

**TOWN OF LOXAHATCHEE GROVES
TOWN HALL COUNCIL CHAMBERS
AGRO-TOURISM COMMITTEE MEETING**

AGENDA

Wednesday, February 21, 2024 - 6:00 P.M.



Committee Members:

Joseph Chammas, Member
Simon Fernandez, Member
Liza Holman, Member
Martin Holman, Member
Darrin Swank, Member

Administration:

Francine L. Ramaglia, Town Manager
Ruth Holmes, Town Attorney
Interim Town Clerk

Civility: Being "civil" is not a restraint on the First Amendment right to speak out, but it is more than just being polite. Civility is stating your opinions and beliefs, without degrading someone else in the process. Civility requires a person to respect other people's opinions and beliefs even if he or she strongly disagrees. It is finding a common ground for dialogue with others. It is being patient, graceful, and having a strong character. That's why we say "Character Counts" in Town of Loxahatchee Groves. Civility is practiced at all Town meetings.

Special Needs: In accordance with the provisions of the American with Disabilities Act (ADA), persons in need of a special accommodation to participate in this proceeding shall within three business days prior to any proceeding, contact the Town Clerk's Office, 155 F Road, Loxahatchee Groves, Florida, (561) 793-2418.

Quasi-Judicial Hearings: Some of the matters on the Agenda may be "quasi-judicial" in nature. Town Council Members are required to disclose all ex-parte communications regarding these items and are subject to voir dire (a preliminary examination of a witness or a juror by a judge or council) by any affected party regarding those communications. All witnesses testifying will be "sworn" prior to their testimony. However, the public is permitted to comment, without being sworn. Unsworn comment will be given its appropriate weight by the Town Council.

Appeal of Decision: If a person decides to appeal any decision made by the Town Council with respect to any matter considered at this meeting, he or she will need a record of the proceeding, and for that purpose, may need to ensure that a verbatim record of the proceeding is made, which record includes any testimony and evidence upon which the appeal will be based.

Consent Calendar: Those matters included under the Consent Calendar are typically self-explanatory, non-controversial, and are not expected to require review or discussion. All items will be enacted by a single motion. If discussion on an item is desired, any Town Council Member, without a motion, may "pull" or remove the item to be considered separately. If any item is quasi-judicial, it may be removed from the Consent Calendar to be heard separately, by a Town Council Member, or by any member of the public desiring it to be heard, without a motion.

Call to Order

Roll Call

Approval of Agenda

REGULAR AGENDA

1. Steven Hall, Assistant Deputy Commissioner, Department of Agriculture and Consumer Services
 - a. Agritourism FAQ
 - b. Comments on proposed ordinance/existing regulations/emergency vehicles
2. Continued discussion of Best Management Practices
3. Next Meeting/Future Meeting Schedule

Comments from The Public

The public is encouraged to offer comments on any non-agenda item. Generally, remarks by an individual will be limited to one time, up to three minutes or less. The Chair or presiding officer has discretion to adjust the amount of time allocated.

Adjournment

Comment Cards: Anyone from the public wishing to address the Town Council, it is requested that you complete a Comment Card before speaking. Please fill out completely with your full name and address so that your comments can be entered correctly in the minutes and give to the Town Clerk. During the agenda item portion of the meeting, you may only address the item on the agenda 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 the Council 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.



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER WILTON SIMPSON

Memorandum

To: Commissioner Wilton Simpson
From: Steven Hall, Assistant Deputy Commissioner
Date: January 17, 2024

Re: Agritourism Inquiries

The Department of Agriculture and Consumer Services receives many inquiries related to Agritourism. Most often, we assist bona fide agriculture operations with a misunderstanding of the law by local governments seeking to prohibit legal activity in support of agriculture.

Recently, our office has received inquiries on activities that do not appear to meet the definition of agritourism. It is important to distinguish between legitimate agritourism activities and other commercial activities because the specific benefits to agritourism operations were never intended to apply to general commercial activities.

Agritourism is critical to support bona fide agriculture which is foundational to the economic strength of Florida and critical to our national security. The agritourism law is not simply aimed at cutting red tape, but reduces unnecessary restrictions to an already regulated bona fide agriculture operation.

Per your request, I have produced this memo to help provide local law enforcement, local governments, and constituents with information on activities that may not meet the definition of agritourism.

