



HENDRY COUNTY PLANNING & ZONING  
**STAFF REPORT**  
LOCAL PLANNING AGENCY  
LDC21-0001 – MONTURA RANCH ESTATES

JULY 14, 2021

<b>APPLICANT:</b>	Hendry County BCC
<b>OWNER(S):</b>	N/A
<b>AGENT:</b>	Planning and Zoning Department
<b>ADDRESS:</b>	N/A
<b>PARCEL ID(S):</b>	N/A
<b>EXISTING ZONING:</b>	N/A
<b>FUTURE LAND USE:</b>	N/A
<b>ACREAGE:</b>	N/A
<b>REQUEST:</b>	To amend Land Development Code Chapter 1-53, Zoning, specifically, Section 1-53-2.2, Land Use Classifications and Section 1-53-6.7, Agriculture in nonagriculturally zoned districts, and creating a new Section 1-53-3.9 Rural Residential – Farm (RR-F0 zoning district.

*All required application materials have been received and included in the public hearing materials. An advertisement was placed in the newspaper according to Land Development Code standards.*

### **REQUEST AND BACKGROUND**

This is a County initiated amendment to the Land Development Code to create new regulations for the Montura Ranch Estates Community. The proposed amendments are based on the Land Use Study conducted by Hendry County with the assistance of Waldrop Engineering. These amendments are in conjunction with CPA21-001 Comprehensive Plan amendment.

### **Current Zoning Districts**

Montura Ranch Estates consists of five (5) zoning districts including: Rural Residential Farm (RR-F), Rural Residential (RR), Convenience Commercial (C-1), General Commercial (C-2). The County is not rezoning any of the current zoning districts. Rezoning properties will require privately initiated zoning proposals.

### **STAFF ANALYSIS**

The proposed sections in the LDC to be amended include:

- Chapter 1-53, Zoning, specifically, Section 1-53-2.2, Land Use Classifications – creating definitions for animal enclosures and Hobby farms.
- Section 1-53-6.7 Agriculture in nonagriculturally zoned districts – delete the language specific to the RR-F zoning district and adding Animal Care regulations for both Rural Residential (RR) and RR-F zoning districts. Most of the language related to RR-F were moved to the new section 1-53-3.9. Animal care was already required this new language simply ratifies the requirements.

- Creating a New Section 1-53-3.9, Rural Residential (RR-F) – creating applicability, permitted uses, and prohibited uses.
  - (a) Applicability. The Rural Residential-Farm (RR-F) zoning district shall apply to those parcels as set forth on the Hendry County Zoning Map.
  - (b) Permitted residential uses. Uses permitted shall consist of single-family residential dwellings (site built, modular and mobile homes).
  - (c) Permitted accessory uses and structures. Accessory uses and structures are permitted pursuant to Section 1-53-3.3. In addition, hobby farming is a permitted accessory use pursuant Section 1-53-3.9.3 below.
  - (d) Prohibited residential uses. The following are prohibited for use as a dwelling unit: shipping containers, personal vehicles, recreational vehicles, boats, buses, sheds, and other similar products.
- New Sections 1-53-3.9.1 and 1-53-3.9.2 create development standards for access, drainage, and residential uses standards.
- New Section 1-53-3.9.3 creates standards for domestic farm animals including limitations on the numbers of animals and the grandfathering of the existing farms in excess of the new limitations.
- Revised Section 1-53-6.7 creates Animal care standards for both the RR and RR-F zoning districts.

The complete proposed RR-F zoning district regulations and supplementary amendments are provided as Attachment 1. These regulations establish a comprehensive set of community-specific development standards for both residential and nonresidential uses in the community. The regulations also provide more flexibility in terms of allowable uses and set forth performance standards for non-residential uses that correlate to the locational criteria in the companion future land use category.

Dimensional and Density regulations (setbacks, lot size, lot dimensions and building height) found in Table 53-2 have not changed.

### **Consistency with Comprehensive Plan**

The companion Comprehensive Plan Amendment seeks to re-designate lands within the Study Area to “Montura Ranch” future land use category to provide a more appropriate and flexible range of uses for this rural and predominantly residential community. The proposed LDC amendments are consistent with and complimentary to the companion Montura Ranch future land use category, and the intent of the Hendry County Comprehensive Plan as a whole.

