

**TOWN OF DAVIE  
ADMINISTRATIVE DETERMINATION OF FARM  
APPLICATION FORM**

This form should be used to apply for a Town of Davie determination of "Farm" pursuant to Section 12-34(KK) of the Town Code (excerpt provided below). The owner/petitioner is responsible for providing all appropriate documents in support of the application. Submit completed forms to:

Code Compliance Administrator  
1230 South Nob Hill Road  
Davie, FL 33324  
Telephone: 954-693-8237  
Fax: 954-693-8399

**Town Use Only**

Project Number 

2	0		-	0	0	0	5	0			
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Submittal Date 

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Council District  (or if left blank, refers to Town-wide)

**Application Information**

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Project Parcel Folio/Identification Number

\_\_\_\_\_  
Brief Description of Current Use

**Petitioner/Agent Information**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

**Current Property Owner Information**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Email

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**Property Owner Signature  
and Authorization of  
Representative**

This is to certify that I am the owner of the subject property and that the statements contained herein are accurate to the best of my knowledge.

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Printed Name of Property Owner

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Signature of Property Owner

I hereby authorize the following to act as my representative in the administration of this application:

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Name

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Address

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Phone

Sworn to and subscribed before me this \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_

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\_\_\_\_ Personally known

Notary Public

My Commission Expires: \_\_\_\_\_

\_\_\_\_ Other

## APPENDIX 1 Town of Davie Code Excerpt<sup>1</sup>

### Sec. 12-34(KK) Farms:

- (1) *Administrative determinations.*
  - (a) Any person who has not been granted an agricultural classification pursuant to F.S. § 193.461, and is claiming that a parcel of land or a portion of a parcel of land is a farm shall make application for an administrative determination. Requests for such a determination may be made to the Town Administrator or designee.
  - (b) The Town Administrator or designee shall review the application and any supporting documents to determine whether the parcel is a farm and whether the activities taking place on the parcel are farm operations and activities in accordance with the criteria as set forth below in subparagraph (2). Within forty-five (45) calendar days after the receipt of a complete and sufficient application, the Town Administrator shall either grant the application or respond to the applicant in writing the reason or reasons for denial.
  - (c) If the applicant disagrees with the determination, the decision may be appealed by notifying the Town Administrator in writing that the applicant is appealing the administrative decision. The notification shall be received no later than thirty (30) calendar days after the administrative decision is "rendered". If the notification is not received within thirty (30) days after rendition of the decision, the applicant is deemed to have waived the right to challenge the decision. For the purposes of this subparagraph, the term "rendered" means ten (10) calendar days after the date the decision was mailed. The time frame to seek an appeal shall be stayed until the final determination by the Broward County Value Adjustment Board if the applicant has appealed the decision of the classification of the applicant's property pursuant to F.S. § 193.461.
  - (d) Upon receipt of a timely notice of appeal, the appeal shall be assigned to a hearing officer. The procedures for conducting hearings shall be approved by a Resolution. The hearing shall be set no later than sixty (60) days from the date of the notice of appeal unless an extension of time is requested or agreed to by the applicant.
  - (e) The town attorney shall represent the town in the administrative hearing. The hearing officer shall determine whether the parcel is a farm and whether the activities taking place on the parcel are farm operations and activities in accordance with the criteria as set forth below in subparagraph (2) and the definitions of "farm" and "agricultural use" as set forth within section 12-503 of the Land Development Code and as provided in applicable statutes, or established case law.
  - (f) Nothing in this section prohibits the officials from reconsidering and reversing a denial of the administrative decision at any time prior to the start of the hearing before the hearing officer.
  - (g) The hearing officer shall, within forty-five (45) days of the hearing, issue a proposed order which shall include findings of fact and conclusions of law with respect to the claim of the applicant.

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<sup>1</sup> Updated through Ord. No. 2015-017

- (h) The decision of the hearing officer is final. Appeal of the hearing officer's decision shall be by petition for writ of certiorari to the circuit court pursuant to the Florida Rules of Appellate Procedure, within thirty (30) days of the rendition of the hearing officer's findings.
- (2) *Criteria for farm claims.* The criteria set forth below shall be considered in both the administrative determination and in the hearing by the hearing officer. The applicant shall not be required to show that the applicant meets all of the criteria. However, the applicant shall be required to show that the applicant meets a sufficient number of the criteria under the particular circumstances for the officials or the hearing officer to determine that the applicant's property is a farm.
- (a) The general intent of the "Right to Farm Act" is to preserve productive land for agricultural purposes and to protect established farmers from the demands of sprawling urban development.
  - (b) The applicant can demonstrate that there are clearly identifiable farm products as defined in section 12-503 resulting from the farm operation.
  - (c) The proportion of the gross acreage of the land used for agricultural purposes and the intensity of that agricultural purpose as compared to any residential or other nonagricultural uses which are also present on the land.
  - (d) Whether the parcel in question is comparable to similar farm operations of the same type in the community which are classified as agricultural pursuant to section F.S. § 193.461, or which have been determined to be a farm pursuant to the Town of Davie Land Development Code.
  - (e) Whether a Schedule "F" or other Federal Income Tax return has been filed in connection with any farm income and expenditures.
  - (f) The length of time the land has been used for agriculture by the current operator and the level of agricultural activity achieved commensurate to this time period.
  - (g) The amount of time, effort and capitalization invested in the agricultural use of the land.
  - (h) Membership or involvement with agricultural associations, such as the Farm Bureau, the Nursery and Growers Association, breed societies or other organizations which may be specific to various forms of agriculture.
- (3) *Right to farm.* The Town's Code shall conform to F.S. § 823.14, the Florida Right to Farm Act, which prohibits a local government from the adoption of any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to F.S. § 193.461, where such activity is regulated through implemented best-management practices or interim measures developed by the department of environmental protection, the department of agricultural and consumer services, or water management districts and adopted under chapter 120 as part of a statewide or regional program.

