design.

### **Section 80-010. - Compliance with conditions.**

The permitted conditional uses listed in this article shall not be subject to waiver of any provision of this article by the Town Council.

### **Section 80-015. - Home offices.**

Home offices as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be permitted in all residential zoning districts subject to the following limitations:

- (A) Commercial vehicles associated with the home office in all residential districts shall be subject to Section 20-010(G).
- (B) No sign or any other evidence of the existence of the home office shall be visible from the exterior of the dwelling unit.
- (C) The property must have a homestead exemption.

### **Section 80-020. - Residential enterprise.**

Residential enterprises as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be permitted in all residential zoning districts as a use accessory to a principal residential use and subject to the following limitations:

- (A) Resident of property. The plot on which a residential enterprise is located shall be occupied by the owner who shall provide proof of a homestead exemption within one year of establishing the residential enterprise.
- (B) Size of property. Residential enterprises shall be permitted on properties of five acres or more in size.
- (C) Location of residential enterprise. A residential enterprise shall be conducted only within an accessory building on the property where the main dwelling is located, and not within the dwelling.
- (D) Number of accessory buildings. There shall be a maximum of two accessory buildings used for a residential enterprise.
- (E) Size of accessory buildings. The total floor area ratio (F.A.R.) of all accessory buildings used for a residential enterprise shall not exceed 0.01.
- (F) Appearance of accessory buildings. The accessory buildings used for a residential enterprise shall be in the same style and have the same architectural appearance as the principal residential use.
- (G) Employees or contractors. In addition to any person(s) who are the residents of the property, there shall be a maximum of two outside employees or contractors who assist with the residential enterprise.

- (H) Clients or customers. No client or customer shall be allowed on the premises to transact business of any nature.
- (I) Delivery. Merchandise or goods shall be shipped by way of the U.S. Postal Service, United Parcel Service, Federal Express or similar small package carrier. If other commercial carriers are required, the residential enterprise shall be deemed to require a Special Exception pursuant to Article 170.
- (J) Commercial vehicles. Commercial vehicles associated with the residential enterprise shall be subject to Section 20-010(G).
- (K) [Adult entertainment.] Adult entertainment or the production of adult entertainment materials is prohibited.

Exceptions to the foregoing limitations shall be subject to approval by the Town Council, and such requests shall be considered in conjunction with the criteria set forth in Section 170-025(A) for Special Exceptions.

**Section 80-025. - Outdoor event permits.**

- (A) [Issuance.] Permits for certain outdoor events may be issued subject to the granting of a Special Exception and subject to compliance with this section.
- (B) Minimum site requirements. All outdoor events shall require a minimum of five acres of open space with not less than 200 feet of street frontage on a public right-of-way.
- (C) Setbacks. No activity, temporary tent, mechanical device, temporary sanitary facility, or animal associated with any outdoor event shall be closer than 300 feet from any surrounding residential plot, nor closer than 100 feet from a street line.
- (D) Access. Vehicular access onto any plot used for an outdoor event shall be only from a public street as specified in subsection (B), above.
- (E) Parking. Event parking shall comply with the requirements of Article 95, "Parking and Loading" insofar as the amount of spaces required, minimum parking space size, and minimum aisle widths. All parking spaces may be on an unpaved surface. Temporary barriers, guides, signs, and other temporary markings shall be erected and placed around and within the parking area to facilitate safe and efficient vehicular traffic flow on site.
- (F) Lighting. Temporary lighting used to illuminate the outdoor event after dusk shall be designed and arranged to reflect away from adjacent properties and away from any street, and shall comply with Section 50-030, "Outdoor Lighting."
- (G) Temporary structures, exhibits, and mechanical riding devices. Temporary structures, exhibits, and mechanical riding devices shall be permitted in conjunction with outdoor events subject to permit and inspection requirements of all applicable town, county and state agencies. No temporary structure shall be used for living quarters. All such structures, exhibits, and mechanical riding devices shall be removed from the premises within three days after the conclusion of the event.
- (H) Signs. One temporary sign advertising the event may be erected on the plot where the event will be held not more than 14 days prior to the event. Such signs shall be no larger than 24 square feet in sign area and no higher than ten feet above the ground, and shall observe the site distance triangle requirement of Article 105, "Sight Distance." The sign shall be removed by the permit holder within three days of the conclusion of the outdoor event.
- (I) Frequency and duration. No outdoor event shall be permitted for a period of time exceeding three consecutive days, except that rodeos shall be limited to a maximum of three consecutive days. A total of three outdoor events can be permitted within a calendar year on any given property. Hours of operation of any event shall be limited to 9:00 a.m. to 10:00 p.m., Sunday through Thursday, and 9:00 a.m. to midnight on Friday and Saturday. Any additional time shall require approval by the Town

