

SUMTER COUNTY ORDINANCE NO. 2023-

AN ORDINANCE OF THE SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING CHAPTER 13 LAND DEVELOPMENT CODE; AMENDING SECTION 13-200 DEFINITIONS; AMENDING SECTION 13-312 DEVELOPMENT CLASSIFICATIONS; PROVIDING FOR CONFLICTS AND SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Sumter County (“Board”) adopted the Sumter County Code of Ordinances, which serve as the laws and regulations of Sumter County; and,

WHEREAS, the Board of County Commissioners established land development regulations contained in the Land Development Code, Chapter 13 of the Sumter County Code; and,

WHEREAS, Section 570.85, Florida Statutes, provides that a local government may not adopt or enforce a local ordinance, regulation, rule, or policy that prohibits, restricts, regulates, or otherwise limits agritourism on land classified as agricultural land under Section 193.461, Florida Statutes; and,

WHEREAS, Sumter County has exclusively relied on the agricultural classification of real property by the Sumter County Property Appraiser in reaching its determination as to whether activity occurring on the property constitutes agritourism, and thus exempt from local regulation; and,

WHEREAS, the Attorney General for the State of Florida issued an Attorney General Opinion concluding that a local government may not exclusively rely on the determination of the Property Appraiser, but must make an independent determination as to the existence of agritourism on real property; and

WHEREAS, Section 570.85, Florida Statutes, does not limit the powers and duties of a local government to address substantial offsite impacts of agritourism or an emergency as provided in Chapter 252, Florida Statutes; and,

WHEREAS, Sumter County desires to amend its Land Development Code to provide definitions and classifications to make determinations as to the existence of agritourism on real property; and,

WHEREAS, the Board, after the appropriate publication of notice of its intention to consider this Ordinance, determined that in consideration of the health, safety and welfare of its citizens, it is in the best interests of Sumter County, Florida to approve this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY the Board of County Commissioners of Sumter County, Florida, as follows:

SECTION 1. PURPOSE.

The purpose of this Ordinance is to amend Chapter 13 Land Development Code: Section 13-200 Definitions, Section 13-312 Development Classifications, for the reasons set forth in the above Whereas clauses, which are incorporated herein, *in haec verba*.

SECTION 2. AUTHORITY.

Pursuant to Article VIII, Section I of the Florida Constitution and Sections 125.01 and 125.66 of the Florida Statutes, the Sumter County Board of County Commissioners has all powers of local self-government to perform county functions and render county services and facilities except when prohibited by law, including the authority to amend its Code of Ordinances.

SECTION 3. AMENDMENT OF CHAPTER 13 LAND DEVELOPMENT CODE; SECTIONS 13-200 DEFINITIONS, AND SECTIONS 13-312 DEVELOPMENT CLASSIFICATIONS.

Section 13-200 Definitions shall be amended to add the following:

“Agritourism” means any agricultural-related activity consistent with an existing bona fide farm, livestock operation, or ranch or in a working forest which allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy activities, including farming, ranching, historical, cultural, civic, ceremonial, training and exhibition, or harvest-your-own activities and attractions. Agritourism does not include the construction of new or additional structures or facilities intended primarily to house, shelter, transport, or otherwise accommodate members of the general public. An activity is Agritourism regardless of whether the participant paid to participate in the activity. For purposes of this definition, primarily shall mean more than fifty percent of the time the structure or facility is in use.

“Agritourism operator” means a person who is engaged in the business of providing Agritourism, whether for compensation or not for compensation.

Sec. 13-312. - Development classifications shall be amended as follows:

Replace in its entirety Sec. 13-312(a) with the following:

- (a) Exempt development. A development activity shall be designated as exempt from the review and permitting requirements of this chapter if it meets the criteria contained herein, provided such exemptions are not aggregated to circumvent the purpose and intent of this chapter. Development activity exempt from permitting

shall comply with the applicable land use and development standards requirements of this chapter.

Replace in its entirety Section 13-312(a)(3) with the following:

(3) Agricultural classification.

- a. Nonresidential farm buildings. 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 provision or fee contained in this code, except for code provisions implementing local, state, or federal floodplain management regulations; driveways, swales, and stormwater systems are not considered nonresidential farm buildings.
- b. Bona fide farm operations. Except for applicable federal and state environmental regulations, activity of a bona fide farm operation on land designated with an "agricultural classification" by the County Property Appraiser, where such activity is regulated through implemented best management practices or interim measures developed by the Department of Environmental Protection or the Department of Agriculture and Consumer Services, is exempt from code provisions, enacted after June 16, 2000, that prohibit, restrict, regulate, or otherwise limit the activity of the bona fide farm operation.
- c. Agritourism. Except for applicable federal and state regulations, the regulation of substantial offsite impacts of agritourism , and any applicable declared state of emergency, agritourism on land designated with an "agricultural classification" by the County Property Appraiser, is exempt from code provisions that prohibit, restrict, regulate, or otherwise limit such activity.

SECTION 4. CONFLICTS AND REPEALER.

This Ordinance shall be cumulative of all provisions of the Ordinances of Sumter County, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event all Ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct,

and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. CODIFICATION

It is the intention of the Sumter County Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be reflected and made a part of the Code of Ordinances of Sumter County, Florida, with the exception of Sections 1, 2, 4, 5, 6 and 7. The word "Ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to rescind those sections of the Code declared null and void as set forth herein.

SECTION 7. EFFECTIVE DATE.

Once adopted by the Sumter County Board of County Commissioners, this Ordinance shall become effective immediately upon adoption.

PASSED AND ADOPTED at a duly called session of the Sumter County Board of County Commissioners, this ____ day of _____, 2023.

**GLORIA HAYWARD
SUMTER COUNTY CLERK**

**BOARD OF COUNTY COMMISSIONERS,
SUMTER COUNTY, FLORIDA**

ATTEST:

Deputy Clerk

BY: _____
Craig A. Estep
Chairman

Approved as to form for the reliance of
the Sumter County Board of County
Commissioners, only:

Jennifer C. Rey, Esq.
The Hogan Law Firm,
County Attorney