### **CONCLUSIONS**

Based on the Montura Ranch land use study results and the companion Comprehensive Plan amendment, Staff concludes that the proposed amendments to Sections 1-53-2.2, 1-53-6.7 and the creation of new Section 1-53-3.9 meet the intent of the overall Comprehensive Plan.

## **RECOMMENDATION**

Conduct a public hearing and make a recommendation to the Board of County Commissioners to adopt the LDC amendments as proposed.

## **ATTACHMENTS**

1. Strikethrough/Underline Chapter 1-53

Chapter 1-53 - ZONING<sup>11</sup>1-53-2.1A. *Reserved.*

1-53-2.2. *Land use classifications.* For the purpose of this chapter, the following land uses and activities shall be permitted in the respective districts as provided in table 53-1 (Table of Use Regulations) in section 1-53-3.1, below.

The following definitions are hereby established:

*Accessory use or structure* means a use or structure of a nature customarily incidental and subordinate to the principal use or structure and unless otherwise provided, on the same premises. "On the same premises," with respect to accessory uses and structures shall be construed as meaning on the same lot in the same ownership. Where a building is attached to the principal building, it shall be considered a part thereof, and not an accessory building.

*Adult congregate living facility (ACLF)* means a type of residential care facility, defined in F.S. ch. 400, pt. II.

*Agricultural processing* means an industrial use specifically associated with producing, harvesting, processing or marketing of agricultural products.

*Agricultural worker housing* means dwelling units intended for occupancy by persons engaged in agriculture or agricultural processing activities and by families of workers.

*Agriculture* means the use of land for agricultural purposes, including farming, dairying, pasturage, apiculture (beekeeping), horticulture (plants), floriculture (flowers), silviculture (trees), orchards, groves, viticulture (grapes), animal and poultry husbandry, specialty farms, aquaculture, confined feeding operations and the necessary accessory uses for packing, processing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

*Animal, 4-H* means an animal raised on a temporary basis as part of the 4-H youth program administered by the National Institute of Food and Agriculture of the U.S. Department of Agriculture.

*Animal, commercial* means animals raised for commercial purposes.

*Animal, domestic* means any dog, cat, or other historically domesticated companion animal.

*Animal, domestic farm for household use* means any animal, other than a domestic animal as defined herein, which is normally raised for breeding, harness, riding, food, milk, eggs, or wool for personal consumption.

*Animal enclosure* means a fenced area used to confine domestic farm animals for household use.

*Apartment building* means a building that is used or intended to be used as a home or residence for three or more families living in separate quarters with at least one common wall between units. Units are commonly arranged in multi-story buildings and all do not have ground floor or individual entries to the outside.

*Auto salvage/junkyard* means a place where the principal activity is the outside storage and/or processing of wrecked or derelict property having no value other than the nominal salvage value, including wrecked, inoperative, or partially dismantled motor vehicles, trailers, boats, machinery, appliances, furniture, and any other similar article. Storage of more than three inoperable vehicles constitutes a junkyard. In addition, an individual who is restoring, not for profit, a classic or antique vehicle, may have three inoperable vehicles parked on his premises in a fully enclosed building or a back yard completely enclosed by opaque fencing, as long as they are of the same make and model of the vehicle he is restoring.

*B and B* means bed and breakfast inn. These type lodgings are single-family homes converted to inns with one or more rooms to rent for an overnight stay for the traveling public; and, are typically found in historic districts or in homes that are historic in nature. The proprietors live on the premises and include breakfast in the price of an overnight stay.

*Big box retailers or wholesalers* means large stores (e.g. Target, WalMart, Costco, and Sam's Club) that sell a variety of goods and services all in one building that may include a combination of goods traditionally sold at retail general stores, hardware stores, plant nurseries, grocery stores, office supply stores, sewing and hobby shops, appliance and stereo stores; and may include selling services such as photography studios, optical centers, barber/beauty shops, travel agencies, and restaurants. These stores can be retail sales only or wholesale sales that require a membership.

*Boardinghouse and rooming house* means a building other than a hotel, motel, or restaurant, where meals or lodging are provided for a fee for three or more unrelated persons and where no cooking or dining facilities are provided in individual rooms. These type facilities differ from B and B's because they are typically rented to semi-permanent residents rather than the traveling public and for longer stays than one or two nights.