Council, and such requests shall be considered in conjunction with the criteria set forth in Section 170-025(A) for Special Exceptions.

- (J) Liability insurance. Before any permit for an outdoor event is issued, the applicant must provide a certificate showing proof of a public premises liability and product liability insurance policy that provides coverage in the amount of \$1,000,000.00. The policy must name the Town as an additional insured and must be issued by an insurance company authorized by the Florida Department of Insurance to do business in the State of Florida. The policy must be approved by the Town Attorney prior to issuance of any outdoor event permit.
- (K) Performance bond. Before any permit for an outdoor event is issued, a performance bond or similar security acceptable to the Town and naming the Town as beneficiary in the sum of \$1,000.00, shall be executed by the applicant, as principal, and a surety company authorized to do business in the State of Florida and on the list of the United States Treasury. Such security must be approved by the Town Attorney, and shall be in effect for the duration of the outdoor event and for six months subsequent to the end of the event. The security shall be released at the conclusion of the six month time period upon submittal of an affidavit from the applicant that all conditions of the security have been met. The conditions of such security shall be that:
  - (1) The applicant shall comply fully with all the provisions of the Town of Loxahatchee Groves Code of Ordinances and all applicable county, state or federal laws regarding the sale of goods as permitted;
  - (2) The applicant will pay all judgments rendered against said applicant for any violation of said laws; and
  - (3) The applicant will pay all judgments and costs that may be recovered against said applicant by any persons for damage from any misrepresentation or deceptive practice during the transacting of such business.
- (L) Plans. A plan, drawn to scale, shall be submitted to the Town as part of the Special Exception application indicating the following:
  - (1) Plot dimensions;
  - (2) Adjoining streets and points of access to the plot;
  - (3) Location of all activities and temporary structures and setbacks from plot lines;
  - (4) Location and use of any permanent structures and uses existing on the plot;
  - (5) Location and amount of existing off-street parking areas, proposed temporary additional off-street parking areas and aisles, including dimensions, location of traffic markings, and signs.
  - (6) Location and number of any loud speakers and description of any use of them (i.e. music, announcements);
  - (7) Location and number of temporary restroom facilities; and
  - (8) Description of proposed waste management for both trash and portable toilet facilities.
- (M) Permit applications. A permit application shall be submitted to the Town Manager, at least 30 days prior to the outdoor event. The permit application shall include the following:
  - (1) The name and address of the applicant;
  - (2) The address and legal description of the plot where the event will be held;
  - (3) The dates and hours of the event;
  - (4) The type of event and sponsor, if any;
  - (5) The plan required by subsection (L) above;
  - (6) An executed performance bond as required in subsection (K) above;