What is Agritourism and how is it different from other commercial activity?

The statutory definition of agritourism places the emphasis on the purpose of the activity over the actual activity. Specifically, s. 570.86, Florida Statutes, defines an “agritourism activity” as:

“any agricultural related activity **consistent with a bona fide** farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions.” (Emphasis added.)

To fall within this statutory definition, the activity must be related to agriculture and consistent with the purpose of an agricultural commercial endeavor. In other words, the activities should fit within the operations of a commercial agriculture operation. Florida agriculture comes in all shapes and sizes and the determination of whether an activity qualifies as agritourism should be based on the underlying agricultural endeavors of the operation.

“Greenbelt” property is another name for a property being annually classified as agricultural by the county property appraiser. Section 193.461, Florida Statutes, provides that “only lands that are used primarily for bona fide agricultural purposes shall be classified agricultural. The term ‘bona fide agricultural purposes’ means good faith commercial agricultural use of the land.” Agritourism activities take place on property classified as agricultural. However, those activities must meet the definition of agritourism activity as discussed above to be exempt from local government regulation.

One of the most frequent questions is whether wedding venues meet the definition of an agritourism activity. The Department has long considered weddings to fall within the statutory definition of an agritourism activity. Even before the legislature amended the statute to expressly include “civic and ceremonial activities,”¹ there was a reasonable argument that weddings qualified as “recreational” or “entertainment” activities. There is ample historic support for this conclusion, including the long tradition of holding recreational activities in barns,² and specifically, of holding weddings in barns.³ However, if a wedding venue became the only activity on the property, or if all other agriculture activity needed to be suspended in order to accommodate agritourism activity, the activity would not meet the agritourism definition but rather would fall under general commercial activity.

Is Agritourism exempt from all laws and ordinances?

Section 570.85, Florida Statutes, preempts local government regulation of agritourism activity on land classified as agricultural land under Section 193.461, Florida Statutes. However, this preemption does not preclude the authority of a local government to address substantial offsite impacts of agritourism activities or an emergency. Accordingly, some local governments have use existing (or have adopted) light, sound, and traffic ordinances for agritourism operations. These types of ordinances are allowed by the statute as long as they address only the offsite impacts from the agritourism operation.

Can a greenbelt classification be challenged or removed?

Section 193.461, Florida Statutes, provides that the county property appraiser must annually classify all property in the county as agricultural or nonagricultural. This statute also provides important definitions and factors the property appraiser may consider when making this determination. If the land is no longer used for “bona fide agricultural purposes”, which means a good faith commercial agricultural use of the land, the property appraiser may remove the agricultural classification. If the agriculture classification is removed, a local government would no longer be preempted from regulating the activities on that property.

If removed or denied, a property owner may appeal to the county Value Adjustment Board (VAB) and may file a lawsuit in circuit court to challenge an adverse VAB decision.

¹ Ch. 2016-14, Laws of Fla.

² Mount, William Sidley. *Dance of the Haymakers (Music is Contagious)*. 1845.

³ Brueghel, Pieter the Younger. *Wedding Dance in Barn*. 1616.

In summary, agritourism must be activities that take place on bona fide agriculture land. Also known as “Greenbelt” property. The activities must be consistent with Section 570.86, Florida Statutes, and nothing prevents local governments or local law enforcement from addressing off-site impacts such as sound, light, and traffic ordinances. Finally, there is nothing in the agritourism statute that prevents law enforcement from addressing criminal activity on “greenbelt” property.

Please let me know if you have any questions.

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Section 80-025. Special event permits.

- (A) *[Issuance.]* Permits for certain special events may be issued subject to the granting of a Special Exception and subject to compliance with this section.
- (B) *Minimum site requirements.* All special 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 special 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 a special 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 special 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 special 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 special event.
- (I) *Frequency and duration.* No special 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 special 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 a special 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 special event permit.
- (K) *Performance bond.* Before any permit for a special 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 special 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 special 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 special 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.

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- (N) *Agency reviews.* Prior to issuance of a permit for a special 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 special 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 special event in a visible location on each street frontage to inform the public of the dates and nature of the special 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)).

(Ord. No. 2017-15 , § 4(Exh. C), 12-5-2017)