



# TOWN OF DAVIE

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## DAVIE FARM GUIDE



**BAR B RANCH**

# WELCOME TO THE TOWN OF DAVIE



## A MESSAGE FROM MAYOR JUDY PAUL

As a long time Davie resident and elected official, one of my top priorities has been to preserve the agricultural roots of our community. To this end, in 1998, I created the Davie Agrarian Committee, which was committed to bringing together all agricultural interests including but not limited to equestrian, cattle, nursery, apiary, and crop. Davie was founded as a farming

community and once was home to lucrative citrus and cattle companies. Remnants still persist, including New River Grove, Spykes Grove, Marando Farms and Ranch (formerly Batten's Farm), along with a host of horse farms, nurseries and farmers markets throughout the Town.

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The idea was to create a coordinated, citizen based, organization that could advocate on behalf of the interests of the agricultural community with deep roots and a strong heritage in the Davie area. Vast areas of cattle land were giving way to mass highways and residential and commercial development and many felt it was necessary to draw a line in the sand to stem the tide and protect agriculture from an untimely demise in central Broward County.



The committee worked diligently with Broward County in devising a PDR program and identified properties to be preserved as well as with the Town of Davie seeking a share of the State and County grant money to preserve open space, once the core of a strong agricultural industry. The committee worked diligently in

educating municipalities to the Right to Farm Act and working closely with the Broward County Farm Bureau making sure that government did not encroach on the rights of the farmer, both commercial and hobby.

In March 2001, the people of Davie voted for a charter amendment to adopt legislation to ensure the preservation of the Town's rural character and equestrian lifestyle. This referendum passed with nearly a 90 percent majority. The Agricultural Advisory Board (now known as the Agricultural and Environmental Committee) was then created and became an arm of the Town Council.

As a "farm friendly" Town, the elected officials have been farsighted in adopting legislation to encourage, protect, and preserve agriculture in the community, the first branch of local government in the state of Florida to do so. Town ordinances and state statutes pertaining to farms and agricultural use, which are scattered throughout local and state law, have been compiled into this pamphlet for your assistance. The Agricultural and Environmental Committee will also assist individuals with farm-related issues.

Many don't realize it, but Florida is an agricultural state with fruits, vegetables, field crops, beef cattle and milk counted as our leading products. Poultry and egg production is also important along with thoroughbred and a variety of show breed and pleasure horses. Oranges are Florida's most important agricultural product. Other citrus fruits grown include grapefruit, limes, tangerines and tangelos. Tomatoes are Florida's second leading crop. Non-citrus

fruits grown include bananas, papayas, strawberries and watermelons. Vegetables grown in Florida are cabbage, celery, cucumbers, green peppers, lettuce, potatoes, snap beans, squash and sweet corn. Florida leads the nation in the production of sugar cane. Other field crops are peanuts, soybeans and tobacco.

Florida is second only to California in the production of greenhouse and nursery products and ranks first in the production of indoor plants. In 2012 agriculture in Florida accounted for \$133 billion in sales revenue.

Davie is home to many horse farms and nurseries and has a network of over 165 miles (and growing) of trails linking the community to hundreds of acres of equestrian-friendly county and town parks.

Davie takes preserving its rural character seriously and has earmarked several major agricultural corridors for special attention. In September, 2005, the voters of Davie approved a \$25,000,000 bond to acquire more land for parks and open spaces, to improve existing parks and to complete the recreational trail system.

Whether you are looking for land to start up or to relocate an agricultural operation or already own a farm in Davie, this guide has been prepared to inform you of your rights to various exemptions for farms according to Davie ordinances and state law.

*Judy Bond*



**R. COLLECTION'S NURSERY**

*Please note:*

*The information contained in this guide reflects law that was current as of as of the date of this edition. However, the law may subsequently be changed or amended by the State Legislature, the Town Council and/or decisions of the courts. Therefore the contents of this document should be considered as general information only and should not be construed as legal advice of any kind.*

## TABLE OF CONTENTS

TOWN OF DAVIE CODE OF ORDINANCES .....	6
DEFINITIONS.....	6
DETAILED USE REGULATIONS .....	8
BUILDINGS AND STRUCTURES.....	12
GENERAL REGULATIONS.....	12
LICENSING .....	14
SITE LANDSCAPING.....	15
LIVESTOCK .....	15
BROWARD COUNTY AGRICULTURAL CLASSIFICATION.....	18
AGRICULTURAL CLASSIFICATION & THE GREENBELT LAW.....	18
STATE LAW .....	23
AGRICULTURAL CLASSIFICATION .....	23
FLORIDA HONEY CERTIFICATION AND HONEYBEE LAW.....	26
FLORIDA ADMINISTRATIVE CODE DEFINITIONS .....	34
SALES TAX EXEMPTIONS.....	34
FLORIDA RIGHT TO FARM ACT .....	37
BUILDING CODES AND EXEMPTIONS .....	39
VEHICLES .....	40
FLORIDA STATUTES - EXEMPTIONS FARM VEHICLES.....	40
LOCAL BUSINESS TAXES .....	47
WELLS, LAKES, EARTH MOVING ETC. EXEMPTIONS.....	48
DEFINITIONS STATE LAW .....	49
FLORIDA ATTORNEY GENERAL OPINIONS .....	50
AGRICULTURE IMPROVEMENT ACT OF 2018.....	51
TOPIC AREA HIGHLIGHTS AND ECONOMIC IMPLICATIONS.....	52

# TOWN OF DAVIE CODE OF ORDINANCES

## DEFINITIONS

### Chapter 12, Sec. 12-503

***Agricultural use.*** The use of a parcel of land for the cultivation of crops and livestock including, but not limited to: cropland, pastureland, orchards, vineyards, ornamental horticulture areas, groves, confined feeding operations, specialty farms, silviculture areas, aviaries, beekeeping, farm stands, plant nurseries but specifically excluding landscape maintenance contractors.

***Boarding stable.*** A stable for livestock that provides food and shelter for compensation.

***Development.***

- (1) The division of a parcel of land into two or more parcels;
- (2) The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings;
- (3) Any use or change in use of any buildings or land;
- (4) Any extension of any use or land; or
- (5) Any clearing, grading or other movement of land for which permission may be required pursuant to this chapter.
- (6) It is expressly recognized that the term "development" as defined herein and throughout this Code, shall not include nor be interpreted to include any farm, or "agricultural uses" as that term is defined pursuant to section 12-32(A).

***Equestrian facilities.*** Any building, structure or land area that may not meet the criteria to be classified as a "farm" under the Florida Statutes or the Davie Town Code and that is used primarily for equestrian competitions, events or displays, whether private or commercial, such as showgrounds, rodeo arenas and racetracks. The term equestrian facilities also include communal stables, paddocks and riding areas that are an amenity or accessory to a residential development. Equestrian facilities may also board horses belonging to owners who reside elsewhere.

***Farm.*** The land, buildings, structures, and machinery which are primarily adapted and used for agricultural purposes when such land is classified agricultural pursuant to Section 193.461, F.S.

***Farm Product.*** Any plant, as defined in Section 581.011, F.S., any animal, except household pets, useful to humans, including any product derived therefrom, the cultivation of crops, groves, thoroughbred and pleasure horse ranches, including horse boarding, private game preserves, fish-breeding areas, tree and plant nurseries, cattle ranches, and other similar activities involving livestock or poultry.

***Farm stand.*** A temporary structure or vehicle used in the sale of farm products, including but not limited to fruits,

vegetables, juices and ornamental plants located on a farm.

***Garden center.*** A place of business where retail and wholesale products and produce are sold to the retail consumer. Items offered for sale may include-plants, nursery products and stock, predominantly grown elsewhere, and fertilizers, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm tools, and utensils. These establishments may sell a limited amount of product they grow themselves.

***Hobby farm.*** A parcel of land located in an existing or designated semi-rural area, with or without a residential dwelling and/or accessory buildings, where limited agricultural activities for primarily recreational purposes are not prohibited at the time of the adoption of this act and which does not meet the criteria to be classified as a "farm" under the Florida Statutes or Section 12-34(B)(16) of this Code.

***Landscape maintenance contractor.*** An establishment primarily engaged in providing landscape and/or lawn care and maintenance services, such as lawn mowing,

edging, weeding, pruning, clipping, seasonal planting, irrigation, fertilization, application of pesticides, and the installation of water features or other garden ornamentation.

***Livestock.*** Grazing animals, such as cattle, horses, sheep, goats, and other hoofed animals, including ruminants, ostriches, emus, and rheas.

***Plant nursery.*** A farm on or in which nursery stock is propagated or grown to a usable size for sale, either retail or wholesale. These establishments may sell a limited amount of ancillary items such as fertilizers, potting soil, pots and garden ornaments and may also undertake limited installation of trees, shrubs and/or plants incidental to the sale of such products.

***Poultry.*** Any chickens, turkeys, ducks, geese, peafowl or guinea fowl, or pigeons, pheasants, quail and other game birds raised for meat or eggs.

***Semi-rural area.*** Existing residential neighborhoods within the town, where limited agricultural activities are not prohibited by the Davie Town Code at the time of the adoption of this Act.



**TREE AMIGOS GROWERS**

## **DETAILED USE REGULATIONS**

### Code Sec. 12-34

#### (B) Agricultural Use:

##### (1) Animal shelter.

(a) Other than as set forth in paragraph (b) below, a structure used for housing or feeding livestock and containing up to three (3) stalls a maximum of twelve (12) feet by twelve (12) feet, a tack room, and feed room, shall be setback at least forty (40) feet from any other property under separate ownership, from any public road right-of-way or any existing structure. For each additional stall not to exceed twelve (12) feet by twelve (12) feet, an additional ten-foot setback shall be required, to a maximum setback of one hundred (100) feet. (b) Aviaries, roofed hutches, dog houses and dog runs shall be a minimum of forty (40) feet from all property lines in the RR, AG, A-1, R-1, R-2, CC, RO, O, B-1, B-2, and B-3 districts. Roofed hutches, dog houses and dog runs are not permitted

within required setbacks in the R-3, R-4 or R-5, RM-5, RM-8, RM-10 districts. Aviaries are not permitted in the R-3, R-4, or R-5 districts.

##### (2) Number and types of animals.

(a) The number and types of animals shall not be restricted on farms as defined by section 12-503, subject to restrictions on the keeping or raising of pigs or hogs as set in section 12-34(B)(5).

(b) In the RR, AG, A-1, RO, O, CC, B-1, B-2, B-3, M-1, M-2, and M-3 districts, the keeping of livestock is allowed on a lot of 35,000 square feet or greater, up to the following amounts:

1. Up to 8 livestock in total, no more than 4 of which may be cattle and horses, provided that any offspring shall not be counted for 1 year.