- (7) Proof of insurance as required in subsection (J) above;
  - (8) Notarized authorization of all property owners of record or their authorized agent, for use of the property for the outdoor event;
  - (9) Proof that the Palm Beach Sheriff's Office or other security officials will be present during the event for safety, security and to direct traffic.
  - (10) A notarized affidavit of proof of posting the notice sign required by subsection (Q) herein;
  - (11) The applicable processing and inspection fee, in accordance with the fee schedule in effect;
  - (12) Proof of notification of the event to all contiguous properties and the written consent of the contiguous owners;
  - (13) Cleanup and site restoration plan.
- (N) Agency reviews. Prior to issuance of a permit for an outdoor event, the following entities, as deemed appropriate on a case-by-case basis, shall review and approve the event in accordance with applicable statutes, ordinances and codes:
- (1) Town Manager;
  - (2) Town Attorney;
  - (3) Health Department (State of Florida) if approval is required;
  - (4) Department of Agriculture (State of Florida) (if food service is to be provided) if approval is required;
  - (5) Fire Marshal;
  - (6) Building Official;
  - (7) Palm Beach County Sheriff's Office; and
  - (8) Town's current waste collector.
- (O) Permit issuance. Once the Town Manager confirms that the application and plot are in compliance with this section and any other applicable code, statute or ordinance, the application shall be placed on the next available Town Council agenda for consideration as a Special Exception. Upon approval by the Town Council, the Town Manager shall issue the permit upon payment by the applicant of a cleanup deposit in the amount of \$1,000.00 to the Town to guarantee site restoration. The permit must be posted on the plot for the duration of the outdoor event.
- (P) Site restoration. The permit holder shall be responsible for restoring the plot to its original condition within seven days after the end of the outdoor event. Failure to restore the site to its original condition shall result in forfeiture of the cleanup deposit to the Town. The cleanup deposit shall be used for restoration of the location.
- (Q) Posting of notice. The applicant must post a sign of sufficient size at least 30 days prior to the beginning date of the outdoor event in a visible location on each street frontage to inform the public of the dates and nature of the outdoor event which will be held on the property.
- (R) [Exceptions.] Exceptions for not-for-profit corporations holding events on their own property.
- (1) Not-for profit corporations which hold outdoor events on their own property shall be subject to all of the requirements set forth above, except the requirements for obtaining a performance bond (subsection (K)), a cleanup deposit (subsection (O)) and posting of notice (subsection (Q)).

**Section 80-030. - Holiday wayside stands.**

- (A) [Permit issued.] Permits for holiday wayside stands may be issued for the following holidays for the maximum time periods specified:

Holiday	Maximum Time Period
Independence Day (July 4)	Ten days preceding July 4
Halloween (October 31)	Thirty days preceding October 31
Christmas (December 25)	Thirty days preceding December 25

- (B) [Application.] An application for a holiday wayside stand permit shall be filed with the Town Manager at least 30 days prior to commencement of the sales period for Halloween and Christmas and at least 60 days prior to commencement of the sales period for Independence Day. The application shall contain the following:
- (1) The notarized signature of the applicant;
  - (2) The names and permanent addresses of all persons responsible for the management or supervision of the holiday wayside stand; the local address of such person or persons while engaged in such business; the capacity in which such person will act (that is, whether as proprietor, agent or otherwise);
  - (3) The name and address of the person, firm or corporation for whose account the business will be conducted, if any; and if a corporation, under the laws of that state in which it is incorporated and the name and address of its registered agent in the State of Florida; and the federal employer's identification number (EIN) or social security number of the business owner;
  - (4) The exact address and legal description of the property where the holiday wayside stand will be located;
  - (5) Proof of a State of Florida sales tax number;
  - (6) Written, notarized permission from all owners of record of the property, or authorized agent of the owner, where the holiday wayside stand will be located;
  - (7) Proof of a public premises liability insurance policy that provides coverage in the amount of \$1,000,000.00 at each sales location, naming the Town as an additional insured, and is issued by an insurance company authorized by the Florida Department of Insurance to do business in the State of Florida. The policy must be approved by the Town Attorney;
  - (8) A performance bond or similar security acceptable to the Town naming the Town as beneficiary in the sum of \$1,000.00 executed by the applicant, as principal, and a surety company authorized to do business in the State of Florida and on the list of the United States Treasury. Such security shall be approved by the Town Attorney, and shall be in effect for the duration of the sales period and for six months subsequent to the end of the sales period. The security shall be released at the conclusion of the six month time period upon submittal of an affidavit from the applicant that all conditions of the security have been met. The conditions of such security shall be that:
    - a. The applicant shall comply fully with all the provisions of the Town of Loxahatchee Groves Code of Ordinances and all applicable county, state, or federal laws regarding the sale of goods as permitted;
    - b. The applicant will pay all judgments rendered against said applicant for any violation of said laws; and

