

Equestrian Preserve Committee

Livestock Discussion

Questions have arisen over the agricultural nature of the properties within the Equestrian Preserve Area and whether the pallet of land uses should be altered. The discussion and recommendations is limited at this time to farm animals/livestock. Staff is bringing this issue to the Equestrian Preserve Committee for discussion and a recommendation to the Village Council. We are bringing this matter forward without a staff recommendation so that review is not hampered by debate over differences between staff and committee opinions.

What is the issue? Wellington's Equestrian Preserve has traditionally been developed to protect and support equestrian activities and venues. This meant that the kind of livestock kept on properties within the EPA has been horses. Over the past number of years, the kinds of livestock and other animals being kept in the EPA has expanded. In some cases, this has created nuisances for adjacent and surrounding property owners. Such expanded agricultural uses include raising chickens, cows, peacocks, pigs, wild boars, etc. Wellington's EPA was never intended to accommodate every kind of farming activity or every kind of livestock animal. Rather, it was envisioned and developed to protect the equestrian lifestyle. So, the decision points are: Is it necessary or desirable to make amendments to the EOZD provisions of the Wellington Land Development Regulations (LDR) to prohibit certain non-equine animals that fall within the broad definition of "livestock" and are currently allowed? Secondly, can this be done without violating State Law? Also, will a reduction of previously allowed types of farm animals effect the agricultural status of the EOZD? A conclusion that no changes should be made, although unlikely, would be an acceptable conclusion.

How big is the problem- Staff has reviewed the record of animal regulation cases in Wellington over the last four years (2019-02022, inclusive). During this time period there were 52 cases, but only 5 of them were in the EOZD. These cases were:

- 2019- Complaint that there were horses occupying a paddock area that had no permits. Disposition-case closed because no permits were required.
- 2020- Complaint that there were chickens being raised and slaughtered on the property. Disposition- case closed because raising chickens in the EOZD is a permitted use and no evidence of a slaughter house could be found.
- 2021- Complaint that there were pigs and wild boars being raised on the property. Disposition- case closed because raising pigs is a permitted use in the EOZD. No evidence of wild boar being kept.

- 2021- Complaint that there were dead cows on the property. Disposition- case closed because no dead cows were found (had been removed). Raising/keeping cows is a permitted use in the EOZD.
- 2022- Complaint that property owner was keeping goats without containment and they were roaming onto neighboring properties. Disposition- Case closed, fencing was provided.

There have been sporadic complaints about the presence of various types of animals being kept on properties within the EOZD where no case was ever opened because the animals involved were, by definition, considered to be livestock and therefore are permitted uses/activities. Most recently, the complaints have been about peacocks. Staff has done some research on Peacocks and has learned the following:

Peacocks- It is clear from the definitions and regulations for traditional farm animals/livestock by the State of Florida, Palm Beach County, Wellington and all other local codes that have agricultural land that the traditional farm provisions for livestock include allowance for all of the traditional farm animals (pigs, cows, goats, sheep, chickens, horses, etc.). Even fish farming (pisciculture or aquaculture) and Bee farming (apiculture) are commonly listed as permitted uses in agricultural areas.

How about peacocks? Wellington has always considered peacocks to be legitimate farm animals. Although seldom specifically mentioned, peacocks have traditionally been allowed and considered farm animals in all codes that we have reviewed. However, complaints received by Wellington relating to farm animals include objections to allowing them. Primarily, objections relate to the noise they make. Our research has concluded that peacocks have been part of farm life for centuries. They are not raised for their meat or eggs. However, they can be considered to be the agricultural industry's first security system. They have keen senses of sight and smell and make considerable noise when a perceived threat is in the area (wolves, coyotes, foxes, etc.). In fact, their use for security predates even fencing. They also kill and eat rats, mice, snakes and insects. They eat plants and grains also, so they are omnivorous. Typically, individual birds are 8-10 lbs., but can be up to about 14 lbs. and live 45-50 years in captivity (15-20 in the wild). They can run or fly at about 10 mph. Genealogically, they are in the pheasant family.