2. Up to 10 rabbits and 25 poultry, provided that all such rabbits and poultry are

kept in a completely penned area and provided that up to 3 poultry can be considered pets in all residential zoning designations.

(c) In the R-1 district, the keeping of livestock is allowed on a lot of 35,000 square feet or greater, up to the following amounts:

1. Up to 4 livestock in total for each 35,000 square feet of lot area, made up of cattle or horses only (no other types of livestock), provided that any offspring shall not be counted for 1 year.

2. Up to 10 rabbits and 5 poultry, provided that all such rabbits and poultry are kept in a completely penned area and provided that up to 3 poultry can be considered pets.

(3) *Plant Nursery*. In the RR, AG, and A-1 districts, retail sales shall be limited to agricultural products grown, kept, or raised on site, and shall be limited to a maximum of twenty-five (25) percent of the allowable building space on the site. The limitation on the size of building space shall not apply to farms used for an agricultural purpose in these districts.

(4) Agricultural uses such as cultivation of crops, groves, thoroughbred and pleasure horses, cattle ranches are permitted in the CC, B-1, B-2, B-3, M-1, M-2, M-3 and RO districts provided the land is free of commercial or industrial structures and such agricultural uses are discontinued upon conversion of the property to another use.

(5) *Swine and Vietnamese Potbellied Pigs*. The raising, breeding or keeping of swine of

any type except for one (1) Vietnamese Potbellied Pig kept as a household pet, shall be presumed to be a nuisance and shall be prohibited in all zoning districts.

(6) *Livestock in residential districts*. Raising of horses, cattle, goats, sheep, poultry and rabbits is not permitted in any residential zoning district, except for RR, AG, A-1, and R-1, and except as provided in chapter 12, article III, division 5, Nonconforming uses and structures of this Code for nonconforming uses on farms existing on the date this chapter is adopted by the town council.

(7) Limited agricultural activities. Nothing in this section (12-34(B)) is intended to prohibit the continuation of "limited agricultural activities" where such activities were a lawful use on November 5, 2003 (the effective date of Ordinance 2003-044). For purposes of this paragraph, "limited agricultural activities" means agricultural activity, whether for pleasure or profit, conducted on land not designated as a farm pursuant to section 193.461, Florida Statutes. No maintenance of "limited agricultural activities" shall be deemed to be a nuisance if said activities were not a nuisance on November 5, 2003 and the "limited agricultural activities" conducted on the property conform to the best management practices of central Broward Water Control District as to the particular type of agricultural activity, regardless of any change that may occur in the type of limited agricultural activity being conducted, a change in development conditions in vicinity or a change in the

ownership of the property on which the limited agricultural activity is situated.

(8) State preemption of certain agricultural regulations. Nothing in this section (12-34(B)) is intended to regulate aspects of agricultural uses which are preempted to the State of Florida, including but not limited to the following:

(a) section 823.14 Florida Statutes, “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 Section 193.461, Florida Statutes, 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 the statewide or regional program.

(b) Section 586.10, Florida Statutes, which preempts local government regulations on honeybee colonies.

(c) Section 570.85, Florida Statutes, which preempts municipal regulation of agritourism activity on land classified as agricultural land pursuant to Section 193.461, Florida Statutes.

(d) Section 604.50, Florida Statutes, which preempts municipal regulation of nonresidential farm buildings, farm fences and farm signs.

(9) Hobby Farm Determination and Recognition Program

(a) In general. The Town shall maintain an ongoing Hobby Farm Determination and recognition Program to help identify and protect agricultural uses and lifestyles on lands which are not identified as a farm pursuant to Section 193.461, Florida Statutes.

(b) Applications. Applications may be submitted by any eligible landowner on forms provided by the Town Administrator or designee, along with such fee as may be adopted by resolution of the Town Council to offset the cost of review.

(c) Criteria. The following shall be the minimum criteria for determination of a Hobby Farm:

1. Agricultural uses must be a permitted use in the particular zoning district (whether “by right” or as a legal non-conforming use).

2. The application shall demonstrate that there are identifiable farm products, as defined in section 12-503.

3. fifty (50) percent or more of the gross area of the parcel must be dedicated to hobby farm or other agricultural purposes.

4. There shall be no unresolved Code compliance cases related to the hobby farm activities at the time of application and no outstanding liens concerning previous code compliance cases.

5. The applicant shall provide proof of 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.

(d) Hobby Farm Determinations. The Town administrator or designee shall be

responsible for administration of the program and making final, written determinations on all applications (approval, approval with conditions or denial) based on the criteria set forth in paragraph (c) above.

(e) Hobby Farm Benefits.

1. Certificates and promotional signs. Each approved hobby farm shall receive a Town certificate and a sign suitable to identify the property as a hobby farm. Signs posting is not required but may be posted at the discretion of the landowner.

2. Not to be determined a nuisance. No designated hobby farm shall be deemed to be a nuisance if the uses conducted on the property conform to any conditions of the hobby farm determination and any best management practices of Central Broward Water Control District as to the particular type of agricultural activity.

3. Upon the sale of a property having a hobby farm determination, such hobby farm determination may be administratively transferred by the Town administrator or designee without need to repeat the application and approval process.

(f) Administration of prior "Farm Determinations". Any property which was issued a "Farm Determination" by the Town of Davie prior to January 1, 2017 (pursuant to section 12-34(KK), now repealed) shall be automatically considered a hobby farm pursuant to paragraph (9) and shall be automatically entitled to the benefits set forth in paragraph (e) above without need to re-apply for approval under the current program.

(g) Revocation. The Town administrator shall be authorized to revoke any hobby farm certificate for violation of any of the criteria set forth in paragraph (c), provided that no such revocation shall occur without at least sixty (60) days prior written notice to the property owner providing an opportunity to cure the violation.

**Sec. 12-34. - Standards for specific uses.**

(I) *Equestrian Facilities*: An equestrian facility (as defined in Section 12-305) shall provide for stables, paddocks and trails, and may also provide pasture land and exercise areas. Equestrian facilities may be included within a minimum 35-acre development. The maximum number of stalls shall be limited to one (1) stall per two (2) dwelling units within the residential community. The facility shall be designed as an integral component of the residential community and internalized within the overall development plan as depicted on the site plan. Additionally, the site plan shall include an alternate development proposal, in conformance with district regulations.

The use of the facility shall be available to the residents of the community on a priority basis and may be open to the public for boarding only. Activities within the equestrian facility shall be limited to use by residents and boarders only. The owners/operators of the equestrian facility shall be members of the homeowners' association governing the overall development.



LUCKY SUMO LLC

## **BUILDINGS AND STRUCTURES**

### **ARTICLE II, Sec. 5-6. Construction of Non-mobile Structures Used for Wholesale or Retail Sales**

(a) Every business conducted within the town for the wholesale or retail sale of merchandise, excluding farms and agricultural uses, and products manufactured therefrom, shall be conducted within or from

as structure constructed in compliance with the Florida Building Code. Every such business, including farms and agricultural uses, shall have an adequate water supply and sewage disposal facilities.

## **GENERAL REGULATIONS**

### **Chapter 12-33**

(U) Nuisances.

(1) No farm operation which has been in operation for one (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 conforms to generally accepted agricultural and management practices, except that the following

conditions shall constitute evidence of a nuisance:

a. 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.

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

c. 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.

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

(2) 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 one (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.

*(G) Commercial Vehicle Parking:* Trucks, commercial vehicles, agricultural equipment

or construction equipment shall not be parked, stored or maintained within a residentially zoned district, whether on private property, public property, swale areas or public or private road rights-of-way except as provided for herein:

(1) For the purposes of this section, the following shall apply:

(a) Commercial vehicle, for the purpose of this section, shall mean any vehicle whatsoever designed, intended or used for profit or hire, included but not limited to, vans, trucks, farm tractors, farm trailers, tow trucks, tractor-trailers, semitrailers, buses and trailers of any kind.

(c) Agricultural equipment shall include any farm or grove implements principally operated in agricultural or horticultural pursuits and shall include farm tractors and farm trailers not otherwise comprehended within the term commercial vehicle.

(6) Agricultural equipment shall not be permitted to be parked in residential areas other than those zoned RR, A-1 and AG. Additionally, farm trailers, stock trailers, farm tractors and heavy equipment used in an agricultural or horticultural pursuit may be stored or maintained in RR, A-1 and AG districts on property belonging to the owner of the tractor, trailer or heavy equipment without reference to the restrictions of this section.



**WEEKLY BROTHERS**

## LICENSING

### **Sec. 13-29. - Grower exemptions; dealers in agriculture products.**

All farm, horticultural, floricultural and grove products and products manufactured therefrom, except intoxicating liquors, beer and wines, shall be exempt from all forms of license tax when the same are being offered for sale or sold by the farmer or grower producing such products, an exempt license

shall be issued in these circumstances upon application. The management of a wholesale farmers' produce market shall have the right to pay a license of one hundred dollars (\$100.00) that will entitle its stall tenants to deal in agricultural and horticultural products without obtaining individual licenses, but individual licenses shall be required of such tenants unless such license is obtained for the market.

## SITE LANDSCAPING

### **Sec. 12-101 (A)**

4. Exempted from the provisions of the Florida-friendly landscape requirements (note: not irrigation requirements) are the following, as applicable:

- a. Bona fide agricultural activities;
- b. Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing of livestock;

## LIVESTOCK

### **Sec 4-41 Definitions**

The following words when used in this article shall have the meaning ascribed herein unless the context clearly indicates otherwise:

*Animal* shall mean any horse, pony, mule, cow, bull, steer, ox, heifer, calf, swine, ostrich, emu, rhea, sheep and goat, both domesticated and wild, male and female, singular and plural.

*At large* shall mean off the premises of the owner or custodian of the animal, and not under the immediate control of the owner or custodian.

*Permit* shall mean to suffer, allow, consent, let; to give leave or license; to acquiesce, by failure to prevent, or to expressly assent or agree to the doing of an act prohibited.

*Shelter* shall mean the operation of the person or firm designated by the town to pick up and board any animal found at large.

### **Sec. 4-42 Certain animals declared a nuisance**

No person owning or having in his custody animals as herein defined shall permit them to go at large to the injury or annoyance of others, nor shall such animal be permitted at large upon the streets or public ways of the town. Such action is declared to be a nuisance and dangerous to the public health and safety.

### **Sec. 4-43 Impoundment**

(a) Any person finding any animal upon his property shall notify the police department and may remove the animal to an animal shelter

(b) The Town of Davie Police Department may impound the animal. If the Town impounds the animal, reasonable effort shall be made to locate the owner.

(c) Any police officer or other person designated by the town for such purpose is authorized to capture and impound any animal found at large. Any police officer or other person designated by the town may issue a code violation to the owner for their animal being "at large."