- c. The applicant will pay all judgments and costs that may be recovered against the applicant by any persons for damage from any misrepresentation or deceptive practice during the transacting of such business.
- (9) Not-for-profit corporations which have holiday wayside stands on their own property, for other than the sale of pyrotechnical items, shall not be subject to the requirements for obtaining a performance bond and a cleanup deposit.
- (C) Number of permits. No permittee shall be issued more than two permits per event. For the purpose of this subsection, permittee shall be deemed the same if any one principal in the legal entity under which the permittee is operating is identical regardless of the structure of the legal entity. At any given location permitted under this section, there shall be a maximum of one holiday wayside stand. Each individual sales location shall require a separate permit.
- (D) Permitted locations. Locations for sales of merchandise permitted under this section are subject to the following restrictions:
  - (1) The right to sell pyrotechnical items shall be governed by the laws in place as of March 8, 2007, until such time as the moratorium in Chapter 2007-67 is repealed or expires. At such time, pyrotechnical items may only be sold at locations within a commercial zoning district. Such sales shall not be permitted in areas located within 50 feet of any fuel storage facility or any area required to provide parking in connection with a restaurant or lounge.
  - (2) Pyrotechnical items may be sold only if each sales location has been approved by the Fire Marshal.
  - (3) Halloween and Christmas items may be sold at locations within a commercial zoning district, as well as from any property owned by a nonprofit organization, provided the nonprofit organization is conducting the holiday wayside stand operations for charitable or fund-raising purposes and the purpose is specifically indicated on the permit application.
  - (4) There shall be a minimum of 1,000 feet between any two locations permitted under this section. For purposes of determining which permit application of two or more applications proposing sites within 1,000 feet of one another shall be approved, the date and time each completed application is accepted for processing shall determine the priority.
- (E) Conditions of permits.
  - (1) A permittee must, at the time the permit is issued, pay to the Town a cleanup deposit fee of \$1,000.00. The deposit will be returned if the permittee restores the permitted location to its original presale condition within one week subsequent to the end of the sales period. Otherwise, the deposit will be retained by the Town and used to restore the location.
  - (2) The permit issued pursuant to this section shall be posted conspicuously at the sales location.
  - (3) No permit for the sale of pyrotechnical items may be issued unless such items may be lawfully sold pursuant to F.S. ch. 791.
  - (4) One temporary structure for overnight storage of merchandise shall be permitted at each sales location, subject to compliance with all applicable codes and permit requirements. No temporary structure shall be used for temporary living quarters. Temporary storage structures shall be removed not more than one week after the end of the sales period.
- (F) Signs. One four-by-eight foot sign on each side of the plot abutting a public street shall be permitted in connection with an approved holiday wayside stand during the sales period. Such signs shall comply with all applicable codes, including permitting requirements.

**Section 80-035. - Yard sales.**

On any plot used for residential purposes, three yard sales may be held in a calendar year by the residents of the plot to sell their personal belongings to the public. Each yard sale may be for a maximum of three consecutive days. Signs may not exceed two square feet in size and shall be exempt from permit

requirements. The signs shall not be displayed more than one day prior to the yard sale. Signs shall be removed the next day after the end of the yard sale. In the event the signs are not removed in a timely manner, the Town shall remove the signs and a fine of \$100.00 per sign shall be charged to resident holding the yard sale.

**Section 80-040. - Archery ranges.**

Target areas for archery ranges shall provide sufficient separation and barriers sufficient to preclude any intrusion of such activities (including noise above nuisance levels) upon adjacent properties.

**Section 80-045. - Exhibition of Class I and Class II Wildlife.**

Individuals providing care and permanent habitat for Class I and Class II Wildlife that have been abused, neglected or otherwise need sanctuary may request a license from the Town to allow limited exhibition of said wildlife, subject to the provisions of this section.

