



Southwest Ranches Town Council

LOCAL PLANNING AGENCY

Agenda of August 24, 2023

Southwest Ranches Council Chambers
7:00 PM Thursday

13400 Griffin Road
Southwest Ranches, FL 33330

<u>Mayor</u> Steve Breitkreuz	<u>Town Council</u> Bob Hartmann Gary Jablonski	<u>Town Administrator</u> Andrew D. Berns, MPA	<u>Town Attorney</u> Keith M. Poliakoff, J.D.
<u>Vice Mayor</u> Jim Allbritton	David Kuczenski, Esq.	<u>Town Financial Administrator</u> Emil C. Lopez, CPM	<u>Assistant Town Administrator/Town Clerk</u> Russell C. Muniz, MPA

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation, a sign language interpreter or hearing impaired to participate in this proceeding should contact the Town Clerk at (954) 434-0008 for assistance no later than four days prior to the meeting.

1. Call to Order

2. Roll Call

Resolutions

3. LPA RESOLUTION FOR HOME-BASED BUSINESSES ULDC AMENDMENT

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA (“LOCAL PLANNING AGENCY”), RECOMMENDING THAT THE TOWN COUNCIL ADOPT AN AMENDMENT TO THE TEXT OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE (“ULDC”) TO COMPLY WITH SECTION 559.955, FLORIDA STATUTES PERTAINING TO HOME-BASED BUSINESSES, PROVIDING FOR AN EFFECTIVE DATE.

4. LPA RESOLUTION FOR HELICOPTER USE

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA (“LOCAL PLANNING AGENCY”), RECOMMENDING THAT THE TOWN COUNCIL ADOPT AN AMENDMENT TO THE TEXT OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE (“ULDC”) TO REGULATE HELICOPTER USE WITHIN THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

5. Adjournment

PURSUANT TO FLORIDA STATUTES 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, THE AFFECTED PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

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Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330-
2628

(954) 434-0008 Town Hall
(954) 434-1490 Fax

Town Council
Steve Breitreuz, Mayor
Jim Allbritton, Vice Mayor
Bob Hartmann, Council Member
Gary Jablonski, Council Member
David Kuczenski, Esq. Council Member

Andrew D. Berns, MPA, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Russell Muniz, MPA, Assistant Town Administrator/Town Clerk
Emil C. Lopez, CPM, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor Breitreuz and Town Council
VIA: Andrew Berns, Town Administrator
FROM: Jeff Katims
DATE: 8/17/2023
SUBJECT: LPA RESOLUTION FOR HOME-BASED BUSINESSES ULDC AMENDMENT

Recommendation

Staff recommends approval.

A. Sound Governance

Background

Effective July 1, 2021, the Florida Legislature enacted F.S. 559.955 (attached), preempting local governments from regulating several major aspects of home occupations ("home-based businesses" per the statute) differently than other businesses in the jurisdiction. As a result, nearly all of the Town's regulations are at odds with the statute and are amended accordingly in the proposed Ordinance. The Town's regulations are affected as follows:

- The Town can no longer limit home businesses to office use only. The statute does not allow any express use limitations.
- The Town can no longer limit home businesses to ten percent of a dwelling, nor can the use be confined to the dwelling. The Town can only require that home-based businesses are incidental and secondary to a property's use as a residential dwelling.
- The Town can no longer prohibit in-person transactions and provision of services on the property. The statute does authorize restricting retail transactions to the dwelling and not accessory structures.
- The Town can no longer limit onsite employees/personnel to residents of the dwelling. The statute requires the Town to allow two non-residents to participate in the business on

the residential property.

The Town retains the ability to regulate signage, prohibit exterior modifications that are inconsistent with the residential character of the neighborhood, regulate parking and storage of commercial vehicles and equipment, regulate the use and storage of dangerous materials, and regulate equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors, provided the regulations are not more restrictive than those that apply to residential properties without home-based businesses.

Fiscal Impact/Analysis

N/A

Staff Contact:

Jeff Katims

ATTACHMENTS:

Description	Upload Date	Type
Resolution	8/17/2023	Resolution
Exhibit "A" to Resolution	8/17/2023	Exhibit

LPA RESOLUTION NO. 2023-_____

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA (“LOCAL PLANNING AGENCY”), RECOMMENDING THAT THE TOWN COUNCIL ADOPT AN AMENDMENT TO THE TEXT OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE (“ULDC”) TO COMPLY WITH SECTION 559.955, FLORIDA STATUTES PERTAINING TO HOME-BASED BUSINESSES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 559.955, Florida Statutes restricts local government regulation of home-based businesses; and

WHEREAS, the proposed ordinance amends the ULDC to comply with the statute; and

WHEREAS, the Local Planning Agency finds the amendment is required by law.