**Sec. 4-44 Notice of impoundment and sale**

a) Upon the impounding of any animal the chief of police shall forthwith serve written notice upon the owner, advising such owner of the location or place where the animal is being held and impounded, the amount due by reason of such impounding, and that unless such animal be redeemed within five (5) days from date thereof that the same shall be offered for sale.

(b) If the owner of such animal is unknown or cannot be found, service upon the owner shall be obtained by publishing a notice two (2) times, consecutively, in a newspaper or general circulation where the animal is impounded (Sundays and holidays excluded) and by posting in two (2) conspicuous places in the town limits.

(c) Unless the impounded animal is redeemed within three (3) days from the date of last publication of notice, the chief of police shall forthwith give notice of sale thereof which shall be held not less than five

(5) days nor more than ten (10) days (excluding Sundays and holidays) from the first publication of the notice of sale. The notice of sale shall be published in a newspaper of general circulation in the town (excluding Sundays and holidays) and by posting a copy of such notice at two (2) conspicuous places in the town limits.

**Sec. 4-45 Fees and costs**

The owner or custodian who redeems an animal will pay a pick-up fee to the police department in accordance with the following schedule:

<i>Fee</i>	
Call out charge .....	\$275.00
Pick up charge .....	30.00
Each additional animal.....	15.00
Impounding charge (per day, per head) shall not exceed	\$200

**Sec. 4-47 Manner of Keeping**

- (a) It shall be unlawful for any person keeping or caring for an animal to fail to provide:
  - (1) Clean, sanitary, safe, and humane conditions; and
  - (2) Sufficient quantities of appropriate food daily; and
  - (3) Proper air ventilation and circulation; and
  - (4) Adequate quantities of visible, clean and fresh water available at all times; and

(5) Medical attention or necessary veterinary care when sick, diseased, or injured. Upon request of the Town designee, written proof of medical attention or veterinary care must be provided.

(b) It shall be unlawful for any person keeping an animal to fail to provide shelter and/or adequate shade for that animal. Outdoor shelter must be of sound construction and provide adequate protection from rain, wind and sun. The following elements

shall be provided as essential components of shelter:

- (1) Clean and appropriate bedding material, per the Florida Department of Environmental Protection or the Florida Department of Agriculture and Customer Services best management practices.
- (2) Sufficient space for each animal to comfortably stand up, sit down, lie down, and turn around in the shelter, without touching the top or sides of the shelter. If the shelter is used for more than one animal at the same time, it must provide enough space for both animals to comfortably stand up, sit down, lie down, and turn around simultaneously.
- (3) All areas where the animals are kept must be cleaned and the fecal matter disposed according to the best management practices set forth by the Florida Department of Environmental Protection or the Florida Department of Agriculture and Consumer Services.

Sec. 4-48 Treatment of livestock

- (a) It shall be unlawful for any person to beat, mistreat, or intentionally harm an animal.

## BROWARD COUNTY AGRICULTURAL CLASSIFICATION

As a member of the Broward County Commission and Value Adjustment Board, Lori Parrish championed the agricultural and horse boarding classification for owners of bona fide commercial agricultural businesses. Lori worked to amend the zoning laws to promote agricultural businesses within Broward County. The

### AGRICULTURAL CLASSIFICATION & THE GREENBELT LAW

#### **LEGISLATIVE INTENT**

It is the declared policy of the State of Florida to conserve, protect and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products and as valued natural and ecological resources for clean air sheds, wildlife habitat and other benefits of green space, including aesthetic purposes.

The Legislature has also declared Florida's economic and environmental future is enhanced by a tax policy which encourages sustainable agricultural use of its lands and discourages pressures to otherwise develop the land in indiscriminate manners, which brings conflicting land uses into juxtaposition, urban sprawl and creates higher costs for public services.

The intent of the Greenbelt Law is to provide a means by which agricultural land

Broward County Property Appraiser's office is required by law to classify all property within the County as either agricultural or non-agricultural. For information on this valuable classification, please contact Broward County Property Appraisals at 954.357.6866

may be protected and enhanced as a viable segment of the state's economy and as an economic and environmental resource of major importance.

#### **BACKGROUND**

Spreading suburban development drives up land values, which in turn drives up the farmer's property taxes, making agriculture economically unviable and forcing the farmer to sell the land to developers, causing the further spread of development and the loss of irreplaceable natural resources and open space.

Recognizing this self-perpetuating cycle, the Florida Legislature enacted the Greenbelt Law to help preserve farmland and slow down the rate of development. This law established agriculture as a separate class of property to be taxed on the agricultural value of the land instead of on its value for development. This benefits society as a whole, since rampant development causes over-crowded schools, more traffic on the roads and strains local government's ability to keep pace with the demands for these and other services such as police, fire, water and

sanitation. Since horses, cows and nursery plants don't go to school, drive on the roads or call the police, farms make minimal use of these services and, more importantly, farmland provides scenic, open green space that serves as water catchment areas, clean air sheds and wildlife habitat.

Farmers pay full taxes on their houses and yards and may also be eligible for the homestead exemption, the same as every taxpayer. Only the farmland can receive the agricultural classification and, even with the agricultural classification on the land, farms contribute more in property taxes than they cost the government in services.

## **BROWARD FARMS**

The Broward County Property Appraiser's office is required by law to classify all property within the County as either agricultural or non-agricultural. In the past, Broward County had a landscape of vast cattle ranches and citrus groves interspersed with smaller farms of all types. With the advent of air conditioning came more and more people to share the benefits of this tropical climate the population continues to grow. This growth has forever changed the face of Broward County and, to be sustainable, agriculture has had to adapt to the change and evolve. Traditional forms of agriculture requiring hundreds of acres of land to be profitable are no longer viable in Broward County. Replacing the old types of conventional agriculture is a new type of farming which can thrive on far smaller parcels of land and in a suburban setting, agriculture which relies on a nearby metropolitan population for its client base.

Landscape nurseries and horse farms are the two primary forms of modern agriculture. They provide desired agricultural services directly to the community and continue to conserve our open spaces and environmental resources into the future.

## **QUALIFYING FOR AGRICULTURAL CLASSIFICATION**

For land to be granted agricultural classification, the use of the land must be primarily for bona fide commercial agriculture as of January 1<sup>st</sup> of the tax year.

First and most important, the "use" of the land must be for "agricultural purposes." The Greenbelt Law defines "agricultural purposes" as including but "not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and all forms of farm products and farm production." While this list is broad and inclusive in its general terms and does not necessarily exclude categories not specifically listed, the Courts have ruled, for example, horses are livestock, therefore using the land to keep livestock, whether breeding, boarding, training or for other commercial purposes is agriculture, but the term livestock does not include greyhound dogs, therefore use of the land for raising or training dogs for racing is not an agricultural use.

Second, agricultural use must be the "primary" activity which takes place on the land. If the owner's residence is on the land, the area of the house and grounds will be

excluded from the agricultural classification, although it is still eligible for homestead exemption. On the remainder of the land, the agricultural use must be the most significant activity and not merely an incidental use.

Third, the agricultural use must be “commercial,” which the Courts have defined as meaning done with a profit motive or intent to make a profit. The Courts have also ruled it is not necessary to have the expectation of meeting the investment costs of the land and realizing a profit overall to be “commercial”. However, it is not enough to grow fruit or vegetables for your own use or keep a pet cow or only your own horses for pleasure or sport. While the “commercial” requirement is not as strict as the IRS business standards, you should be trying to make money from the agricultural use of your land.

Fourth, the agricultural use must be “bona fide.” Again, the Courts have ruled this means good faith - real, actual and genuine and not a sham or deception. For example, if you apply for agricultural classification for a horse boarding farm, you should be actually boarding other people’s horses on your land. If you apply as a nursery, then you should be growing and selling plants on your land, not using the land to store equipment for a lawn mowing business.

**THE GREENBELT LAW - FLORIDA STATUTE 193.461**

The Legislature has provided a list of factors the Property Appraiser may weigh and consider in determining whether the

agricultural use is bona fide, i.e. commercial agriculture:

1. The length of time the land has been so utilized;
2. Whether the use has been continuous;
3. The purchase price paid;
4. Size, as it relates to specific agricultural use;
5. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforestation, and other accepted agricultural practices;
6. Whether such land is under lease and, if so, the effective length, terms, and conditions of the lease; and
7. Such other factors as may become applicable from time to time.

The Department of Revenue has provided a suggested list of “other factors”, to which the Property Appraiser is not limited but may also consider:

Florida Administrative Code Rule 12D-5.004:

- (1) Other factors:
  - (a) Opinions of appropriate experts in the fields;

- (b) Business or occupation of owner;
- (c) The nature of the terrain of the property;
- (d) Economic merchantability of the agricultural product;
- (e) The reasonably attainable economic salability of the product within a reasonable future time for the particular agricultural product.

(2) Other recommended factors:

- (a) Zoning;
- (b) General character of the neighborhood;
- (c) Use of adjacent properties;
- (d) Proximity of subject properties to a metropolitan area and services;
- (e) Principal domicile of the owner and family;
- (f) Date of acquisition;
- (g) Agricultural experience of the person conducting agricultural operations;
- (h) Participation in governmental or private agricultural programs or activities;
- (i) Amount of harvest for each crop;
- (j) Gross sales from the agricultural operation;
- (k) Months of hired labor; and
- (l) Inventory of buildings and machinery and the condition of the same.

The Property Appraiser is not required to consider each and every one of these factors, but also cannot single out one, particular factor as the sole criterion for determining whether or not the property should be granted the agricultural classification. No one factor, by itself, is determinative. The Courts have ruled, for example, it is not required the owner be a farmer or the agricultural use be a permitted use under the local zoning regulations. Nor can the size of

the property, alone, can be the deciding factor. Although a purchase price of three or more times the agricultural value of the land creates a presumption the land is not to be used primarily for agriculture, once the property owner demonstrates the land is being used for bona fide commercial agriculture, the purchase price is no longer important.

The Courts have stressed the “use” of the land as of January 1st of the year in question is the guidepost in classifying the land and “agricultural use” is now and has always been the test.

However, the Property Appraiser is required to reclassify the following lands as non-agricultural when:

1. Land diverted from an agricultural to a nonagricultural use.
2. Land no longer being utilized for agricultural purposes.

**NEW APPLICATIONS FOR AGRICULTURAL CLASSIFICATION**

If you believe your property, as of January 1 of the current tax year, meets the criteria for the agricultural classification, you must file an initial application with the Broward County Property Appraiser’s office by March 1 of the year (however, state law now allows us to accept late-filed applications until the annual TRIM Notice appeal deadline mid-September). You may call 954.357.6866 for the form, or you may obtain the form online at: <http://www.bcpa.net/forms-dl.asp>

When you submit your application, please attach as much additional information as possible to show the use of your land is primarily for bona fide, commercial agriculture. Utilize the factors listed above for guidance as to what documentation would assist us in making a correct determination. Such additional information, if not already provided, may be requested by the Property Appraiser as is reasonably required in making this determination. Any financial information submitted will be strictly private and confidential.