- (A) For purposes of this section only, exhibition of wildlife shall be defined as a public or private showing of Class I and Class II wildlife for financial or other consideration.
- (B) For purposes of this section, Class I and Class II wildlife are defined pursuant to Chapter 68-A6, F.A.C., as amended.
- (C) The property on which the animals are kept shall have a minimum plot size of five acres and a minimum plot width and length of 300 feet and must conform with all of the minimum requirements established in the Florida Administrative Code.
- (D) No wildlife exhibition license may be issued for a location that is within 1,000 feet of another licensed wildlife exhibitor.
- (E) Signage is not permitted.
- (F) The owner of the animals must hold a USDA, Animal Welfare Act, Class C Exhibitor License and a Florida Fish and Game Conservation Commission Class I or II (as applicable) License, and must live on the property on a permanent basis.
- (G) The owner of the animals shall maintain 501(C)(3) non-profit status for the specific purpose of caring and providing habitat for the wild animals.
- (H) All wildlife habitat areas shall be surrounded by a minimum of a six foot high barrier/fence to prevent unauthorized access. The wildlife habitat areas shall also be fully screened from all property lines to a height of six feet through the use of landscape materials or opaque fence materials.
- (I) Public premises liability coverage in the amount of \$1,000,000.00 shall be maintained at all times. The policy must name the Town as an additional insured and must be issued by an insurance company authorized by the Florida Department of Insurance to do business in the State of Florida. The Town Attorney must approve the policy.
- (J) The number of wild animals on the property shall be limited to three per acre.
- (K) At no time shall the property be unattended and without the presence of someone licensed to handle wild animals, or with at least six months experience working under the jurisdiction of the licensee's Federal and State licenses when the owner of the animal(s) is away from the premises.
- (L) All parking shall be accommodated on-site, and shall be screened from view along all property lines adjoining any private or public street, or residential plot. Parking areas shall be set back at least 25 feet from any residential plot line. Parking areas need not be paved.
- (M) Public admission shall be by appointment only, and shall be limited to 40 people on the property at any given time, except that groups from educational institutions arriving by bus shall be limited to 100 people, and that special events with attendance greater than that provided for

herein may be held up to 12 times per year, provided the owner notifies the Town Clerk's Office in writing at least five days prior to the event. The notification shall state the date and hours, nature of the event, and maximum number of people expected.

- (N) Noise levels, including noises resulting from public admission, shall not exceed the limits set forth in Section 50-010, " Excessive Noise."
- (O) Noise abatement. Wildlife habitat areas shall be designed, constructed and located using noise abatement measures (e.g., locating wildlife which excessively screech, howl, or make loud noises away from property lines; maintaining a thick, vegetated buffer along property lines) to help ensure that noise levels do not exceed the limits set forth in Section 50-010, " Excessive Noise."
- (P) Upon determination that an application for an exhibition of Class I and Class II wildlife license satisfies the criteria of this section, the Town shall notice property owners within 1,000 feet of the subject property, by certified mail, that an application for a wild animal habitat license will be administratively approved and issued ten days from the mailing date indicated on the notice, unless a written objection is received by the Town Clerk within the ten day period.
- (Q) Upon satisfying all of the conditions for licensure, a license under this section shall be issued administratively unless the Town receives written objection from a noticed property owner within the ten day response period. In the case of a timely objection, the application for licensure shall be scheduled for the next available Town Council agenda as an advertised public hearing. After hearing the testimony of affected property owners, the Town Council may approve, approve with conditions, or deny the application for licensure based upon consideration of the following criteria:
  - (1) That the use is compatible with the existing natural environment and other properties in the vicinity;
  - (2) That there will be adequate provision for safe traffic movement, both vehicular and pedestrian, in the area which will serve the use;
  - (3) That there are adequate setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust and other potential nuisances; and,
  - (4) That the land area is sufficient, appropriate and adequate for the use as proposed. Conditions placed upon the license by Town Council may supplement the requirements of this section contained in provisions (A) through (O).
- (R) Licenses are valid only to the person named on the license and shall not be transferable.
- (S) Upon a second violation of any one or more provisions of this section within a 24 month period, as determined pursuant to the Town's code enforcement procedures, the Town shall notify the licensee, by certified mail, of its intent to revoke the license. The licensee or designee may initiate an appeal of the revocation by filing written notice of intent to appeal with the Town Clerk's Office no later than 15 days from receipt of the Town's notice of intent to revoke the license. The license will be administratively revoked should the licensee not file an appeal within the allotted time. The Town Clerk shall schedule the appeal for the next available Town Council meeting. In determining the existence of extenuating factors contributing to the code violation(s), Council may uphold the revocation or continue the license with any conditions Council may deem appropriate to protect the public health, safety and welfare.
- (T) Nothing within this section shall be construed to prevent the Town Council from revoking the license at any time, provided that after conducting an advertised public hearing on the matter, a supermajority of council members make a determination that the licensed activity no longer satisfies the criteria for licensure.
- (U) All exhibition of Class I and Class II wildlife shall occur on a parcel that has a land use designation of Commercial Low.