NOW THEREFORE, BE IT RESOLVED BY LOCAL PLANNING AGENCY OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. ADOPTION OF RECITALS. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. RECOMMENDATION. The Local Planning Agency recommends that the Town Council adopt the proposed amendment, attached hereto and incorporated herein by reference as Exhibit “A”.

Section 3. EFFECTIVE DATE. This Resolution shall be effective immediately upon its passage.

PASSED this ____ day of _____, 2023 on a motion made by Council Member _____ and seconded by Council Member _____.

[Signatures on the Following Page]

Breitkreuz _____
Allbritton _____
Hartmann _____
Jablonski _____
Kuczenski _____

Ayes _____
Nays _____
Absent _____
Abstaining _____

Steve Breitkreuz, Mayor

Attest:

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith Poliakoff, Town Attorney

1001.2381.01

LPA Resolution No. 2023-_____

Page 2 of 3

EXHIBIT "A"
PROPOSED ULDC AMENDMENT

(ATTACHED)

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ORDINANCE NO. 2023 - XXX

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA; AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC"), SECTION 010-030, "TERMS DEFINED," SECTION 035-030, "HOME OFFICES," SECTION 045-050, "PERMITTED AND PROHIBITED USES," AND SECTION 070-120, "PROMOTIONAL SIGNS," PERTAINING TO HOME-BASED BUSINESSES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 559.955, Florida Statutes restricts local government regulation of home-based businesses; and

WHEREAS, this Ordinance amends the ULDC's home-based businesses provisions to comply with Section 559.955 Florida Statutes.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. Ratification. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct, and are hereby incorporated herein and made a part hereof.

Section 2. Amendment. Article 10, "Definition of Terms," Section 010-030, "Terms defined" is hereby amended as follows:

* * *

Contiguous. The term "contiguous" means directly adjoining; immediately adjacent; contiguous plots have at least one (1) side of each plot which touches one (1) side of the other plot with no separator between the plots including, but not limited to, a public right-of-way, private street, or canal.

* * *

Home-based business. A business that operates in whole or in part from a residential plot as a secondary, incidental and accessory use to the residential use of the property, which meets the strict criteria contained in Section 559.955 Florida Statutes, as may be amended from time to time.

Ordinance No. 2023-__

New text is underlined and deleted text is ~~stricken~~

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Section 3. Amendment to Article 35, "Conditional Uses." Section 035-030, "Home offices" is hereby amended as follows:

Sec. 035-030. – Home-based businesses.

Home-based businesses as defined in Article 10, "Definition of Terms," shall be permitted in all residential zoning districts subject to the following limitations:

- (A) Only residents of the single-family dwelling and up to two (2) additional people who do not reside at the dwelling may be engaged in the business at the dwelling. The business may have additional, remote employees that do not work at the dwelling, provided they do not park or store their vehicles on the plot, nor on any public or private right-of-way.
- (B) Any parking or storing of commercial, construction, agricultural or recreational vehicles, equipment and machinery at the home-based business in all residential districts shall be subject to section 045-030(C) "Parking and storage."
- (C) The need for parking generated by the home-based business shall not be greater in volume than would normally be expected at a similar residence where no business is conducted. Vehicles and trailers used in connection with the business shall not be parked within any public or private right-of-way.
- (D) No sign for the home-based business shall be visible from the exterior of the dwelling.
- (E) As viewed from the street, the plot must appear to be consistent with that of the surrounding rural residential areas within the Town, and shall not have the appearance of a business as indicated by physical improvements, equipment, vehicle parking, activity, or other perceivable characteristic. Any external modifications made to a dwelling to accommodate a home-based business must conform to the rural residential character and architectural aesthetics of the neighborhood.

Ordinance No. 2023-____
New text is underlined and deleted text is ~~stricken~~

1 (F) The home-based business shall not conduct retail transactions at a structure
2 on the plot other than the dwelling; however, incidental business uses and
3 activities may be conducted on the plot containing the home-based business.

