

ORDINANCE 2023-040

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE, ARTICLE 22, OPEN RURAL (OR) ZONING DISTRICT, ARTICLE 28, SUPPLEMENTARY REGULATIONS, ARTICLE 31, REQUIRED OFF-STREET PARKING AND OFF-STREET LOADING, ARTICLE 32, DEFINITIONS, AND ADDING ARTICLE 46, AGRITOURISM; SPECIFICALLY ADDING DEVELOPMENT STANDARDS TO MINIMIZE OFF-SITE IMPACTS ASSOCIATED WITH AGRITOURISM USES PERMITTED ON AGRICULTURAL LANDS; ADDING ON-SITE AND OFF-SITE CONSUMPTION OF ALCOHOL ASSOCIATED WITH A PROPERLY PERMITTED WINERY AS A CONDITIONAL USE IN THE OPEN RURAL ZONING DISTRICT; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Sections 570.85 – 86 promote agritourism and prohibit local jurisdictions from adopting or enforcing a local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits an agritourism activity on land classified as agricultural land; and

WHEREAS, Florida Statutes Section 193.461 (3)(b) stipulates 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; and

WHEREAS, Florida Statutes Section 193.461 (5) defines “agricultural purposes” to include, but not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in s. 597.0015; algaculture; sod farming; and all forms of farm products as defined in Florida Statutes Section 823.14(3) and farm production; and

WHEREAS, Florida Statutes Sections 570.85 – 86 do not limit the powers and duties of a local government to address substantial offsite impacts of agritourism activities; and

WHEREAS, Comprehensive Plan Policy FL.01.02 calls for the County to allow a variety of agricultural uses on lands designated as Agricultural on the Future Land Use Map of the Comprehensive Plan; and

WHEREAS, Comprehensive Plan Objective FL.10 directs the County to develop innovative land development regulations such as encouraging agritourism uses; and

WHEREAS, Comprehensive Plan Objective ED.03 guides the County to support existing and small businesses; and

WHEREAS, Comprehensive Plan Objective ED.04 requires that the County promote tourism; and

WHEREAS, agritourism uses are in keeping with the rural character of agricultural lands; and

WHEREAS, agritourism will provide opportunities for agribusinesses to expand and thrive; and

WHEREAS, agritourism uses will attract visitors and tourists who will contribute to the local economy; and

WHEREAS, the public notice of all hearings required by law has been provided in accordance with Chapters 125 and 163 Florida Statutes and the Nassau County Land Development Code; and

WHEREAS, the Board of County Commissioners finds this ordinance serves the health, safety, and welfare of the residents of and visitors to Nassau County, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS

That the proposed Agritourism standards are generally consistent with the goals, objectives, and policies of the 2030 Comprehensive Plan.

SECTION 2. Adding Land Development Code Article 46, as follows:

ARTICLE 46 AGRITOURISM

Section 46.01. Agritourism uses on lands classified agricultural by the Nassau County Property Appraiser.

Agritourism uses are permitted in conjunction with a bona-fide agricultural use on lands classified as agricultural by the Nassau County Property Appraiser per the provisions of State law. Agricultural lands are used primarily for bona-fide agricultural purposes including, but not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture; algaculture; and sod farming. Agritourism uses shall be subject to the restrictions stipulated in State law and to the following standards that are intended to minimize substantial offsite impacts:

A. Allowable uses:

1. Agricultural-related activity consistent with a bona fide farm, livestock operation, ranch, or working forest allowing members of the general public to view or enjoy activities for recreational, entertainment, or educational purposes.
2. Farming, ranching, historical, cultural, civic, ceremonial, training, and exhibition activities and events.
3. Harvest-your-own activities and attractions.

B. Agritourism uses are subject to the following supplemental standards:

1. An activity is an agritourism activity regardless of whether the participant paid to participate in the activity.
2. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public.
3. Agritourism uses shall be reviewed by the Planning Department, which may consult with other County and State departments and agencies, to ensure that off-site impacts are addressed in accordance with the development standards required by this Code.

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Relocated = green double underline

C. Screening and buffering:

1. The landscaping standards of Land Development Code Article 37.05 and 37.06 shall be met in areas dedicated for agritourism use with the following exceptions:
 - (a) The perimeter landscaping strip along road frontages shall only be required to contain a minimum of two (2) native understory or canopy trees per one hundred (100) linear feet of property frontage.
 - (b) The interior landscaping requirements of Section 37.05 (F) shall be waived in the case of an off-street parking facility consisting of a stabilized, pervious surface not comprising asphaltic or concrete paving (excluding paved handicap accessible parking spaces), such surface being subject to approval by the County Engineer. Pervious surface means a surface material that allows stormwater to infiltrate into the ground.
 - (c) The vegetative screening requirements relating to mechanical equipment shall be waived.

D. Vehicle access and parking facilities:

1. The property must have adequate space available for on-site parking. The number of parking spaces provided shall be in accordance with Sections 28.16.4 and 31.12 of the Land Development Code, including handicap accessible parking spaces. An alternative stabilized parking surface may be allowed if approved by the County Engineer or designee, as permitted by Nassau County Ordinance 99-17, Nassau County Roadway and Drainage Standards, Section 9.9. The alternative surface must be of a material that will minimize dust particulate and erosion. Grass overflow parking shall be allowed to meet up to 50% of required minimum parking.
2. Agritourism uses that result in less than 150 vehicles per day (VPD), per the appropriate ITE traffic code, shall be considered de minimis and will not require any off-site roadway improvements to County-maintained roadways. Traffic impacts resulting in greater than or equal to 150 VPD will require a traffic impact analysis to be conducted per BOCC Resolution 2019-174 in order to determine any off-site roadway improvements that will be required.