### **Section 80-050. - Aviculture.**

Permits for aviculture, as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" may be issued in the Agricultural Residential (AR) zoning district subject to the following:

- (A) Minimum plot size requirements.
  - (1) Two acres for 40 to 200 birds.
  - (2) Five acres for 201 or more birds.
- (B) Breeder.
  - (1) The minimum plot size shall be two acres; and
  - (2) Shelters, cages and accessory structures shall be set back a minimum of 50 feet from all property lines; and
  - (3) Outdoor shelters and cages shall be contained to specific areas of the plot and completely screened from view from adjacent properties with a visual barrier. Such barriers may include natural vegetation, landscaping, fencing or other opaque structures; and
  - (4) The breeder shall locate birds that excessively screech, chirp, crow or make loud noises away from residential properties to the maximum extent possible; and
  - (5) The care, licensing, registration and inspections shall be as required by applicable regulations; and
  - (6) Any avicultural endeavor shall comply with Article 50, "Public Nuisances," of this Code.

### **Section 80-055. - Commercial chipping and mulching.**

Permits for commercial chipping and mulching operations as defined in Article 10, "Definitions, Abbreviations, and Construction of Terms" shall be subject to the granting of a Special Exception and subject to the following limitations:

- (A) Minimum plot size requirements. No chipping and mulching shall be permitted on properties of less than ten acres.
- (B) Minimum dimensional requirements. No chipping and mulching shall be permitted on properties with a width or length of less than 500 linear feet.
- (C) Setbacks. All chipping and mulching equipment shall be setback at least 300 feet from any residential property line and 200 feet from all other property lines.
- (D) Noise Abatement. Chipping and mulching equipment shall be designed and located using noise abatement measures (e.g., locating equipment as far away from residences as possible, maintaining a thick, vegetated buffer along property lines) to help ensure that noise levels do not exceed the limits set forth in Section 50-010, " Excessive Noise."
- (E) Hours of operation. The hours of operation shall be limited to 9:00 a.m. to 5:00 p.m. Monday through Friday and Saturday from 9:00 a.m. to 1:00 p.m.
- (F) Outdoor storage. The pile height of unprocessed and processed material shall be limited to 15 feet. Storage areas (including compost) shall be setback at least 100 feet from any property line and screened from view.
- (G) Access. Access to the chipping and mulching operations shall be only from a public right-of-way. In no case, shall a chipping and mulching operation utilize a private road serving residential uses for access.
- (H) Dust control. The chipping and mulching operation shall utilize dust control measures which may include full or partial enclosure of chipper or grinder and watering or enclosing mulch piles.

- (I) Fire prevention. Chipping and mulching facilities shall be located within ten miles of a full service fire station or have and maintain on-site fire fighting equipment acceptable to the Palm Beach County Fire Marshall.
- (J) Exceptions. These regulations shall not apply to the occasional chipping and mulching of wood materials generated on site and associated with property maintenance or any bona fide agricultural use conforming to generally accepted agricultural and best management practices.