4 (G) The home-based business shall not create noise, vibration, heat, smoke,
5 dust, glare, fumes, or noxious odors of an intensity, frequency or duration
6 that is not customary for a single-family residential property where no
7 business is conducted.

8 (H) The home-based business shall not use, store or dispose of any corrosive,
9 combustible, or other hazardous or flammable materials or liquids of a type,
10 quantity or manner that are not customary for a single-family residential
11 property where no business is conducted.

12 (I) A certificate of use from the town and business tax receipt from the
13 county shall be obtained for any home-based business.

14 **Section 4. Amendment to Article 45, "Agricultural and Rural**
15 **Districts."** Section 045-050, "Permitted and prohibited uses" is hereby amended
16 as follows:

17 **Sec. 045-050. Permitted and prohibited uses.**

18 Plots in rural and agricultural districts may be used for one (1) or more of
19 the uses that are specified below as being permitted or conditionally permitted
20 uses:

Key to abbreviations:		
P=Permitted use	NP=Not permitted	C=Conditional use

21 * * *

	A-1	A-2	RE	RR
<i>Permitted accessory uses to a single-family dwelling</i>				
* * *				
Home-based businesses (subject to section 035-030 pertaining to conditional uses)	C	C	C	C
* * *				

22 **Section 5. Amendment to Article 70, "Sign Regulations."** Section
23 070-120, "Promotional signs" is hereby amended as follows:

24 (A) Any nonresidential use or commercial enterprise, other than a home-based
25 business, which has been issued a certificate of use, may make application
26 for a temporary sign permit for any of the following purposes:

Ordinance No. 2023-__

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Section 6. Codification. The Town Clerk shall cause this ordinance to be codified as a part of the ULDC during the next codification update cycle.

Section 7. Conflicts. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

Section 8. Severability. If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Ordinance.

Section 9. Effective Date. This Ordinance shall take effect immediately upon passage and adoption.

PASSED ON FIRST READING this ____ day of _____, 2023 on a motion made by _____ and seconded by _____.

PASSED AND ADOPTED ON SECOND READING this ____ day of _____, 2023, on a motion made by _____ and seconded by _____.

[Signatures are on the Following Page]

Breitkreuz	_____	Ayes	_____
Allbritton	_____	Nays	_____
Hartmann	_____	Absent	_____
Jablonski	_____	Abstaining	_____
Kuczenski	_____		

Steve Breitkreuz, Mayor

ATTEST:

Russell Muñiz, MMC, Assistant Town Administrator/Town Clerk

Ordinance No. 2023-____
New text is underlined and deleted text is ~~stricken~~

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2 Approved as to Form and Correctness:

3

4 _____

5 Keith Poliakoff, J.D., Town Attorney

6 1001.2374.01

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Town of Southwest Ranches
13400 Griffin Road
Southwest Ranches, FL 33330-
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(954) 434-0008 Town Hall
(954) 434-1490 Fax

Town Council
Steve Breitkreuz, Mayor
Jim Allbritton, Vice Mayor
Bob Hartmann, Council Member
Gary Jablonski, Council Member
David Kuczenski, Esq. Council Member

Andrew D. Berns, MPA, Town Administrator
Keith M. Poliakoff, JD, Town Attorney
Russell Muniz, MPA, Assistant Town Administrator/Town Clerk
Emil C. Lopez, CPM, Town Financial Administrator

COUNCIL MEMORANDUM

TO: Honorable Mayor Breitkreuz and Town Council
VIA: Andrew Berns, Town Administrator
FROM: Jeff Katims
DATE: 8/17/2023
SUBJECT: LPA RESOLUTION FOR HELICOPTER USE

Recommendation

Staff finds the proposed ordinance consistent with the adopted Comprehensive Plan.

A. Sound Governance

Background

The ULDC does not list the landing and takeoff of helicopters as a permitted use within the Town, and is not--by definition--an accessory use to a single-family residence.

Town staff has received numerous inquiries about the permissibility of helicopter landing pads and helicopter operation from existing and potential residents, realtors, and developers. The proposed Ordinance, passed on first reading, provides regulations to regulate landing and takeoff of helicopters.