Livestock definitions:

The definitions of livestock contained in the Florida Statutes, the Palm Beach County Code and Wellington's Code are currently very broad. They are as follows:

Wellington Definition- Means breeding, raising and caring for animals pursuant the Fla. Stat. 585.01(13) and 588.13(1). Livestock raising includes keeping and/or stabling horses.

Note that section 585.01(3) defines livestock as follows: "Livestock" means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised

for private use or commercial purposes. Section 588.13(1) further defines livestock as follows: “Livestock” shall include all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.

Palm Beach County Definition- Livestock shall include all animals of the equine (horse, mule, etc.), bovine (cattle), porcine (swine), caprine (goats), ovine (sheep) and domesticated poultry.

Florida Statutes Ch.585.01(13) Definition- Livestock means grazing animals, such as cattle, horses, sheep, swine, goats, other hoofed animals, ostriches, emus, and rheas which are raised for private use or commercial purposes.

Florida Statutes Ch. 585.13(1) Definition- Livestock shall include all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, ostriches, and other grazing animals.

Agriculture:

The definitions of Agriculture are similarly broad.

Wellington Definition- means farming to raise or produce trees, shrubs, vines, foliage and cereal plants and all other plants and plant parts including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber and all products made from them unless excluded by the rules of the Florida Department of Agriculture and Consumer Services and farming to raise or produce any animal or insect useful to humans including but not limited to any product derived therefrom. This shall include but is not limited to horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, apiculture, pisciculture for the production of tropical fish, aquaculture, algaculture, sod farming and wholesale nurseries. It may also include limited marketing on the site for farm products and by-products and attendant accessory uses including processing activities. Agriculture is inclusive of bona fide agriculture pursuant to Fla. Stat. 604.50, farm operations and production pursuant to Fla. Stat. 570.02(1), 581.011(27), 823.14(3)(b) and 823.14(3)(c) and agritourism pursuant to Fla. Stat. 570.86.

Palm Beach County-

- a. Any plot of land where the principal use consists of the growing, cultivating, and harvesting of crops; the raising of animals, inclusive of aviculture, aquaculture, horses, and livestock; the production of animal products such as eggs, honey, or dairy products; or, the raising of plant material. The following standards shall apply to a Bona Fide Agriculture use, except where pre-empted by State Law.
- b. Agricultural Uses in the U/S Tier

1) Applicability- Uses legally established prior to the effective date of this Code in the U/S Tier shall be considered conforming. Any expansion of existing agricultural uses shall be consistent with all applicable requirements and subject to the review procedure identified in this Code.

2) Uses Not Listed- Agricultural uses not listed in Table 4.B.6.A, Agricultural Use Matrix, as permitted in the U/S Tier shall only be permitted as an interim use, subject to Class A Conditional Use approval.

3) AR Zoning District- The AR Zoning District shall be considered consistent with all FLU designations in the U/S Tier for the purposes of permitting interim agricultural uses only.

4) Temporary Agricultural Uses- Property which has an existing Development Order may also receive an additional Development Order for a temporary agricultural use in the U/S Tier in accordance with the standards for the specific agricultural use, however, the agricultural use shall not be eligible for an agricultural tax exemption.

c. Groves and Row Crop The cultivation of fruits and vegetables as groves and row crops shall be subject to the following additional standards in all zoning districts:

1) Lot Size- A minimum of five acres.

2) Setback- Structures and accessory activities shall be set back a minimum of 50 feet.

3) Hours of Operation- of commercial vehicles over one ton rated capacity or gross vehicle weight of 10,000 pounds, including load, from 7:00 p.m. to 6:00 a.m. is prohibited.

4) Loading- All loading and unloading of trucks shall be restricted to the site and shall not be permitted in any setbacks.