*Community residential home, major*, means a dwelling unit licensed to serve clients of the state department of health and rehabilitative services, which provides a living environment for seven to 14 unrelated residents who operate as the

functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

*Community residential home, minor*, means a community residential home designed to serve fewer than seven residents.

*Conservation* means a use intended to preserve the natural condition of land or water, including buffering of natural areas from other uses. Conservation uses include, but are not limited to, preserves for vegetation and wildlife habitat, habitats for threatened and endangered species or species of special concern, wetlands, sensitive shorelines, and archaeological and historical sites. The definition includes certain activities and improvements which are consistent with the use and protection of conservation areas, including, but not limited to, facilities for scientific and educational study and passive recreation (such as hiking and nature trails).

*Container home* means a shipping container(s) that has been modified and outfitted to function as a permanent residence.

*Convenience commercial* means a retail establishment having an enclosed building area of less than 5,000 square feet, or a group of such establishments not exceeding 15,000 square feet in the aggregate, designed to serve the immediate shopping and service needs of persons within a very small area, including convenience stores (with or without gasoline sales), coin laundries, restaurants, and similar facilities.

*Detailed specific area plan (DSAP)* is a local development order, pursuant to F.S. § 163.3245(3)(b), which implements all or part of a sector plan's long term master plan. An approved DSAP shall be reflected as a "DSAP district" on the county's zoning map.

*Duplex or two-family dwelling unit* means a building consisting of two separate dwelling units, each with its own outside entrance.

*Dwelling, multifamily*, means a residential structure containing two or more separate dwelling units.

*Dwelling, single-family*, means a residential structure built on- or off-site pursuant to standards of construction set forth in chapter 1-58 of this code and consisting of one dwelling unit.

*Dwelling, townhouse*, means a group of three or more but not more than eight dwelling units which are arranged in a row and each of which is joined to the adjacent unit by a common party wall, and each of which shall have its own outside entrance.

*Dwelling, two-family*, means a building consisting of two separate dwelling units, each with its own outside entrance.

*Entertainment establishment* means any tavern, bar, lounge, dancehall, live or motion picture theater, establishment offering live entertainment of any kind, or any establishment the primary activity of which is the sale or rental of sexually oriented books, magazines, videotapes, or devices.

*Essential public or utility facility* means a component of the distribution or collection system for a utility or communication system, such as water and sewer lines, electric lines, telephone or cable television lines, but not including substations, switching stations, or treatment facilities which are defined as "public service/public utility uses."

*Family* means:

- (1) An individual, or two or more persons related by blood, marriage, or adoption; which include only spouse, children, stepchildren, foster children, parents, stepparents, foster-parents, brothers, sisters, grandparents, and stepgrandparents; living together as a single household unit; or
- (2) A group of not more than five persons, who need not be related by blood, marriage, or adoption, living together as a single household unit.

*Final permit* means a permit for land development activity which actually authorizes commencement of construction or development activity, specifically including: building permits, final subdivision plat approval, site development plan approval and site improvement plan approval.

*Floor area ratio (FAR)* means a measurement of the intensity of buildings developed on the site. A floor area ratio is the relationship between the gross floor area on a site and the gross land area. The FAR is calculated by adding together the gross floor areas (square footage) of all buildings on the site and dividing that figure by the gross land area.

*Floriculture* means the cultivation of flowering plants.

*General commercial* includes a variety of general commercial, commercial recreational, entertainment, and related activities. This category includes the following specific uses, and all substantially similar uses:

- (1) Arcades, billiards/pool parlors, bowling alleys, indoor recreation centers and gymnasiums/spas/health clubs.
- (2) Commercial or trade schools, including dance and martial arts studios.
- (3) Department stores and other retail stores.
- (4) Funeral homes and mortuaries.
- (5) Automobile accessory and parts stores and hardware stores without outside storage.
- (6) Grocery stores, supermarkets, convenience stores and specialty food stores (such as meat markets and bakeries).
- (7) Hotels and motels.
- (8) Professional offices.
- (9) Service businesses such as blueprint, printing, catering, tailoring, travel agencies, upholstery shops, laundries/dry cleaners, and light mechanical repair stores (such as camera, TV, or bicycle repair shops).
- (10) Restaurants, other than those with drive-through facilities.
- (11) Shopping centers.
- (12) Theaters and auditoriums.
- (13) Retail plant nurseries.
- (14) Veterinary offices and animal hospitals, provided the facility has no outside kennels.
- (15) Financial institutions.