If you are a new purchaser of property previously granted the agricultural classification, you must submit a new application if you wish the property to continue to receive the agricultural classification.

The Property Appraiser's Office will carefully review your application and any additional information provided and will physically inspect your property. The Property Appraiser's Office will notify you by mail, postmarked by July 1st, as to the status of your request.

### **RENEWALS OF AGRICULTURAL CLASSIFICATION**

Land previously granted the agricultural classification will be automatically renewed in subsequent years, providing the agricultural use of the land has not been abandoned or discontinued, the land has not been diverted to a nonagricultural use, the ownership has not changed or the land has not been zoned to a non-agricultural use at the request of the owner. The automatic

renewal is subject to routine property inspections for verification purposes, but you do not need to file an initial application form or burdensome paperwork again. .

However, if you have changed from one agricultural use to a different agricultural use, you should notify us promptly so the agricultural value of your property may be changed accordingly. You must also notify the Property Appraiser's Office if you have sold your property or discontinued the agricultural use.

### **LATE FILING AND RESOLVING DISAGREEMENTS**

If you missed the March 1 filing date deadline, state law now allows us to accept late-filed applications until the annual TRIM Notice appeal deadline mid-September.

**The absolute deadline to late file for an agricultural classification for a year is mid-September of that year (the same date as the annual deadline to file a valuation challenge to the VAB).** You can read more about the VAB process at: <http://www.bcpa.net/forms-dl.asp>. The VAB will notify you directly of your hearing date. Agricultural hearings are usually scheduled in late summer or early fall.

If you believe the Property Appraiser's decision regarding your application or renewal for agricultural classification is incorrect, you may contact our office at **954-357-6866** for further discussion and review. You may also contact the Value Adjustment Board and file a petition for a hearing and independent review. A petition must be filed

within 30 days of the notice from the Property Appraiser's office regarding the

status of your application or renewal for classification.

## STATE LAW

### AGRICULTURAL CLASSIFICATION

#### **193.461 Agricultural lands; classification and assessment; mandated eradication or quarantine program.—**

(1) The property appraiser shall, on an annual basis, classify for assessment purposes all lands within the county as either agricultural or nonagricultural.

(2) Any landowner whose land is denied agricultural classification by the property appraiser may appeal to the value adjustment board. The property appraiser shall notify the landowner in writing of the denial of agricultural classification on or before July 1 of the year for which the application was filed. The notification shall advise the landowner of his or her right to appeal to the value adjustment board and of the filing deadline. The property appraiser shall have available at his or her office a list by ownership of all applications received showing the acreage, the full valuation under s.193.011, the valuation of the land under the provisions of this section, and whether or not the classification requested was granted.

(3)(a) No lands shall be classified as agricultural lands unless a return is filed on or before March 1 of each year. The property appraiser, before so classifying

such lands, may require the taxpayer or the taxpayer's representative to furnish the property appraiser such information as may reasonably be required to establish that such lands were actually used for a bona fide agricultural purpose. Failure to make timely application by March 1 shall constitute a waiver for 1 year of the privilege herein granted for agricultural assessment. However, an applicant who is qualified to receive an agricultural classification who fails to file an application by March 1 may file an application for the classification and may file, pursuant to s. 194.011(3), a petition with the value adjustment board requesting that the classification be granted. The petition may be filed at any time during the taxable year on or before the 25th day following the mailing of the notice by the property appraiser as provided in s.194.011(1). Notwithstanding the provisions of s.194.013, the applicant must pay a nonrefundable fee of \$15 upon filing the petition. Upon reviewing the petition, if the person is qualified to receive the classification and demonstrates particular extenuating circumstances judged by the property appraiser or the value adjustment board to warrant granting the classification, the property appraiser or the value

adjustment board may grant the classification. The owner of land that was classified agricultural in the previous year and whose ownership or use has not changed may reapply on a short form as provided by the department. The lessee of property may make original application or reapply using the short form if the lease, or an affidavit executed by the owner, provides that the lessee is empowered to make application for the agricultural classification on behalf of the owner and a copy of the lease or affidavit accompanies the application. A county may, at the request of the property appraiser and by a majority vote of its governing body, waive the requirement that an annual application or statement be made for classification of property within the county after an initial application is made and the classification granted by the property appraiser. Such waiver may be revoked by a majority vote of the governing body of the county.

(b) Subject to the restrictions specified in this section, 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.

1. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration:

- a. The length of time the land has been so used.
- b. Whether the use has been continuous.
- c. The purchase price paid.
- d. Size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment.

e. Whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices.

f. Whether the land is under lease and, if so, the effective length, terms, and conditions of the lease.

g. Such other factors as may become applicable.

2. Offering property for sale does not constitute a primary use of land and may not be the basis for denying an agricultural classification if the land continues to be used primarily for bona fide agricultural purposes while it is being offered for sale.

(c) The maintenance of a dwelling on part of the lands used for agricultural purposes shall not in itself preclude an agricultural classification.

(d) When property receiving an agricultural classification contains a residence under the same ownership, the portion of the property consisting of the residence and curtilage must be assessed separately, pursuant to s. 193.011, to qualify for the assessment limitation set forth in s. 193.155. The remaining property may be classified under the provisions of paragraphs (a) and (b).

(e) Notwithstanding the provisions of paragraph (a), land that has received an agricultural classification from the value adjustment board or a court of competent jurisdiction pursuant to this section is entitled to receive such classification in any subsequent year until such agricultural use of the land is abandoned or discontinued, the land is diverted to a nonagricultural use, or

the land is reclassified as nonagricultural pursuant to subsection (4). The property appraiser must, no later than January 31 of each year, provide notice to the owner of land that was classified agricultural in the previous year informing the owner of the requirements of this paragraph and requiring the owner to certify that neither the ownership nor the use of the land has changed. The department shall, by administrative rule, prescribe the form of the notice to be used by the property appraiser under this paragraph. If a county has waived the requirement that an annual application or statement be made for classification of property pursuant to paragraph (a), the county may, by a majority vote of its governing body, waive the notice and certification requirements of this paragraph and shall provide the property owner with the same notification provided to owners of land granted an agricultural classification by the property appraiser. Such waiver may be revoked by a majority vote of the county's governing body. This paragraph does not apply to any property if the agricultural classification of that property is the subject of current litigation.

(4) The property appraiser shall reclassify the following lands as nonagricultural:

(a) Land diverted from an agricultural to a nonagricultural use.

(b) Land no longer being utilized for agricultural purposes.

(5) For the purpose of this section, "agricultural purposes" includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture; sod farming; and

all forms of farm products as defined in s. 823.14(3) and farm production.

(6)(a) In years in which proper application for agricultural assessment has been made and granted pursuant to this section, the assessment of land shall be based solely on its agricultural use. The property appraiser shall consider the following use factors only:

1. The quantity and size of the property;
2. The condition of the property;
3. The present market value of the property as agricultural land;
4. The income produced by the property;
5. The productivity of land in its present use;
6. The economic merchantability of the agricultural product; and
7. Such other agricultural factors as may from time to time become applicable, which are reflective of the standard present practices of agricultural use and production.

(b) Notwithstanding any provision relating to annual assessment found in s. 192.042, the property appraiser shall rely on 5-year moving average data when utilizing the income methodology approach in an assessment of property used for agricultural purposes.

(c)1 For purposes of the income methodology approach to assessment of property used for agricultural purposes, irrigation systems, including pumps and motors, physically attached to the land shall be considered a part of the average yields per acre and shall have no separately assessable contributory value.

2. Litter containment structures located on producing poultry farms and animal waste nutrient containment structures located on producing dairy farms shall be assessed by

the methodology described in subparagraph 1.

3. Structures or improvements used in horticultural production for frost or freeze protection, which structures or improvements are consistent with the Department of Agriculture and Consumer Services' interim measures or best management practices adopted pursuant to s.570.085 or s.403.067(7)(c), shall be assessed by the methodology described in subparagraph 1.

(d) In years in which proper application for agricultural assessment has not been made, the land shall be assessed under the provisions of s. 193.011.

(7) Lands classified for assessment purposes as agricultural lands which are

taken out of production by any state or federal eradication or quarantine program shall continue to be classified as agricultural lands for the duration of such program or successor programs. Lands under these programs which are converted to fallow, or otherwise non-income producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of no more than \$50 per acre, on a single year assessment methodology; however, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

## **FLORIDA HONEY CERTIFICATION AND HONEYBEE LAW**

### **The 2016 Florida Statutes**

#### **Title XXXV**

#### **AGRICULTURE, HORTICULTURE, AND ANIMAL INDUSTRY**

#### **CHAPTER 586**

#### **HONEY CERTIFICATION AND HONEYBEE LAW**

586.01 Short title.—this chapter shall be known as the “Florida Honey Certification and Honeybee Law.”

History.—s. 9, ch. 28167, 1953; s. 1, ch. 86-62.

586.02 Definitions.—As used in this chapter:

(1) “Apiary” means a bee yard or site where honeybee hives, honeybees, or honeybee equipment is located.

(2) “Apiculture” means the raising, caring for, and breeding of honeybees.

(3) “Beekeeping equipment” means honeybee hives, frames, supers, pallets, queen excluders, and other equipment which is used in the cultivation of honeybees and the harvesting of products produced by honeybees.

(4) “Certified honey” means honey that is sampled, analyzed, and certified by the department to be primarily of one type from a principal nectar source.

(5) “Colony” means a distinguishable localized population of honeybees in which one or more life stages may be present.

(6) “Compliance agreement” means a written agreement between the department and any person engaged in purchasing, assembling, exchanging, processing, utilizing, treating, or moving beekeeping equipment or honeybees wherein the person agrees to comply with stipulated requirements.

(7) “Department” means the Department of Agriculture and Consumer Services of the state or its authorized representative.

(8) “Honey” means the natural food product resulting from the harvest of nectar or honeydew by honeybees and the natural activities of the honeybees in processing nectar or honeydew.

(9) “Honeybee pest” means an insect, mite, or other arthropod or a bacterium, fungus, virus, microsporidium, nematode, or other organism that damages or causes abnormalities to honeybees, colonies of honeybees, or beeswax.

(10) “Honeybee products” means honey, beeswax, pollen, propolis, and other products resulting from the activities of honeybees.

(11) “Honeydew” means a sweet substance found on leaves of plants, usually a secretion from homopterous insects.

(12) “Nectar” means a sweet solution secreted by the plant extra floral glands (nectaries) or by any part of the flower.

(13) “Regulated article” means any article capable of transporting a honeybee pest or an unwanted race of honeybees.