**Section 80-060. - Rescued animal care.**

A rescued animal care facility is defined as a not for profit institutional establishment or private animal non-profit organization that is used for the protection of unwanted or abandoned domesticated animals or native wildlife, the use of which may include sheltering, adoption, fostering, providing rescue or old age homes, medical or behavioral rehabilitation.

Domesticated animal is defined in Section 10-015: Definitions of this Code, and shall, for the purposes of this section, include any equine or bovine animal, goat, sheep, swine, domestic cat, dog, poultry, ostrich, emu, rhea or other domesticated beast or bird. For the purposes of this section, the term domesticated shall mean adapted to life in intimate association with and to the advantage of humans.

Native wildlife, for the purposes of this section, shall mean all wild or non-domestic birds, mammals, fur-bearing animals, reptiles, and amphibians, as determined by the Florida Fish and Wildlife Conservation Commission.

Permits for rescued animal care operations shall be subject to the granting of a Special Exception and the following limitations:

- (A) Minimum plot size requirements. Rescued animal care operations may be permitted on properties exceeding ten acres in size.
- (B) Accessory uses. Veterinary services and/or domesticated animal boarding may be permitted as accessory uses as follows: (1) Veterinary services provided by a licensed veterinarian for the care of domesticated animals or native wildlife and/or boarding services for animals currently kept in the rescued animal care facility, or domesticated animals previously adopted, may be offered; and (2) Veterinary services provided by a licensed veterinarian for the care of domesticated animals and/or domesticated animal boarding services may be offered to the public provided that the rescued animal care operation is located on a property that fronts, and has access to, a Town designated Urban Collector or Arterial Highway.
- (C) Accessory residential use. A rescued animal care facility may include an accessory single-family dwelling to be used as a Caretaker's Quarter.
- (D) Waste disposal. A rescued animal care operation shall comply with each of the following standards:
  - (1) Palm Beach County Environmental Control Rule (ECR) 1: On-site Sewage Treatment and Disposal and ECR 2: Drinking Water Supply systems;
  - (2) All applicable rules and regulations of the Florida Department of Environmental Protection (FDEP) and Florida Department of Agriculture and Consumer Services;
  - (3) All applicable rules and regulations of the Palm Beach County Health Department;
  - (4) All applicable rules and regulations of Palm Beach County Animal Care and Control Ordinance;
  - (5) All applicable rules and regulations of the Palm Beach County Solid Waste Authority;
  - (6) All applicable rules and regulations of the Florida Fish and Wildlife Conservation Commission.
- (E) Number of animals. The number of animals permitted, including the number of animals boarded, shall be based upon the physical facility requirements listed in the Palm Beach County

Animal Care and Control Ordinance or as permitted by the Florida Fish and Wildlife Conservation Commission, and so indicated as a condition of the Special Exception approval.

- (F) Outdoor runs. Outdoor runs or animal exercise areas may be used. If used, such facilities shall be located a minimum of 200 feet from a directly abutting residential zoning district, be hard surfaced or grassed with drains provided every ten feet and be connected to a central or individual sanitary facility approved by the Palm Beach County Health Department. A minimum six-foot high chain-link fence, or other enclosure appropriate to the animal being served, shall be required around outdoor runs. A continuous solid opaque hedge a minimum of four feet at installation shall be provided around a chain-link fenced outdoor run area. Outdoor runs shall not be used earlier than 7:00 a.m. and later than 8:00 p.m. seven days per week.
- (G) Architecture. A rescued animal care facility shall be designed to reflect the Town's Rural Vista Guidelines in effect at the time of Special Exception approval.

**Article 170 - SPECIAL EXCEPTION USES**

**Section 170-005. - Purpose.**

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 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 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 existing use, zoning and land use designations of lands within 1,500 feet of the subject property. For Category B special exceptions, the existing use, zoning and land use designations of lands abutting the subject property.
- (C) 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. 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 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 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 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 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 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.