*General recreation* means an outdoor recreational activity such as: Golf courses, miniature golf courses, golf driving ranges, stables and horse riding areas, marinas, boat docks, boat ramps, fishing piers, community swimming pools, and similar recreational activities, along with community halls, and structures associated with these activities. Specifically excluded are firing ranges and facilities associated with motor sports.

*Heavy industry* means those businesses and activities involving manufacturing, processing, storage, warehousing, and distribution of goods, including outdoor storage and any industrial activity which is conducted outdoors.

*Heavy recreation* means an outdoor recreational activity which is noisy, creates dust or fumes, and/or creates dangers to others in the area, and specifically includes firing ranges and facilities for motor sports.

*High intensity commercial* means those activities which require outdoor storage, have higher trip generations than general commercial uses listed above, or have the potential for greater nuisance to adjacent properties due to noise, light and glare, or typical hours of operation. This group of uses includes the following list of specific uses and all substantially similar activities:

- (1) Vehicle sales, rental, service, and repair, including truckstops, body shops, road services, carwash facilities, and the sales, rental, repair and service of new or used automobiles, boats, buses, farm equipment, motorcycles, trucks, recreational vehicles, and mobile homes.
- (2) Gasoline sales and service, combination gasoline sale and food marts, and similar facilities.
- (3) Restaurants with drive-through facilities.
- (4) Roadside produce stands, temporary or permanent.
- (5) Veterinary offices and animal hospitals with outside kennels.
- (6) Storage yards for equipment, machinery, and supplies for building and trades contractors.
- (7) Flea markets or similar outdoor or indoor/outdoor sales complexes.
- (8) Garbage hauler garage and storage facilities.
- (9) Building, farm, and garden supply facilities.

*Hobby farming* means the production, principally for use or consumption by the property owner, of plants and animals or their products.

*Home* means a site built single-family detached residential structure, modular home, prefabricated home, or container home.

*Home occupation* means an occupation or profession conducted by members of a household residing on the premises and conducted entirely within the dwelling.

*Horticulture* means the growing of flowers, fruits and vegetables for commercial purposes.

*Institution* includes educational facilities (public or private), preschool and day care facilities, libraries, churches or other places of worship, cemeteries without funeral homes, community centers, fraternal lodges, hospitals, religious retreats, assisted living facilities, government owned or operated buildings, structures or land used for public purposes, and all other similar uses.

*Light industrial* means those businesses involving manufacturing, processing, storing, warehousing, or distributing goods, and not involving uses that primarily require outdoor storage or industrial activity which is conducted outdoors. Included in this category are uses that primarily require indoor storage or industrial activity, which is conducted indoors.

*Manufactured home* shall have the meaning set forth in the Florida Building Code — Residential, Section R202.

*Medical or dental office* means an establishment where patients, who are not lodged overnight, are admitted for examination or treatment by persons practicing any form of healing or health-building services whether such persons be medical doctors, chiropractors, osteopaths, chiropractists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State of Florida. A pain management clinic shall not be considered a medical or dental office.

*Medical marijuana treatment center dispensing facility* means a building or structure where marijuana for medical use is dispensed at retail.

*Mining* means surface mining, rock quarries, strip mining, borrow pits, and any other natural resource extraction activities. Buildings and businesses for the refinement, processing, packaging, and transportation of extracted materials are included in this group of uses. Pre-production and exploratory drilling activities are not included.

*Mini-warehouse* means a self-service facility consisting of individual self-contained units used for storage and no other purpose, plus an office/residence for a manager.

*Mixed-use development* means a type of development that includes both residential and nonresidential uses and requires a planned unit development rezoning.

*Mobile home* shall have the meaning set forth in F.S. § 553.36.