(14) “Special inspection” means an inspection of honeybees, honeybee products, or beekeeping equipment performed at the request of the beekeeper or honeybee product producer or handler for the purpose of meeting inspection or certification requirements of other states or countries.

(15) “Unwanted race of honeybees” means those natural, genetically isolated subspecies of honeybees which beyond a reasonable doubt can inflict damage to people or animals greater than managed or feral honeybees commonly utilized in North America.

History.—s. 1, ch. 28167, 1953; ss. 14, 35, ch. 69-106; s. 250, ch. 71-377; s. 1, ch. 74-284; s. 4, ch. 83-14; s. 2, ch. 86-62; s. 1, ch. 89-56; s. 939, ch. 97-103; s. 7, ch. 2012-83.

586.025 Unlawful acts.—It shall be unlawful to:

(1) Introduce into this state any honeybee pest or an unwanted race of honeybees, except under special permit issued by the department, which shall be the sole issuing agency for such special permits.

(2) Use the terms “certified honey,” “certified,” “registered,” or “inspected” or any other term to convey or imply to the purchaser that the honey is certified honey, unless the honey has been certified by the department.

(3) Label, represent, advertise, or offer honey for sale unless it meets the definition provided in this chapter.

(4) Knowingly sell, offer for sale, or distribute any honeybee, any unwanted race of honeybee, or any regulated article infested or infected with any honeybee pest declared by rule of the department to be a nuisance or threat to the state’s apiary industry.

(5) Knowingly conceal, or willfully withhold information regarding, honeybees, honeybee pests, unwanted races of honeybees, or regulated articles from the department.

(6) Knowingly receive honeybees, honeybee pests, honeybee products, beekeeping equipment, or other articles for distribution within this state that are not in compliance with this chapter without immediately informing the department and isolating and holding the honeybees, honeybee pests, honeybee products, beekeeping equipment, or other articles

unopened or unused until action is taken by the department.

History.—s. 3, ch. 86-62; s. 66, ch. 93-169.

586.03 Certification and labeling of Florida-produced honey.—

(1) Any beekeeper or his or her representative managing honeybees in this state may make application to the department for inspection and sample analysis on which qualification for “certified honey,” or for special certification, shall be based.

(2) When requested by beekeepers, honeybee products processors, or other interested parties, the department may provide special certifications based on special inspections, special laboratory analyses, special investigations, or other honeybee regulatory activities when or where feasible and not otherwise specifically provided for in these statutes.

(3) The department may fix, assess, and collect fees not to exceed actual expenses incurred for certifying honey, including fees for special certification.

History.—s. 2, ch. 28167, 1953; ss. 14, 35, ch. 69-106; s. 4, ch. 86-62; s. 67, ch. 93-169; s. 940, ch. 97-103.

586.045 Certificates of registration and inspection.—

(1) Each beekeeper having honeybee colonies within the state shall apply to the department, on forms supplied by the department, for certificates of inspection and registration, and for annual renewal on the

anniversary date of the registration. An application for renewal postmarked after the anniversary date shall be accompanied by a \$10 late filing fee.

(2) Each application shall be accompanied by a registration fee as set by department rule, based on the cost of the honeybee inspection program.

(3) Neither the registration fee nor the annual renewal fee shall exceed \$100. The department may exempt from the payment of a registration fee those governmental agencies having honeybee colonies for experimental or educational purposes.

(4) The department shall provide to each person subject to this section written notice and renewal forms 60 days prior to the annual renewal date informing the person of the certificate of registration renewal date and the application fee.

(5) Upon application prior to the renewal date, the department may, for good cause, such as natural disasters, hardship cases, or unusual circumstances, supported by written documentation, extend the renewal date without penalty for up to 90 days.

(6) The certificate of registration shall be renewed if the registrant has complied with the provisions of this chapter, including the payment of the applicable fee, and the rules of the department.

History.—s. 2, ch. 89-56; s. 8, ch. 92-147; s. 69, ch. 93-169; s. 10, ch. 95-317.

586.055 Location of apiaries.—an apiary may be located on land classified as agricultural under s. 193.461 or on land that is integral to a beekeeping operation.

History.—s. 8, ch. 2012-83.

586.10 Powers and duties of department; preemption of local government ordinances.—

(1) The authority to regulate, inspect, and permit managed honeybee colonies and to adopt rules on the placement and location of registered inspected managed honeybee colonies is preempted to the state through the department and supersedes any related ordinance adopted by a county, municipality, or political subdivision thereof.

(2) The department shall:

(a) Administer and enforce this chapter.

(b) Adopt rules necessary to enforce this chapter, rules relating to standard grades for honey and other honeybee products, and, after consultation with local governments and other affected stakeholders, rules to administer this section.

(3) The department may:

(a) Enter upon any public or private premises or carrier during regular business hours for the purpose of inspection, quarantine, destruction, or treatment of honeybees, used beekeeping equipment, unwanted races of honeybees, or regulated articles.

(b) Declare a honeybee pest or unwanted race of honeybees to be a nuisance to the beekeeping industry as well as any honeybee

or other infested or infected article that is exposed to infestation or infection in a manner believed likely to communicate the infection or infestation.

(c) Declare a quarantine against any area, place, or political unit within this state or other states, territories, or foreign countries, or portion thereof, in reference to honeybee pests or unwanted races of honeybees and prohibit the movement within this state from other states, territories, or foreign countries of all honeybees, honeybee products, used beekeeping equipment, or other articles from such quarantined places or areas which are likely to carry honeybee pests or unwanted races of honeybees if the quarantine is determined, after due investigation, to be necessary in order to protect this state's beekeeping industry, honeybees, and the public. In such cases, the quarantine may be made absolute or rules may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold in, or otherwise disposed of in this state.

(d) Enter into cooperative arrangements with any person, municipality, county, or other department of this state or any agency, officer, or authority of other states or the Federal Government, including the United States Department of Agriculture, for inspection of honeybees, honeybee pests, or unwanted races of honeybees and products thereof and the control or eradication of honeybee pests and unwanted races of honeybees, and contribute a share of the expenses incurred under such arrangements.

(e) Investigate methods of control, eradication, and prevention of dissemination of honeybee pests or unwanted races of honeybees.

(f) Inspect or cause to be inspected all apiaries in the state at such intervals as it may deem best and keep a complete, accurate, and current list of all inspected apiaries to include the:

1. Name of the apiary.
2. Name of the owner of the apiary.
3. Mailing address of the apiary owner.
4. Location of the apiary.
5. Number of hives in the apiary.
6. Pest problems associated with the apiary.
7. Brands used by beekeepers where applicable.

Notwithstanding s. 112.313, an apiary inspector may be a certified beekeeper as long as the inspector does not inspect his or her own apiary.

(g) Collect or accept from other agencies or individuals specimens of arthropods, nematodes, fungi, bacteria, or other organisms for identification.

(h) Confiscate, destroy, or make use of abandoned beehives or beekeeping equipment.

(i) Require the identification of ownership of apiaries.

(j) Enter into a compliance agreement with any person engaged in purchasing, assembling, exchanging, processing, utilizing, treating, or moving beekeeping equipment or honeybees.

(k) Make and issue to beekeepers certificates of registration and inspection, following proper inspection and certification of their honeybee colonies.

(l) Revoke or suspend a beekeeper's or honeybee product processor's certificate of inspection or use of a certificate or permit issued by the department if the department determines that the beekeeper or honeybee product processor is selling or offering for sale or is distributing or offering to distribute honeybees, honeybee products, or beekeeping equipment in violation of this chapter or rules adopted under this chapter, or has aided or abetted in such violation.

(m) Refuse the certification of any honeybees, honeybee products, or beekeeping equipment if it is determined that an unwanted race of honeybees exists, or honeybee pests exist on honeybees, honeybee products, or beekeeping equipment, or that the condition of the apiary inhibits a thorough and efficient inspection by the department.

(n) Conduct, supervise, or cause the fumigation, destruction, or treatment of honeybees, including unwanted races of honeybees, honeybee products, and used beekeeping equipment or other articles

infested or infected by honeybee pests or unwanted races of honeybees or so exposed to infection or infestation that it is reasonably believed that infection or infestation could exist.

(o) Require the removal from this state of any honeybees or beekeeping equipment that is brought into the state in violation of this chapter or the rules adopted under this chapter.

History.—s. 1, ch. 61-415; ss. 14, 35, ch. 69-106; s. 7, ch. 86-62; s. 2, ch. 87-17; s. 3, ch. 89-56; s. 71, ch. 93-169; s. 941, ch. 97-103; s. 9, ch. 2012-83; s. 94, ch. 2013-15; s. 18, ch. 2013-226.

586.11 Certificate of inspection to accompany interstate shipments; enforcement.—

(1) All honeybees, except bees in combless packages, and used beekeeping equipment shipped or moved into this state shall be accompanied by a certificate of inspection issued by the state of origin.

(2)(a) The certificate shall certify that the apiaries owned or operated by the beekeeper or his or her agents or representatives have been inspected annually in the state of origin at a time when the bees are actively rearing brood, and that the honeybees meet the entry requirements of the department concerning honeybee pests and unwanted races of honeybees.

(b) The certificate described in paragraph (a) shall not be valid to allow honeybees and used beekeeping equipment to be shipped or

moved into this state unless the certificate is issued by a state which has standards of inspection which are adequate to ensure the health and safety of Florida honeybees and which are at least equal to the standards established by the department.

(3) Bees in combless packages must be accompanied by a certificate of inspection from the state of origin and an affidavit that no honey is used in the feed.

(4) It shall be the duty of the sheriffs and officers of the Florida Highway Patrol to enforce the provisions relating to the movement of bees and used beekeeping equipment into the state, as well as such movement within the state.

History.—s. 2, ch. 61-415; ss. 14, 35, ch. 69-106; s. 1, ch. 83-168; s. 8, ch. 86-62; s. 4, ch. 89-56; s. 1, ch. 91-21; s. 72, ch. 93-169; s. 942, ch. 97-103.

586.112 Stop-sale or stop-movement notice.—The department may issue and enforce a stop-sale or stop-movement notice to the owner or custodian of any honeybees, honeybee products, or honeybee equipment found or suspected to be in violation of this chapter or any department rules promulgated thereunder. The notice shall prohibit further sale, barter, exchange, or distribution of such items until the department has issued a written release confirming compliance with the provisions of this chapter and any department rule promulgated thereunder.

History.—s. 11, ch. 95-317.

586.13 Removal, destruction, or treatment of infested or infected honeybees or beekeeping equipment.—

(1) If the department finds any honeybees, honeybee products, or used beekeeping equipment or other articles infested or infected with honeybee pests or an unwanted race of honeybees, notification shall be given in writing to the owner or person having charge of the apiary to that effect. The owner or person in charge shall, under the supervision of the department and within 48 hours after notice, cause the infested and infected honeybees, honeybee products, or beekeeping equipment or other article to be removed from this state or destroyed if the problem cannot be successfully treated, as determined by the department. If successful treatment is possible, the owner or person in charge shall, under the supervision of the department, follow the treatment as prescribed in the notice of the department.