APPENDIX 2  
FLORIDA STATUTE EXCERPT  
RIGHT TO FARM ACT

**Title XLVI**  
CRIMES

**Chapter 823**  
PUBLIC NUISANCES

**[View Entire Chapter](#)**

**823.14 Florida Right to Farm Act.—**

(1) **SHORT TITLE.**—This section shall be known and may be cited as the “Florida Right to Farm Act.”

(2) **LEGISLATIVE FINDINGS AND PURPOSE.**—The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, improvement, and preservation of agriculture will result in a general benefit to the health and welfare of the people of the state. The Legislature further finds that agricultural activities conducted on farm land in urbanizing areas are potentially subject to lawsuits based on the theory of nuisance and that these suits encourage and even force the premature removal of the farm land from agricultural use. It is the purpose of this act to protect reasonable agricultural activities conducted on farm land from nuisance suits.

(3) **DEFINITIONS.**—As used in this section:

(a) “Farm” means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

(b) “Farm operation” means all conditions or activities by the owner, lessee, agent, independent contractor, and supplier which occur on a farm in connection with the production of farm, honeybee, or apiculture products and includes, but is not limited to, the marketing of produce at roadside stands or farm markets; the operation of machinery and irrigation pumps; the generation of noise, odors, dust, and fumes; ground or aerial seeding and spraying; the placement and operation of an apiary; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides; and the employment and use of labor.

(c) “Farm product” means any plant, as defined in s. [581.011](#), or animal or insect useful to humans and includes, but is not limited to, any product derived therefrom.

(d) “Established date of operation” means the date the farm operation commenced. If the farm operation is subsequently expanded within the original boundaries of the farm land, the established date of operation of the expansion shall also be considered as the date the original farm operation

commenced. If the land boundaries of the farm are subsequently expanded, the established date of operation for each expansion is deemed to be a separate and independent established date of operation. The expanded operation shall not divest the farm operation of a previous established date of operation.

(4) FARM OPERATION NOT TO BE OR BECOME A NUISANCE.—

(a) No farm operation which has been in operation for 1 year or more since its established date of operation and which was not a nuisance at the time of its established date of operation shall be a public or private nuisance if the farm operation conforms to generally accepted agricultural and management practices, except that the following conditions shall constitute evidence of a nuisance:

1. The presence of untreated or improperly treated human waste, garbage, offal, dead animals, dangerous waste materials, or gases which are harmful to human or animal life.

2. The presence of improperly built or improperly maintained septic tanks, water closets, or privies.

3. The keeping of diseased animals which are dangerous to human health, unless such animals are kept in accordance with a current state or federal disease control program.

4. The presence of unsanitary places where animals are slaughtered, which may give rise to diseases which are harmful to human or animal life.

(b) No farm operation shall become a public or private nuisance as a result of a change in ownership, a change in the type of farm product being produced, a change in conditions in or around the locality of the farm, or a change brought about to comply with Best Management Practices adopted by local, state, or federal agencies if such farm has been in operation for 1 year or more since its established date of operation and if it was not a nuisance at the time of its established date of operation.

(5) WHEN EXPANSION OF OPERATION NOT PERMITTED.—This act shall not be construed to permit an existing farm operation to change to a more excessive farm operation with regard to noise, odor, dust, or fumes where the existing farm operation is adjacent to an established homestead or business on March 15, 1982.

(6) LIMITATION ON DUPLICATION OF GOVERNMENT REGULATION.—It is the intent of the Legislature to eliminate duplication of regulatory authority over farm operations as expressed in this subsection. Except as otherwise provided for in this section and s. [487.051\(2\)](#), and notwithstanding any other provision of law, a local government may not adopt any ordinance, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. [193.461](#), where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection, the Department of Agriculture and

Consumer Services, or water management districts and adopted under chapter 120 as part of a statewide or regional program. When an activity of a farm operation takes place within a wellfield protection area as defined in any wellfield protection ordinance adopted by a local government, and the adopted best management practice or interim measure does not specifically address wellfield protection, a local government may regulate that activity pursuant to such ordinance. This subsection does not limit the powers and duties provided for in s. [373.4592](#) or limit the powers and duties of any local government to address an emergency as provided for in chapter 252.

**History.**—s. 1, ch. 79-61; ss. 1, 2, ch. 82-24; s. 9, ch. 87-367; s. 75, ch. 93-206; s. 1279, ch. 97-102; s. 25, ch. 99-391; s. 39, ch. 2000-308; s. 13, ch. 2012-83.