*Mobile home subdivision* means an area designated by the county with individually owned lots that is developed with mobile homes, that is in compliance with the requirements of chapter 1-54, subdivision regulations, meets zoning district requirements and is consistent with the comprehensive plan. The area identified as residential-medium density on the future land use map located north of CR 78, east of the Glades County line and west of SR 29 is deemed a mobile home subdivision.

*Modular home* shall have the meaning set forth in the Florida Building Code — Residential, Section R202.

*Neighborhood recreation* means any outdoor recreational activity which is oriented to the needs of persons living in fairly close proximity and specifically includes playgrounds, playfields, ball parks, tennis and basketball courts, and facilities for jogging and cycling.

*Nursing home* means a facility for extended care at a level of medical care less than that delivered in a hospital, but greater than is available in an assisted living facility.

*Open space* means undeveloped lands suitable for passive recreation or conservation uses.

*Pain management clinic* shall mean the same as the definition found in F.S. (2011) § 458.3265(1)(a), as may be amended from time to time. Notwithstanding this definition, the use of the words "wellness center" and "detox center" shall not exempt clinics, facilities or offices which advertise in any medium for any type of pain management services, or employ a medical or osteopathic physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications, from this definition. Such definition shall not include any of the following:

- (1) A clinic that is licensed as a facility pursuant to F.S. ch. 395; or
- (2) A clinic where a majority of the physicians who provide services in the clinic primarily provide surgical services; or
- (3) A clinic that is owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50,000,000.00; or
- (4) A clinic that is owned by, leased by or contractually affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; or

- (5) A clinic that does not prescribe or dispense controlled substances for the treatment of pain; or
- (6) A clinic that is owned by a corporate entity exempt from federal taxation under 26 U.S.C. § 501(c)(3); or
- (7) A facility that is owned or operated by a chiropractic physician licensed under F.S. ch. 460, and does not contract or employ a physician licensed under F.S. ch. 458 or 459, who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications for the treatment of chronic nonmalignant pain; or
- (8) A clinic that is associated with a not-for-profit hospice care provider.

*Parcel of land* means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit.

*Planned unit development (PUD)* means a form of development, usually characterized by a unified site design, for any combination of the following: a number of housing units; clustering buildings; commercial buildings; industrial uses; and common open space. It permits the planning of a project and the calculation of densities over the entire development, rather than on an individual lot-by-lot basis. It also refers to a process, mainly revolving around site-plan review, in which public officials have considerable involvement in determining the nature of the development.

*Plat* means a map or drawing depicting the division of land into lots, blocks, parcels, tracts, sites, or other divisions set forth in F.S. ch. 177, or its successor.

*Prefabricated home* means a home that has structural components (walls, roof and floor systems) constructed in a factory and delivered to the property where it is finished similar to a site-built home.

*Professional service and office* means business and professional offices, medical and dental offices, government offices, and financial institutions without drive-through facilities.

*Public service/utility facility* means those facilities from which essential or important public services are provided and include the following and substantially similar activities:

- (1) Emergency service activities such as buildings, garages, parking and/or dispatch centers for ambulances, fire, police and rescue.
- (2) Transmission towers.
- (3) Utility facilities, such as water plants, wastewater treatment plants, and electricity substations serving 230 kv or greater.
- (4) Maintenance facilities and storage yards for schools, government agencies, and telephone and cable companies.
- (5) LP gas storage and/or distribution facility for over 1,000 gallons.
- (6) Airports, airfields, and truck or bus terminals.

*Recreational vehicle park* means a development designed specifically to allow temporary living accommodations for recreation, camping, or travel use. The definition does not include a mobile home development.

*Rural detailed specific area plan (RDSAP)* is a local development order that provides for the continuation of rural development areas surrounding and adjacent to the compact urban development form of the employment, village, and neighborhood districts within the Southwest Hendry County Sector Plan's long term master plan. This designation shall be consistent with the adopted Southwest Hendry County Sector Plan, and shall be reflected as a "RDSAP district" on the county's zoning map.

*Sector plan* is a comprehensive plan future land use category approved pursuant to F.S. § 163.3245, which encourages long term planning for a large defined area. A sector plan provides a framework for opportunities for economic development, agriculture and conservation on a landscape scale.