(2) No damages shall be awarded to the owner for the destruction of unwanted races of honeybees or infested or infected honeybees, honeybee products, or beekeeping equipment or other articles except as provided under the provisions of this chapter.

(3) If the owner or person in charge refuses or neglects to comply with the terms of the notice within 10 days after receiving it, the department may treat or destroy or cause to be treated or destroyed the infested or infected honeybees, beekeeping equipment, honeybee products, honeybee pests or unwanted races of honeybees. The expenses shall be assessed, collected, and

enforced against the owner by the department.

History.—s. 4, ch. 61-415; ss. 14, 35, ch. 69-106; s. 10, ch. 86-62; s. 3, ch. 87-17; s. 74, ch. 93-169.

586.14 Compensation for beekeeping equipment and honeybees contained therein destroyed due to infection with American foulbrood.—Upon destruction of honeybees or honeybee equipment infected with American foulbrood, *Bacillus* larvae, Florida resident owners of honeybees and beekeeping equipment may receive compensation from the department. This compensation shall be up to 50 percent of the appraised value of the destroyed property, providing funds are available for this purpose; however, compensation shall not exceed \$30 per colony.

History.—s. 5, ch. 61-415; ss. 14, 35, ch. 69-106; s. 1, ch. 75-213; s. 2, ch. 80-113; s. 418, ch. 81-259; s. 11, ch. 86-62; s. 75, ch. 93-169.

586.15 Penalty for violation.—

(1) A person who violates any of the provisions of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083 for the first offense, and commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 for a second or subsequent offense.

(2)(a) The department may, after notice and hearing, impose an administrative fine in the Class II category pursuant to s. 570.971 for a violation of this chapter or the

rules adopted under this chapter upon any person. The fine, when paid, shall be deposited in the Plant Industry Trust Fund. The imposition of a fine pursuant to this subsection may be in addition to or in lieu of the suspension or revocation of a permit or a certificate of inspection or registration.

(b) Any administrative order made and entered by the department imposing a fine upon any person pursuant to this subsection shall specify the amount of the fine and the time limit, which shall not exceed 15 days, for payment thereof. Upon failure to pay the fine within the time limit, the permit or the certificate of inspection or registration of the person may be suspended or revoked without further hearing. An additional fine of \$100 per day may be imposed until the order is complied with.

(3) In addition to the penalties provided in this section and chapter 500, the department may collect costs related to enforcing prohibitions against the adulteration or misbranding of honey. Such collections shall be deposited into the General Inspection Trust Fund.

History.—s. 6, ch. 61-415; ss. 14, 35, ch. 69-106; s. 611, ch. 71-136; s. 3, ch. 80-113; s. 12, ch. 86-62; s. 76, ch. 93-169; s. 19, ch. 2013-226; s. 142, ch. 2014-150.

586.16 Handling of money received.—All money received by the department as fees and penalties under the provisions of this chapter shall be deposited in the State Treasury to the credit of the Plant Industry Trust Fund and shall be used by the

department to defray its expenses in carrying out the duties imposed on it by this chapter. History.—s. 13, ch. 86-62; s. 77, ch. 93-169.

586.161 Honeybee Technical Council.—  
(1) COMPOSITION.—The Honeybee Technical Council is created in the Department of Agriculture and Consumer Services and shall be composed of seven members to be appointed by the Commissioner of Agriculture of which there shall be five representatives of the honeybee industry, one representative of the Institute of Food and Agricultural Sciences, and one representative of the Department of Agriculture and Consumer Services who shall serve as secretary of the council.

(2) STAGGERED TERMS.—Members shall be appointed to 4-year staggered terms.

Effective July 1, 1993, two members shall be appointed to a term of 4 years, two members shall be appointed to a term of 3 years, two members shall be appointed to a term of 2 years, and one member shall be appointed to a term of 1 year.

(3) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS.—The meetings, powers and duties, procedures, and recordkeeping of the Honeybee Technical Council shall be pursuant to s. 570.232.

History.—s. 14, ch. 86-62; s. 1, ch. 87-50; s. 5, ch. 91-429; s. 78, ch. 93-169; s. 28, ch. 94-335; s. 53, ch. 2011-206; s. 143, ch. 2014-150.

## FLORIDA ADMINISTRATIVE CODE DEFINITIONS

### **FAC Rule 12D-1.002 Definitions.**

Unless otherwise stated or unless otherwise clearly indicated by the context in which a particular term is used, all terms used in this chapter shall have the same meanings as are attributed to them in the current Florida Statutes. In this connection, reference is made to the definitions contained in Sections 192.001, 196.012, and 197.102, Florida Statutes.

(3) “Livestock” – Animals kept or raised for use or pleasure, especially farm animals kept for use and profit. Livestock is further defined as those kinds of domestic animals and fowls which are normally susceptible to confinement within boundaries without seriously impairing their utility, and the intrusion of which upon the land of others normally causes harm to land or to crops thereon.

## SALES TAX EXEMPTIONS

**212.031 Tax on rental or license fee for use of real property.—**

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

**212.07 Sales, storage, use tax; tax added to purchase price; dealer not to absorb; liability of purchasers who cannot prove payment of the tax; penalties; general exemptions.—**

(5)(a) The gross proceeds derived from the sale in this state of livestock, poultry, and other farm products direct from the farm are exempted from the tax levied by this chapter provided such sales are made directly by the producers. The producers shall be entitled to such exemptions although the livestock so sold in this state may have been registered with a breeders' or registry association prior to the sale and although the sale takes place at a livestock show or race meeting, so long as the sale is made by the original producer and within this state. When sales of livestock, poultry, or other farm products are made to consumers by any person, as defined herein, other than a producer, they are not exempt from the tax imposed by this chapter. The foregoing exemption does not apply to ornamental nursery stock offered for retail sale by the producer.

(b) Sales of race horses at claiming races are taxable; however, if sufficient

information is provided by race track officials to properly administer the tax, sales tax is due only on the maximum single amount for which a horse is sold at all races at which it is claimed during an entire racing season.

(6) It is specifically provided that the use tax as defined herein does not apply to livestock and livestock products, to poultry and poultry products, or to farm and agricultural products, when produced by the farmer and used by him or her and members of the farmer's family and his or her employees on the farm.

(7) Provided, however, that each and every agricultural commodity sold by any person, other than a producer, to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or for sale in the process of preparing, finishing, or manufacturing such agricultural commodity for the ultimate retail consumer trade shall be and is exempted from any and all provisions of this chapter, including payment of the tax applicable to the sale, storage, use, or transfer, or any other utilization or handling thereof, except when such agricultural commodity is actually sold as a marketable or finished product to the ultimate consumer; in no case shall more than one tax be exacted.

**212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—**The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

3) EXEMPTIONS; CERTAIN FARM EQUIPMENT.—There shall be no tax on the sale, rental, lease, use, consumption, or storage for use in this state of power farm equipment used exclusively on a farm or in a forest in the agricultural production of crops or products as produced by those agricultural industries included in s. 570.02(1), or for fire prevention and suppression work with respect to such crops or products. Harvesting may not be construed to include processing activities. This exemption is not forfeited by moving farm equipment between farms or forests. However, this exemption shall not be allowed unless the purchaser, renter, or lessee signs a certificate stating that the farm equipment is to be used exclusively on a farm or in a forest for agricultural production or for fire prevention and suppression, as required by this subsection. Possession by a seller, lessor, or other dealer of a written certification by the purchaser, renter, or lessee certifying the purchaser's, renter's, or lessee's entitlement to an exemption permitted by this subsection relieves the seller from the responsibility of collecting the tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if it determines that the purchaser was not entitled to the exemption.

(5) EXEMPTIONS; ACCOUNT OF USE.—

a) Items in agricultural use and certain nets.—There are exempt from the tax imposed by this chapter nets designed and used exclusively by commercial fisheries; disinfectants, fertilizers, insecticides,

pesticides, herbicides, fungicides, and weed killers used for application on crops or groves, including commercial nurseries and home vegetable gardens, used in dairy barns or on poultry farms for the purpose of protecting poultry or livestock, or used directly on poultry or livestock; portable containers or movable receptacles in which portable containers are placed, used for processing farm products; field and garden seeds, including flower seeds; nursery stock, seedlings, cuttings, or other propagative material purchased for growing stock; seeds, seedlings, cuttings, and plants used to produce food for human consumption; cloth, plastic, and other similar materials used for shade, mulch, or protection from frost or insects on a farm; generators used on poultry farms; and liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised; however, such exemption shall not be allowed unless the purchaser or lessee signs a certificate stating that the item to be exempted is for the exclusive use designated herein. Also exempt are cellophane wrappers, glue for tin and glass (apiarists), mailing cases for honey, shipping cases, window cartons, and baling wire and twine used for baling hay, when used by a farmer to contain, produce, or process an agricultural commodity.

(e) Gas or electricity used for certain agricultural purposes.—

1. Butane gas, propane gas, natural gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which

gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use.

2. Electricity used directly or indirectly for production, packing, or processing of agricultural products on the farm, or used directly or indirectly in a packinghouse, is exempt from the tax imposed by this chapter. As used in this subsection, the term “packinghouse” means any building or structure where fruits, vegetables, or meat from cattle or hogs is packed or otherwise prepared for market or shipment in fresh

form for wholesale distribution. The exemption does not apply to electricity used in buildings or structures where agricultural products are sold at retail. This exemption applies only if the electricity used for the exempt purposes is separately metered. If the electricity is not separately metered, it is conclusively presumed that some portion of the electricity is used for a nonexempt purpose, and all of the electricity used for such purposes is taxable.

(7) MISCELLANEOUS EXEMPTIONS.

(d) Feeds.—Feeds for poultry, ostriches, and livestock, including racehorses and dairy cows, are exempt.

## FLORIDA RIGHT TO FARM ACT

### **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.

## **BUILDING CODES AND EXEMPTIONS**

### **553.73 Florida Building Code.—**

(1)(a) The commission shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Building Code which shall contain or incorporate by reference all laws and rules which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and enforcement of such laws and rules, except as otherwise provided in this section.

(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any

further exemptions shall be as determined by the Legislature and provided by law:

(c) Nonresidential farm buildings on farms.

### **604.50 Nonresidential farm buildings; farm fences; farm signs.—**

(1) Notwithstanding any provision of law to the contrary, any nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code or fee, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may

not be erected, used, operated, or maintained in a manner that violates any of the standards provided in s. 479.11(4), (5)(a), and (6)-(8).

(2) As used in this section, the term:

(a) “Bona fide agricultural purposes” has the same meaning as provided in s. 193.461 (3)(b).