5) Spraying- No aerial application of any pesticides, fungicides, fertilizers, or any other chemical shall be allowed.

d. Dipping Vats- Dipping vats shall not be allowed in the AR Zoning District, unless approved as a Class B Conditional Use.

e. Pens and Cages in the AR and AGR Zoning Districts- pens, cages, or structures shall meet the district setbacks for a principal use, or be set back a minimum of 50 feet from any property line, whichever is greater.

f. Game and Exotic Animals:

The Florida Fish and Wildlife Conservation Commission (FWC) regulates game farms or game animal care for private or commercial purposes.

1) Exotic Animals- Care for exotic animals (imported or non-native animal species) for private or commercial breeding purposes shall have a minimum lot size of five acres.

2) Dangerous or Class 1 and 2 Animals- Ownership, care, or keeping of dangerous or Class 1 and 2 animals, as defined by the FG&FWFC, shall require Class A Conditional Use approval and shall have a minimum lot size of five acres.

g. Livestock Raising:

The breeding, raising, and caring for domestic animals including horses.

1) Urban Service Area (USA)- In the Urban Service Area, livestock raising shall comply with the following standards:

a) Lot Size- A minimum of five acres.

b) Setback- All accessory uses and structure, such as troughs, feed mechanisms and storage, shall be set back a minimum of 100 feet.

c) Large Animals- The maximum number of large animals permitted for each acre shall not exceed five. Large animals shall include horses, swine, cattle, goats, and sheep. An enclosed structure with one stall for each large animal is required when the total number of large animals exceeds three per acre. In addition, the following limitation on the number of specific large animals per acre shall apply: horses: five; swine: one; cattle: two; goats: two; sheep: two.

d) Small Animals- The maximum number of small animals permitted for each acre shall not exceed 100. Small animals shall include rabbits and fowl, excluding peafowl. Small animals shall be permitted in addition to large animals.

e) Palm Beach County Animal Control Department (PBCACD)- The Property Owner shall notify PBCACD as to the type of livestock and details of animal care to be provided.

f) Processing and Slaughtering- Processing and slaughtering shall be prohibited.

g) Loading All loading and unloading of trucks- shall be restricted to the site and shall not encroach any setback.

h) Waste- A plan outlining a method of waste removal shall be submitted to and approved by the PBC Health Department.

i) Compatibility- The use shall assure that there is no incompatibility with surrounding land uses. In the event that an incompatibility exists, the petitioner shall satisfactorily mitigate the incompatibility prior to receiving Conditional Use or DRO approval

Possible Courses of Action:

1. Do nothing. Require individual property owners to bring a private nuisance action if the keeping of livestock or other animals is interfering with their right to enjoy their properties.
2. Revise Wellington's definition of livestock to limit it to horses and prohibit the raising of other hoofed or grazing animals.

Legal Considerations:

It is the public policy of Florida to promote agriculture. In furtherance of that policy, the Florida Legislature has placed certain limitations on the ability of local governments to regulate agriculture and has eliminated duplication of regulatory authority over farm operations.

Section 823.14, known as the Right to Farm Act, protects farm operations from being liable for a public or private nuisance where the farm has been in operation for one year or more and was not a nuisance at the time it was established, so long as its farm operation conforms with generally accepted agricultural practices. It does not, however, permit a farm operation to change to a more excessive operation with respect to noise, odor, dust or fumes where the farm operation is adjacent to an established homestead or business that existed on March 15, 1982. It further eliminates the duplication of government regulation as follows:

(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.

The above language, while placing certain limitations on local governments, is not a bar to every kind of agricultural regulation whatsoever. Rather, it preempts local governments from regulating "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." So, for example, local governments could not implement regulations that control the water quality and water conservation associated with poultry farms because those are regulated by the Florida Department of Agriculture and Consumer Services, but they may still exercise their home rule powers to adopt zoning and land use regulations, pursuant to Chapter 163, Florida Statutes, to expand or limit agricultural uses of land.

Therefore, if the Committee recommends revising Wellington's definition of livestock or limiting the kinds of animals that are permitted within the EPA, such limitations would not run afoul of the Right to Farm Act.