Fiscal Impact/Analysis

N/A

Staff Contact:

Jeff Katims

ATTACHMENTS:

Description	Upload Date	Type
Resolution	8/17/2023	Resolution
Exhibit "A" to LPA Resolution	8/17/2023	Exhibit

LPA RESOLUTION NO. 2023-_____

A RESOLUTION OF THE LOCAL PLANNING AGENCY OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA ("LOCAL PLANNING AGENCY"), RECOMMENDING THAT THE TOWN COUNCIL ADOPT AN AMENDMENT TO THE TEXT OF THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC") TO REGULATE HELICOPTER USE WITHIN THE TOWN; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town is a rural residential and agrarian community that seeks to preserve its rural lifestyle; and

WHEREAS, helicopters generate extreme sound, which has been found to impact farm animals by creating extreme stress and fertility problems; and

WHEREAS, the Town Council has initiated an amendment to the ULDC to regulate the use of helicopters within the Town; and

WHEREAS, the Local Planning Agency finds the amendment is consistent with the adopted Town of Southwest Ranches Comprehensive Plan.

NOW THEREFORE, BE IT RESOLVED BY LOCAL PLANNING AGENCY OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

Section 1. ADOPTION OF RECITALS. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. RECOMMENDATION. The Local Planning Agency recommends that the Town Council adopt the proposed amendment, attached hereto and incorporated herein by reference as Exhibit "A".

Section 3. EFFECTIVE DATE. This Resolution shall be effective immediately upon its passage.

PASSED this ____ day of _____, 2023 on a motion made by Council Member

_____ and seconded by Council Member _____.

Breitkreuz _____
Allbritton _____
Hartmann _____
Jablonski _____
Kuczenski _____

Ayes _____
Nays _____
Absent _____
Abstaining _____

Steve Breitkreuz, Mayor

Attest:

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness:

Keith Poliakoff, Town Attorney

1001.2379.01

LPA Resolution No. 2023-_____

EXHIBIT "A"
PROPOSED ULDC AMENDMENT

(ATTACHED)

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ORDINANCE NO. 2023 - XXX

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA, AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE PERTAINING TO THE USE OF HELICOPTERS WITHIN THE TOWN; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town is a rural residential and agrarian community that seeks to preserve its rural lifestyle; and

WHEREAS, helicopters generate extreme sound, which has been found to impact farm animals by creating extreme stress and fertility problems; and

WHEREAS, the Town believes that it is in the best interest of the health, safety, and welfare of the Town and its residents to regulate the use of helicopters within the Town;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA:

SECTION 1: Ratification. That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance.

SECTION 2: Text Amendment. The Town of Southwest Ranches' Unified Landed Development Code shall be amended to include the following provision:

Use of helicopters within the Town

Aside from emergency services providers, law enforcement, and in the case of an emergency, no helicopter may land or takeoff within the Town.

The Town Council, upon a super majority vote, may approve a limited permit for helicopter landings and/or takeoffs provided that the applicant is able to demonstrate the following:

- (1) That residents within 750 feet of the site have been notified of the request;
- (2) That the request is limited to a specific date and time;
- (3) That the request will not be deleterious to the surrounding community;

- (4) That there is no livestock maintained within 750 feet. The applicant is exempted from this provision for their own livestock; and
- (5) That the request has been made at least 60 days in advance; and
- (6) That the landing and/or takeoff site meet FAA standards.

A violation of this provision shall be deemed to cause irreparable harm to the community and shall be enforced to the maximum amount allowed by law.

Nothing herein seeks to usurp the Federal Aviation Administration’s regulation of aeronautic travel. If any of the provisions stated herein conflict with any state or federal law to the contrary, such state or federal law shall take precedence.

SECTION 3: Conflict: All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 4: Severability: If any word, phrase, clause, sentence or section of this Ordinance is, for any reason, held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5: Effective Date: This Ordinance shall be effective immediately upon its adoption.

PASSED ON FIRST READING this ___ day of August, 2023 on a motion made by _____ and seconded by _____.

PASSED AND ADOPTED ON SECOND READING this ___ day of September, 2023 on a motion made by _____ and seconded by _____.

Breitkreuz ____
 Allbritton ____
 Hartmann ____
 Jablonski ____
 Kuczenski ____

Ayes ____
 Nays ____
 Absent ____
 Abstaining ____

[Signatures on Following Page]

Steve Breitreuz, Mayor

Attest:

Russell Muñiz, Assistant Town Administrator/Town Clerk

Approved as to Form and Correctness

Keith M. Poliakoff, J.D.
1001.2346.01