(b) “Farm” has the same meaning as provided in s. 823.14.

(c) “Farm sign” means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm.

(d) “Nonresidential farm building” means any temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under

s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

#### **604.40 Farm equipment.—**

Notwithstanding any other law, ordinance, rule, or policy to the contrary, all power-drawn, power-driven, or self-propelled equipment used on a farm may be stored, maintained, or repaired by the owner within the boundaries of the owner’s farm and at least 50 feet away from any public road without limitation.

## **VEHICLES**

### **FLORIDA STATUTES - EXEMPTIONS FARM VEHICLES**

#### **322.04 Persons exempt from obtaining driver's license.--**

(1) The following persons are exempt from obtaining a driver's license:

(b) Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.

#### **322.53 License required; exemptions.--**

(1) Except as provided in subsection (2), every person who drives a commercial motor vehicle in this state is required to possess a valid commercial driver's license

issued in accordance with the requirements of this chapter.

(2) The following persons are exempt from the requirement to obtain a commercial driver's license:

(a) Drivers of authorized emergency vehicles.

(b) Military personnel driving vehicles operated for military purposes.

(c) Farmers transporting farm supplies or farm machinery within 150 miles of their farm, or transporting agricultural products to or from the first place of storage or

processing or directly to or from market, within 150 miles of their farm.

(d) Drivers of recreational vehicles, as defined in s. 320.01.

(e) Drivers who operate straight trucks, as defined in s. 316.003, that are exclusively transporting their own tangible personal property which is not for sale.

(f) An employee of a publicly owned transit system who is limited to moving vehicles for maintenance or parking purposes exclusively within the restricted-access confines of a transit system's property.

(3) Notwithstanding subsection (2), all drivers of for-hire commercial motor vehicles are required to possess a valid commercial driver's license issued in accordance with the requirements of this chapter.

(4) A resident who is exempt from obtaining a commercial driver's license pursuant to paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), or paragraph (2)(f) may drive a commercial motor vehicle pursuant to the exemption granted in paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), or paragraph (2)(f) if he or she possesses a valid Class E driver's license or a military license.

(5) The department shall adopt rules and enter into necessary agreements with other jurisdictions to provide for the operation of commercial vehicles by nonresidents pursuant to the exemption granted in subsection (2).

**322.01 Definitions.--As used in this chapter:**

(19) "Farmer" means a person who grows agricultural products, including aquacultural, horticultural, and forestry products, and, except as provided herein, employees of such persons. The term does not include employees whose primary purpose of employment is the operation of motor vehicles.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

**320.01 Definitions, general.--As used in the Florida Statutes, except as otherwise provided, the term:**

22) "Golf cart" means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

(42) "Low-speed vehicle" means any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

(43) "Utility vehicle" means a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074.

(44) For purposes of this chapter, the term "agricultural products" means any food product; any agricultural, horticultural, or livestock product; any raw material used in plant food formulation; and any plant food used to produce food and fiber.

(45) "Mini truck" means any four-wheeled, reduced-dimension truck that does not have a National Highway Traffic Safety Administration truck classification, with a top speed of 55 miles per hour, and which is equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, and seat belts.

**320.51 Farm tractors and farm trailers exempt.--**

The following are exempt from the provisions of this chapter which require the registration of motor vehicles, the payment of license taxes, and the display of license plates:

(1) A motor vehicle which is operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and which is operated on the roads of this state only incidentally in going from the owner's or operator's headquarters to such farm, grove, or orchard and returning therefrom or in going from one farm, grove, or orchard to another; and

(2) A vehicle without motive power which is used principally for the purpose of transporting plows, harrows, fertilizer distributors, spray machines, and other farm or grove equipment and which uses the roads of this state only incidentally. Nothing

in this section shall be construed as exempting such farm tractors and farm trailers from laws relating to the tires to be used when operating on the roads of this state.

**Chapter 316  
STATE UNIFORM TRAFFIC  
CONTROL**

316.003 Definitions.--The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

12) FARM TRACTOR.--Any motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

16) IMPLEMENT OF HUSBANDRY.--Any vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.

42) ROADWAY.--That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately, but not to all such roadways collectively.

(68) GOLF CART.--A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

### **316.215 Scope and effect of regulations.--**

(3) The provisions of this chapter with respect to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as herein made applicable.

### **316.2295 Lamps, reflectors and emblems on farm tractors, farm equipment and implements of husbandry.--**

(1) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall be equipped with vehicular hazard-warning lights visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

(2) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry manufactured or assembled after January 1, 1972, shall at all times, and every other such motor vehicle shall at all times mentioned in s. 316.217, be equipped with lamps and reflectors as follows:

(a) At least two headlamps meeting the requirements of ss. 316.237 and 316.239.

(b) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable.

(c) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.

(3) Every combination of farm tractor and towed farm equipment or towed implement of husbandry shall at all times mentioned in s. 316.217 be equipped with lamps and reflectors as follows:

(a) The farm tractor shall be equipped as required in subsections (1) and (2).

(b) If the towed unit or its load extends more than 4 feet to the rear of the tractor or obscures any light thereon, the unit shall be equipped on the rear with at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of headlamps.

(c) If the towed unit of such combination extends more than 4 feet to the left of the centerline of the tractor, the unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of headlamps. This reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.

(4) The two red reflectors required in the foregoing subsections shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required by subsection (3).

(5) Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation at speeds not in excess of 25 miles per hour shall at all times be equipped with a

slow moving vehicle emblem mounted on the rear except as provided in subsection (6).

(6) Every combination of farm tractor and towed farm equipment or towed implement of husbandry normally operating at speeds not in excess of 25 miles per hour shall at all times be equipped with a slow moving vehicle emblem as follows:

(a) When the towed unit or any load thereon obscures the slow moving vehicle emblem on the farm tractor, the towed unit shall be equipped with a slow moving vehicle emblem. In such cases, the towing vehicle need not display the emblem.

(b) When the slow moving vehicle emblem on the farm tractor unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem, but it shall be sufficient if either has it.

(c) The emblem required by subsections (5) and (6) shall comply with current standards and specifications of the American Society of Agricultural Engineers approved by the department.

(7) Except during the periods of time stated in s. 316.217(1), an agricultural product trailer which is less than 10 feet in length and narrower than the hauling vehicle is not required to have tail lamps, stop lamps, and turn signals and may use the hauling vehicle's lighting apparatus to meet the requirements of ss. 316.221 and 316.222. However, the load of the agricultural product trailer must be contained within the trailer and must not in any way obstruct the hauling vehicle's lighting apparatus.

(8) A violation of this section is a noncriminal traffic infraction, punishable as

a nonmoving violation as provided in chapter 318.

### **316.217 When lighted lamps are required**

(1) Every vehicle operated upon a highway within this state shall display lighted lamps and illuminating devices as herein respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles, under the following conditions;

(a) At any time from sunset to sunrise including the twilight hours. Twilight hours shall mean the time between sunset and full night or between full night and sunrise.

(b) During any rain, smoke, or fog.

(c) Stop lights, turn signals, and other signaling devices shall be lighted as prescribed for use of such devices.

### **316.515 Maximum width, height, length**

### **(5) IMPLEMENTS OF HUSBANDRY AND FARM EQUIPMENT; AGRICULTURAL TRAILERS; FORESTRY EQUIPMENT; SAFETY REQUIREMENTS.--**

(a) Notwithstanding any other provisions of law, straight trucks, agricultural tractors, and cotton module movers, not exceeding 50 feet in length, or any combination of up to and including three implements of husbandry, including the towing power unit, and any single agricultural trailer with a load thereon or any agricultural implements attached to a towing power unit, or a self-propelled agricultural implement or an agricultural tractor, is authorized for the purpose of transporting peanuts, grains, soybeans, cotton, hay, straw, or other perishable farm products from their point of

production to the first point of change of custody or of long-term storage, and for the purpose of returning to such point of production, or for the purpose of moving such tractors, movers, and implements from one point of agricultural production to another, by a person engaged in the production of any such product or custom hauler, if such vehicle or combination of vehicles otherwise complies with this section. The Department of Transportation may issue over length permits for cotton module movers greater than 50 feet but not more than 55 feet in overall length. Such vehicles shall be operated in accordance with all safety requirements prescribed by law and rules of the Department of Transportation.

b) Notwithstanding any other provision of law, equipment not exceeding 136 inches in width and not capable of speeds exceeding 20 miles per hour which is used exclusively for harvesting forestry products is authorized for the purpose of transporting equipment from one point of harvest to another point of harvest, not to exceed 10 miles, by a person engaged in the harvesting of forestry products. Such vehicles must be operated during daylight hours only, in accordance with all safety requirements prescribed by s. 316.2295(5) and (6).

(c) The width and height limitations of this section do not apply to farming or agricultural equipment, whether self-propelled, pulled, or hauled, when temporarily operated during daylight hours upon a public road that is not a limited access facility as defined in s. 334.03(13), and the width and height limitations may be

exceeded by such equipment without a permit. To be eligible for this exemption, the equipment shall be operated within a radius of 50 miles of the real property owned, rented, or leased by the equipment owner. However, equipment being delivered by a dealer to a purchaser is not subject to the 50-mile limitation. Farming or agricultural equipment greater than 174 inches in width must have one warning lamp mounted on each side of the equipment to denote the width and must have a slow-moving vehicle sign. Warning lamps required by this paragraph must be visible from the front and rear of the vehicle and must be visible from a distance of at least 1,000 feet.

(d) The operator of equipment operated under this subsection is responsible for verifying that the route used has adequate clearance for the equipment.

### **316.520 Loads on vehicles**

(1) A vehicle may not be driven or moved on any highway unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping therefrom, except that sand may be dropped only for the purpose of securing traction or water or other substance may be sprinkled on a roadway in cleaning or maintaining the roadway.

(2) It is the duty of every owner and driver, severally, of any vehicle hauling, upon any public road or highway open to the public, dirt, sand, lime rock, gravel, silica, or other similar aggregate or trash, garbage, any inanimate object or objects, or any similar material that could fall or blow from such

vehicle, to prevent such materials from falling, blowing, or in any way escaping from such vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover or a load securing device meeting the requirements of 49 C.F.R. s. 393.100 or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and shall constitute compliance with this section.

(4) The provision of subsection (2) requiring covering and securing the load with a close-fitting tarpaulin or other appropriate cover does not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.

#### **316.525 Requirements for vehicles hauling loads.--**

(1) It is the duty of every owner, licensee, and driver, severally, of any truck, trailer, semitrailer, or pole trailer to use such stanchions, standards, stays, supports, or other equipment, appliances, or contrivances, together with one or more lock chains, when lock chains are the most suitable means of fastening the load, or together with nylon strapping, when nylon strapping is the most suitable means of

securing the load, so as to fasten the load securely to the vehicle.