*Silviculture* means a branch of the science of forestry dealing with the development, cultivation, and harvesting of forest products.

*Viticulture* means the science of growing grapes and the cultivation of grapevines.

*Warehousing/distribution* means an activity involving the storage of goods or materials before or after manufacture and before final sale or use, and includes trans-shipment of such goods or materials (loading and unloading) but excludes manufacture and processing.

1-53-3.2.-1-53-3.8. [No Change]

1-53-3.9 Rural Residential – Farm (RR-F) Zoning District



- (a) Applicability. The Rural Residential-Farm (RR-F) zoning district shall apply to those parcels as set forth on the Hendry County Zoning Map.
- (b) Permitted residential uses. Uses permitted shall consist of single-family residential dwellings (site built, modular and mobile homes).
- (c) Permitted accessory uses and structures. Accessory uses and structures are permitted pursuant to Section 1-53-3.3. In addition, hobby farming is a permitted accessory use pursuant Section 1-53-3.9.3 below.
- (d) Prohibited residential uses. The following are prohibited for use as a dwelling unit: shipping containers, personal vehicles, recreational vehicles, boats, buses, sheds, and other similar products.

1-53-3.9.1. Development standards. The following standards are supplementary to standards elsewhere in the Land Development Code. In cases where duplicative standards exist, the more restrictive standard applies.

- (a) Minimum access requirements. In order to receive a building permit to construct a residence in the RR-F zoning district the property owner must be able to access the parcel by way of:
  - (1) a public road.
  - (2) a private driveway utilized by no more than three residential parcels meeting the specifications in section 1-53-6.14(b).
  - (3) a private road meeting the specifications in section 1-53-6.14(a), or
  - (4) a new driveway constructed pursuant to a driveway permit issued by the appropriate governmental authority and including installation of a culvert.
- (b) Minimum drainage requirements. The property owner must comply with any applicable requirements set forth by the Florida Department of Environmental Protection, the South Florida Water Management District, and the Central County Water Control District regarding appropriate drainage facilities for the property.

1-53-3.9.2. Residential use standards.

- (1) Single-family residential. Single-family homes may be site-built or manufactured/modular. A mobile home, as defined in Florida Statute 553.36, may be used as a dwelling unit if it meets the building code standards. Recreational vehicles are not considered mobile homes under this definition and are not a permitted residential use.
- (2) Dimensional and density regulations. Residential uses shall comply with 1-53-4.1. Table of dimensional and density regulations that sets forth criteria for minimum lot sizes, front, side and rear setback requirements, lot dimensions, minimum square footage for dwelling units and maximum building heights.

1-53-3.9.3 Hobby farming use standards.

- (a) General standards. Hobby farming is a permitted accessory use to an existing primary residence on parcels zoned RR-F, subject to the following provisions:
  - (1) Farm products may be sold from the property, but signs and roadside stands are prohibited.
  - (2) Domestic farm animals for household use only may be kept on parcels in the RR-F zoning district, provided that the number of animals on a parcel may not exceed the numbers set forth in Table 53-9. The following numeric limits do not apply to animals being raised by children for presentation at a 4-H animal show.

<b>Table 53-9: Domestic Farm Animal Allowances in RR-F</b>		
Animal Category	Maximum number of animals	
	Parcels 1.25 acres or less	Parcels exceeding 1.25 acres
Fowl or Poultry; and	15	30
Goats, Sheep, Hogs, and other small domestic farm animals; and	4	6
Horses, Cows, Donkeys, and other large domestic farm animals	2	3
	Alternative maximum number of animals	

<u>Fowl or Poultry with no other domestic farm animals</u>	<u>30</u>	<u>40</u>
<u>Goats, Sheep, Hogs, and other small domestic farm animals with no other domestic farm animals</u>	<u>6</u>	<u>10</u>
<u>Horses, Cows, Donkeys, and other large domestic farm animals with no other domestic farm animals</u>	<u>3</u>	<u>4</u>

(b) Special permit for domestic farm animals. In order to increase the number, or change the combination options, of domestic farm animal allowances pursuant to Table 53-9, a special permit may be requested subject to the following requirements:

- (1) The application must be submitted to Hendry County on the specified form and shall include:
  - a. A description of the request;
  - b. The total number and type of animals included in the request;
  - c. A site plan showing the facilities required for proper care according to subsection 1-53-6.7(g) and a narrative explaining care procedures;
  - d. Site photos;
  - e. Proof of ownership; and
  - f. Other information deemed necessary by Hendry County staff.
- (2) The county shall consider the following criteria in reviewing the application:
  - a. The allowance of the additional animals will not create a common law nuisance in respect to odor, noise and health or environmental hazards;
  - b. The allowance of the additional animals will be compatible with surrounding uses; and
  - c. The allowance of the additional animals will meet all applicable setback requirements contained in the Land Development Code.
- (3) Notification procedures.

