

ORDINANCE NO. 2024-004

AN ORDINANCE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA; AMENDING THE TOWN OF SOUTHWEST RANCHES UNIFIED LAND DEVELOPMENT CODE ("ULDC"), ARTICLE 35, "CONDITIONAL USES," SECTION 035-080, "INDOOR AND OUTDOOR ASSEMBLY IN RURAL AND AGRICULTURAL DISTRICTS," TO AMEND THE LIST OF EXEMPTIONS; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the ULDC establishes a definition for a permissible assembly within Section 035-080(D) and provides for a permit process, subject to Town approval, to allow for assemblies that exceed the intended standards; and

WHEREAS, the Town has received numerous complaints from residents relating to indoor and outdoor assemblies disturbing their quality of life, and impacting their farm animals; and

WHEREAS, the Town believes that the current regulation must be amended to better preserve and protect the Town's rural agrarian community;

WHEREAS, the Town Council finds that the amendment to the ULDC contained herein is in the best interest of and will reasonably protect the health, safety, and welfare of the Town's residents.

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

SECTION 1. Recitals. The above recitals are true, correct and incorporated herein by reference.

SECTION 2. Amendment. Article 35, "Conditional Uses," Section 035-080 "Indoor and Outdoor Assembly in Rural and Agricultural Districts," of the Unified Land Development Code of the Town is hereby amended as follows:

- (D) *Permissible assembly.* Assembly shall be deemed an accessory use of an occupied single-family detached residence when the assembly complies with this subsection, as follows:

1. Assembly is limited to family, friends and acquaintances of the property owner(s) and/or permanent resident(s) of the premises, and their permitted guests.
 2. In no event shall any assembly be held for profit, nor shall there be any admission fee, payment or other consideration, aside from normal congratulatory gifts, given for participation in the assembly or for use of the premises, and in no event shall any assembly be advertised or open to the general public.
 3. Amplified and non-amplified noise from the assembly shall not be audible from within an adjacent dwelling or guest house (with windows and doors closed) from 8:00 p.m. to 9:00 a.m. Sunday through Thursday and 11:00 p.m. to 9:00 a.m. Friday and Saturday. National Holidays shall follow the Friday and Saturday schedule. On New Year's Eve non-amplified noise shall not be audible from within an adjacent dwelling or guest house from 1:00 a.m. on New Year's Day to 9:00 a.m. In no event shall amplified noise from a permitted assembly exceed four hours in duration. This section is supplemental and is not intended to replace Section 27 of the Town's Code concerning noise restrictions. The more stringent of the provisions shall apply.
 4. An assembly with amplified noise shall not occur on any parcel of land within the Town more than two (2) times in any one (1) calendar year period and may only occur upon the proper issuance of a permit by the Town. All such assemblies shall be attended for the full duration by an owner or permanent resident of the premises.
- (E) *Permit submittal requirements.* To apply for an amplified assembly permit, a property owner or permanent resident of the premises shall submit an application to the Town no later than fifteen (15) business days prior to a proposed gathering, detailing at a minimum:
- (1) The proposed date of the gathering;
 - (2) The anticipated number of persons that will be in attendance;
 - (3) Whether there will be any live entertainment or temporary structures;
 - (4) Where the vehicles of attendees will be parked;
 - (5) The cause and extent of the amplified noise;
 - (6) The proposed hours during which the gathering will occur, which in no event can exceed four hours or extend beyond 11:00 p.m.;
 - (7) Any other information stipulated on the application form; and,
 - (8) Any fee and/or deposit that the town council may establish by resolution.
 - (9) Acknowledgement by the applicant that they shall notify all adjacent property owners by U.S. mail, or signed petition, including those directly

across a canal or roadway, at least ten (10) calendar days prior to the event.

- (10) That the applicant posts the issued permit in a conspicuous place that is visible from the street.
- (11) Acknowledgement by the property owner that they shall not allow their guests to park on the Town Right-of-Way.
- (12) In the event that an applicant desires to utilize the swale parking the Town may authorize the use of same provided that the Town finds that such parking will not create a life safety issue and provided that the resident provides the Town with insurance as approved by the Town listing the Town as an additional insured.

- (F) *Disposition of permit.* The town administrator shall determine whether to issue the permit or deny the permit within three (5) business days of a complete application submittal and shall notify the applicant immediately upon such determination. Failure of the administrator to act upon a complete application within the allotted time shall constitute an approval of the application. The town administrator shall approve the application if the administrator finds that it is consistent with all of the following criteria:
- (1) That the proposed gathering, as described on the application, will be consistent with the provisions of this section;
 - (2) That no assembly has occurred in violation of this section within two (2) years preceding the proposed gathering;
 - (3) That neither a code compliance officer nor law enforcement officer has been called to the subject property in relation to a gathering within the two (2) year period preceding the date of the proposed gathering, due to a verified complaint about unpermitted noise, parking, disorderly conduct, litter, property damage, or other similar complaint;
 - (4) That public safety will not be substantially compromised as a result of the assembly; and,
 - (5) That the frequency of recurrence, scale and character of assembly at the location has not and will not disturb the peaceful use and enjoyment of properties in the immediate area.
- (G) *Enforcement and penalty.* The code compliance department and the Town's law enforcement agency are authorized to enforce the provisions of this section to the fullest extent allowed by law, including the authority to shut-down an assembly that is in violation of this section. All amplified noise that exceeds the timeframes set forth herein shall be immediately turned off by the responding officer.

(1) Upon a second violation of this section, no further amplified assemblies shall be permitted on the property for a period of two (2) years from the date of the second violation.

(H) Nothing in this section shall be construed as repealing other laws or code provisions requiring separate applications for permits, such as building or related permits. Those permits must be applied for separately and in accordance with the laws or code provisions governing those activities.

SECTION 3. Severability. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word hereof be declared unconstitutional or invalid, the invalidity thereof shall not affect the validity of any of the remaining portions of this Ordinance.

SECTION 4. Effective Date. This Ordinance shall take effect immediately upon its Passage and adoption.

[Signatures on Next Page]

PASSED ON FIRST READING this 16th day of November, 2023 on a motion made by Council Member Jablonski and seconded by Vice Mayor Kuczenski.

PASSED ON SECOND READING this 25th day of January, 2024 on a motion made by Council Member Hartmann and seconded by Council Member Allbritton.

Breitkreuz	<u>Yes</u>	Ayes	<u>5</u>
Allbritton	<u>Yes</u>	Nays	<u>0</u>
Hartmann	<u>Yes</u>	Absent	<u>0</u>
Jablonski	<u>Yes</u>	Abstaining	<u>0</u>
Kuczenski	<u>Yes</u>		



Steve Breitkreuz, Mayor

Attest:



Debra Ruesga, Town Clerk

Approved as to Form and Correctness:



Keith Poliakoff, Town Attorney
1001.2408.01