#### **316.530 Towing requirements**

2) When a vehicle is towing a trailer or semitrailer on a public road or highway by means of a trailer hitch to the rear of the vehicle, there shall be attached in addition thereto safety chains, cables, or other safety devices that comply with 49 C.F.R. subpart F, ss. 393.71(g)(2)(1) and 393.71(h)(10) from the trailer or semitrailer to the vehicle. These safety chains, cables, or other safety devices shall be of sufficient strength to maintain connection of the trailer or semitrailer to the pulling vehicle under all conditions while the trailer or semitrailer is being towed by the vehicle. The provisions of this subsection shall not apply to trailers or semitrailers using a hitch known as a fifth wheel nor to farm equipment traveling less than 20 miles per hour.

#### **SB 310 — Off-highway Vehicles**

The bill (Chapter 2019-19, L.O.F.) redefines the terms “ATV” (all-terrain vehicle) and “ROV” (recreational off-highway vehicle) and to increase the width and dry weight allowed for these vehicles. This change will allow manufacturers to meet increasing consumer and regulatory demands for safer vehicles.

These provisions were approved by the Governor and took effect July 1, 2019.



**TOWN OF DAVIE HORSE FARM**

## **LOCAL BUSINESS TAXES**

**205.064 Farm, aqua-cultural, grove, horticultural, floricultural, tropical pisci-cultural, and tropical fish farm products; certain exemptions.**

(1) A local business tax receipt is not required of any person for the privilege of engaging in the selling of farm, aqua-cultural, grove, horticultural, floricultural, tropical pisci-cultural, or tropical fish farm products, or products manufactured

therefrom, except intoxicating liquors, wine, or beer, when such products were grown or produced by such person in the state.

(2) A wholesale farmers' produce market may pay a tax of not more than \$200 for a receipt that will entitle the market's stall tenants to engage in the selling of agricultural and horticultural products therein, in lieu of such tenants being required to obtain individual local business tax receipts to so engage.

## SIGNS

### **479.16 Signs for which permits are not required.**

The following signs are exempt from the requirement that a permit for a sign be obtained under the provisions of this chapter but are required to comply with the provisions of s. 479.11(4)-(8):

(2) Signs erected, used, or maintained on a farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, service, or entertainment sold, produced, manufactured, or furnished on such farm.

## WELLS, LAKES, EARTH MOVING ETC. EXEMPTIONS

### **373.313 Prior permission and notification.**

(1) Taking into consideration other applicable state laws, in any geographical area where the department determines such permission to be reasonably necessary to protect the groundwater resources, prior permission shall be obtained from the department for each of the following:

- (a) The construction of any water well;
- (b) The repair of any water well; or
- (c) The abandonment of any water well.

### **373.326 Exemptions.**

(2) Nothing in this part shall prevent a person who has not obtained a license

pursuant to s. 373.323 from constructing a well that is 2 inches or under in diameter, on the person's own or leased property, intended for use only in a single-family house which is his or her residence, or intended for use only for farming purposes

on the person's farm, and when the waters to be produced are not intended for use by the public or any residence other than his or her own, provided that such person complies with all local and state rules and regulations relating to the construction of water wells.

### **373.406 Exemptions. The following exemptions shall apply:**

(1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.

(2) Notwithstanding s. 403.927, nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land, including, but not limited to, activities that may impede or divert the flow of surface waters or adversely impact wetlands, for purposes

consistent with the normal and customary practice of such occupation in the area. However, such alteration or activity may not be for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands. This exemption applies to lands classified as agricultural pursuant to s. 193.461 and to activities requiring an environmental resource permit pursuant to this part. This exemption does not apply to any activities previously authorized by an environmental resource permit or a management and storage of surface water permit issued pursuant to this part or a dredge and fill permit issued pursuant to chapter 403. This

exemption has retroactive application to July 1, 1984.

(3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, dikes, or levees.

## DEFINITIONS STATE LAW

### **163.3164 Community Planning Act; definitions as used in this act:**

(14) “Development” has the same meaning as in s. 380.04.

(16) “Development permit” includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.

(26) “Land development regulations” means ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, except that this definition does not apply in s. 163.3213.

### **163.3213 Administrative review of land development regulations.**

(1) It is the intent of the Legislature that substantially affected persons have the right to maintain administrative actions which assure that land development regulations implement and are consistent with the local comprehensive plan.

(2) As used in this section:

(b) “Land development regulation” means an ordinance enacted by a local governing body for the regulation of any aspect of development, including a subdivision, building construction, landscaping, tree protection, or sign regulation or any other regulation concerning the development of land. This term shall include

a general zoning code, but shall not include a zoning map, an action which results in zoning or rezoning of land, or any building construction standard adopted pursuant to and in compliance with the provisions of chapter 553.

**163.3194 Legal status of comprehensive plan.**

(5) The tax-exempt status of lands classified as agricultural under s. 193.461 shall not be affected by any comprehensive plan adopted under this act as long as the land meets the criteria set forth in s. 193.461.

**380.04 Definition of development.—**

(3) The following operations or uses shall not be taken for the purpose of this chapter to involve “development” as defined in this section:

(e) The use of any land for the purpose of growing plants, crops, trees, and other agricultural or forestry products; raising livestock; or for other agricultural purposes.

**CS/SB 82 — Vegetable Gardens**

CS/SB 82 prohibits a county, municipality, or other political subdivision of the state from regulating vegetable gardens on residential properties. Any local ordinance or regulation regarding vegetable gardens on residential properties is void and unenforceable. The bill provides an exception for local ordinances or regulations of a general nature that do not specifically regulate vegetable gardens, including, but not limited to, regulations and ordinances relating to water use during drought conditions, fertilizer use, or control of invasive species.

The bill defines the term “vegetable garden” as a plot of ground where herbs, fruits, flowers, or vegetables are cultivated for human consumption.

If approved by the Governor, these provisions take effect July 1, 2019.

**FLORIDA ATTORNEY GENERAL OPINIONS**

**Number: AGO 2013-01** (<http://myfloridalegal.com/opinions>)

Date: January 29, 2013

Subject: Nonresidential farm buildings, regulation

**Number: AGO 2001-71** (<http://myfloridalegal.com/opinions>)

Date: October 10, 2001

Subject: Nonresidential farm building, zoning/building permits

**Number: AGO 2009-26** (<http://myfloridalegal.com/opinions>)

Date: June 15, 2009

Subject: Right to Farm Act, residential dwelling



TOWN OF DAVIE CATTLE FARM

## **Agriculture Improvement Act of 2018: Highlights and Implications**

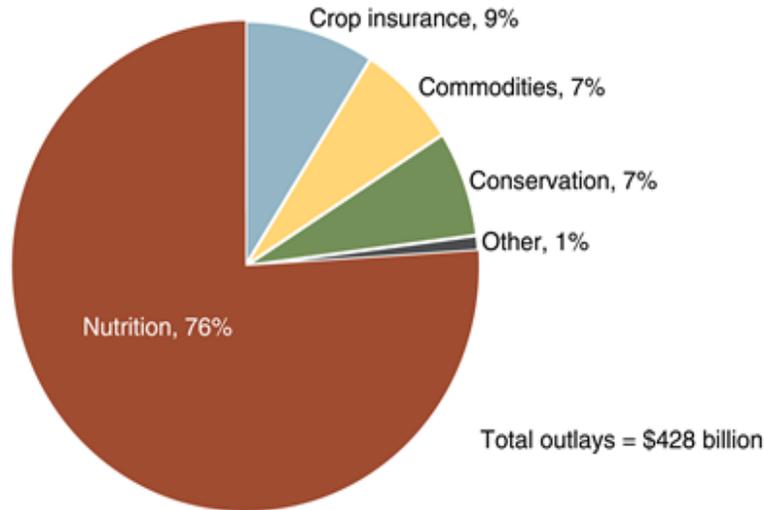
The United States addresses agricultural and food policy through a variety of programs, including nutrition assistance, crop insurance, commodity support, and conservation. Much of the legal framework for agricultural and food policy is set through a legislative process that occurs approximately every 5 years.

The current farm law, the Agriculture Improvement Act of 2018 (2018 Farm Act), was signed on December 20, 2018, and will remain in force through 2023, although some provisions extend beyond 2023. The 2018 Farm Act makes few major changes in agricultural and food policy. Nutrition policy, particularly the Supplemental Nutrition Assistance Program (SNAP), will continue with minor changes. Crop insurance options and agricultural commodity programs will exist much as under the 2014 Farm Act. All major conservation programs are continued, although some are modified significantly. Programs are expanded for trade, research and extension, energy, specialty crops, organic agriculture, local and regional foods, and beginning/socially disadvantaged/veteran farmers and ranchers.

The 2018 Farm Act increases FY2019-FY2023 spending by \$1.8 billion (less than 1 percent) above the level projected for a continuation of the previous farm act. The Congressional Budget Office projects that 76 percent of

outlays under the 2018 Farm Act will fund nutrition programs, 9 percent will fund crop insurance programs, 7 percent will fund conservation programs, 7 percent will fund commodity programs, and the remaining 1 percent will fund all other programs, including trade, credit, rural development, research and extension, forestry, horticulture and miscellaneous programs.

**Projected outlays under the 2018 Farm Act, 2019-2023**



Sources: USDA, Economic Research Service calculations based on Congressional Budget Office estimates.

## Topic Area Highlights and Economic Implications

The core research and data program of the Economic Research Service covers the breadth of USDA programs affected by the 2018 Farm Act: farming, nutrition, conservation, trade, rural development, research, and energy. ERS will provide highlights and summaries of important new programs and provisions, as well as some economic implications of the new farm legislation based on ERS expertise, in the following policy areas:

- Crop Commodity Programs (includes provisions from Titles I and XI)
- Dairy & Livestock (includes provisions from Titles I and XII)
- Conservation (Title II only)
- Trade (Title III only)
- Nutrition (Title IV only)
- Credit (Title V only)
- Rural Development (Title VI only)
- Research, Extension, and Related Matters (Title VII only)
- Energy (Title IX and VII)
- Crop Insurance (Title XI only)

- Specialty Crops (includes provisions from Titles III, IV, VII, X, XI, and XII)
- Organic Agriculture (includes provisions from Titles II, III, V, VII, X and XI)
- Local and Regional Foods (includes provisions from Titles IV, VI, VII, X, XI, and XII)
- Beginning, Socially Disadvantaged, and Veteran Farmers and Ranchers (includes provisions from Titles I, II, V, VII, XI, and XII).

## **ERS Policy-Related Research**

The core research and data program of the Economic Research Service covers the breadth of USDA programs touched by farm legislation.

For further information visit <https://www.ers.usda.gov/agriculture-improvement-act-of-2018-highlights-and-implications/>