E. Lighting:

1. Lighting levels shall be limited to what is necessary to provide security and safety for users. All lighting installations in connection with an agritourism use shall be designed to minimize light trespass and interference with vehicular traffic on adjacent rights-of-way and properties, which shall be achieved through the use of downcast lights, light shields, landscaping, or other elements. Lighting associated with the agritourism use shall measure zero foot-candles along adjoining property lines unless such property is in common ownership.

F. Operational Standards:

1. All permanent and temporary structures associated with an agritourism use in which any form of amplified sound will be utilized shall be located a minimum of five hundred (500) feet from the nearest residence not in common ownership by the venue operator or property owner.
2. Customer capacity shall be limited by building occupancy and parking limitations.
3. Each agritourism operator shall post and maintain signs that contain the notice of inherent risk specified below. A sign shall be placed in a clearly visible location at the entrance to the agritourism location and at the site of the agritourism activity. The notice of inherent risk must

consist of a sign in black letters, with each letter a minimum of one (1) inch in height, with sufficient color contrast to be clearly visible.

WARNING

Under Florida law, an agritourism operator is not liable for injury or death of, or damage or loss to, a participant in an agritourism activity conducted at this agritourism location if such injury, death, damage, or loss results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment, and animals, as well as the potential for you to act in a negligent manner that may contribute to your injury, death, damage, or loss. You are assuming the risk of participating in this agritourism activity.

SECTION 3. Amending Land Development Code Article 28, Section 28.16.4 as follows:

Section 28.16.4. Required off-street parking and off-street loading.

(L) Off street parking spaces—Number required. Off-street parking spaces shall be provided and maintained in all districts as follows:

(4) Assembly: Recreational and similar uses:

i. Agritourism uses: One space per employee plus one space for every four (4) seats of indoor public space and one space per 300 square feet of outdoor area utilized for seating, gathering, or event space. Grass overflow parking shall be allowed to meet up to fifty percent (50%) of required minimum parking.

SECTION 4. Amending Land Development Code Article 31, Section 31.12 as follows:

ARTICLE 31. REQUIRED OFF-STREET PARKING AND OFF-STREET LOADING

Section 31.12. Off-street parking spaces; number required.

(D) Assembly: Recreational and similar uses:

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(9) Agritourism uses: One space per employee plus one space for every four (4) seats of indoor public space and one space for every 300 square feet of outdoor area utilized for seating, gathering, and event space. Grass overflow parking shall be allowed to meet up to fifty percent (50%) of required minimum parking.

SECTION 5. Amending Land Development Code Article 32, Definitions as follows:

ARTICLE 32. DEFINITIONS

Agritourism means 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. An agritourism activity does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public. An activity is an agritourism activity regardless of whether the participant paid to participate in the activity.

Agritourism uses in existence as of the date of adoption of this ordinance will be exempt from the supplemental regulations of Land Development Code Article 46 and considered legally existing nonconforming uses. Notwithstanding this exemption, no change shall thereafter be made in such agritourism use which increases nonconformity with the supplemental regulations of Article 46; provided, however, that changes may be made which do not increase, or which decrease, such nonconformities.

SECTION 6. Amending Land Development Code Article 22, Section 22.03 as follows:

ARTICLE 22 OPEN RURAL (OR)

Section 22.03. - Conditional uses.

(BB) The retail sale of wine for on-site and off-site consumption in conjunction with a validly permitted winery as regulated by Florida Statutes Chapter 561.

SECTION 7. CODIFICATION.

It is the intent of the Board of County Commissioners for Nassau County that the provisions of this Ordinance shall become and shall be made part of the Code of Ordinances of Nassau County, Florida. The sections of this Ordinance may be re-numbers or re-lettered and the words may be changed to section, article or other such appropriate word or phrase in order to accomplish such intention. The Nassau County

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Clerk of Courts will ensure that this Ordinance is codified into, and published, as part of the Nassau County Code of Ordinances.

SECTION 8. CONFLICTING PROVISIONS.

All ordinances, or parts of ordinances, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 9. SEVERABILITY


It is the intent of the Board of County Commissioners of Nassau County, Florida, and is hereby provided, that if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 10. EFFECTIVE DATE

This Ordinance shall take effect upon filing with the Secretary of State as provided in Florida Statutes, Section 125.66.

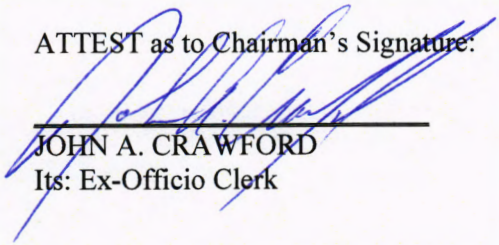
PASSED AND DULY ADOPTED THIS 9th DAY OF October, 2023 BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



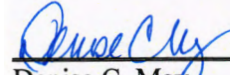
Klynt Farmer
Its: Chairman

ATTEST as to Chairman's Signature:



JOHN A. CRAWFORD
Its: Ex-Officio Clerk

Approved as to form:



Denise C. May
County Attorney

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FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

October 12, 2023

Honorable John A. Crawford
Clerk of the Circuit Court
Nassau County
76347 Veteran's Way, Suite 456
Yulee, Florida 32097

Attention: Heather Nazworth

Dear Honorable John Crawford:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Nassau County Ordinance No. 2023-040, which was filed in this office on October 11, 2023.

Sincerely,

Anya Owens
Administrative Code and Register Director

ACO/wlh