The community development director, upon receipt of an application and fee, shall provide notification of the application to persons owning land within 350 feet of the subject property by first class mail and by posting or having posted a notice on the subject property. The written notice shall clearly state that, unless an objection is filed with the community development director within 15 days from the date of the postmark of the County's notice letter, the director may issue a special permit in accordance with this section. If a written objection is received, the matter shall be presented to the county commission for final decision at a public hearing. Written notice of the public hearing shall be sent to the person(s) objecting and the applicant by first class mail no less than ten days prior to the hearing, and notice shall be published in a newspaper of general circulation within the county no less than five days prior to the hearing. Cost of the public hearing notices shall be the responsibility of the applicant.
- (4) Appeal to board of county commissioners.
  - a. In the event the community development director denies a permit after an application is made hereunder, the applicant may, within 15 days, appeal the denial to the board of county commissioners by completing a form provided by the community development director.
  - b. An appeal filed under this section shall be decided by the board of county commissioners after a public hearing in which notice has been sent to each person who has previously received written notice by first class mail no less than ten days prior to the hearing, and such notice has been published in a newspaper of general circulation within the county no less than five days prior to the hearing.
  - c. At or after such public hearing, the board of county commissioners may grant a permit to the applicant, grant a permit with conditions or deny the application.

- (5) Documentation with the number of animals born, sold, or acquired must be kept on premises to verify the number of animals on a property meets the permit requirements and shall be provided to the County upon request.
- (6) In cases where a property owner with a special permit violates the requirements of this code, the special permit may be revoked and enforcement action may be taken under Chapter 1-51.
- (7) The special permit is not transferable upon change of ownership.
- (c) *Pre-existing hobby farms.* Hobby farms with animals in excess of the limitations in Table 53-9 that were established prior to adoption of the regulations contained in section 1-53-3.9.3, are permitted to continue. The pre-existing hobby farms are required to meet all applicable animal care, property maintenance and nuisance standards. The pre-existing status is not transferable upon change of ownership.

1-53-6.7. (g)

Notwithstanding any other part of this chapter, the following shall apply to the RR-F zoning district:

- ~~(1) Domestic farm animals for household use are allowed without numeric limit, except:
 
  - a. The animals shall be properly enclosed on the possessor's property.
  - b. The animals shall be fed, watered, and cared for in a humane and proper manner.
  - c. The keeping of the animals under this subsection shall not be done in a manner which creates a common law nuisance.
  - d. Animal waste shall not be allowed to remain on the premises in amounts which cause a health or environmental hazard.
  - e. The animals may not be bred for sale and animal products may not be sold.~~
- ~~(2) Barbed wire fences are allowed in this zoning district.~~

Animal care. The following shall apply to the keeping of domestic farm animals for household use in the RR and RR-F zoning districts:

- (1) All animals shall be properly confined on the property. Barns, pens, or shelters for domestic farm animals must be set back a minimum of 15 feet from all property lines, except barns, pens or shelters containing hogs must be set back a minimum of 25 feet from property lines. All barns, pens, and shelters must be located behind the front corners of the dwelling. Fowl or poultry may be free ranging with proper fencing designed to contain the animals within the property boundaries. Fencing for animal enclosures may include barbed wire.
- (2) All animals shall be fed, watered, and cared for in a humane and proper manner.
- (3) The keeping of animals shall not be done in a manner which creates a common law nuisance.
- (4) Animal waste shall not be allowed to remain on the premises in amounts which cause a health or environmental hazard.
- (5) The portions of the property not encumbered by barns, pens or shelters shall be stabilized with landscaping and/or natural ground cover.