

**COUNTY OF HENDRY, STATE OF FLORIDA**

**ORDINANCE NO. 2019 - 12**

**RECORDED IN ORDINANCE BOOK XXI, PAGE 80**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF HENDRY COUNTY, FLORIDA, AMENDING THE HENDRY COUNTY CODE OF ORDINANCES, CHAPTER 1-53, ZONING, SPECIFICALLY, SECTION 1-53-2.1, ESTABLISHMENT OF DISTRICTS; SECTION 1-53-2.2, LAND USE CLASSIFICATIONS; TABLE 53-1, TABLE OF USE REGULATIONS; SECTION 1-53-3.7 AGRICULTURAL TRANSITIONAL DISTRICT; CREATING A NEW SECTION 1-53-3.7.1, WHEELER ESTATES DEVELOPMENT STANDARDS; AND AMENDING TABLE 53-2, TABLE OF DIMENSIONAL AND DENSITY REGULATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR CODIFICATION, INCLUSION IN CODE, AND SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Hendry County has adopted the Hendry County Land Development Code pursuant to the authority granted by the Florida Constitution, Florida Statutes, and Laws of Florida; and

**WHEREAS**, the purpose of the Code is to provide for orderly growth, to encourage the appropriate use of land, to discourage incompatible uses of adjacent properties, and to implement goals and objectives to the Hendry County Comprehensive Plan; and

**WHEREAS**, the County has determined there is a need to amend Section 1-53-2.1, Establishment of Districts; Section 1-53-2.2, Land Use Classifications; Table 53-1, Table of Use Regulations; Section 1-53-3.7, Agricultural Transitional District; and Table 53-2, Table of Dimensional and Density Regulations; and

**WHEREAS**, the County has determined there is a need to create a new Section 1-53-3.7.1, Wheeler Estates Development Standards;

**WHEREAS**, the Hendry County Local Planning Agency has considered the proposed amendments to the Code of Ordinances and conducted a public hearing to receive public input.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Hendry County, Florida, that:

**SECTION ONE.** Sections 1-53-2.1, 1-53-2.2, Table 53-1, Section 1-53-3.7 and Table 53-2 are hereby amended and the new Section 1-53-3.7.1 is created in accordance with Exhibit "A" and incorporated by reference herein.

**SECTION TWO. SEVERABILITY**

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION THREE. CONFLICTS OF LAW**

Whenever the requirements or provisions of this ordinance are in conflict with the requirements or provisions of any other lawfully adopted Hendry County Ordinance or Florida Statutes, the more restrictive shall apply.

**SECTION FOUR. CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS**

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Hendry County Code; and that sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the County Administrator, or the County Administrator's designee,

without need of public hearing , by filing a corrected or re-codified copy of same with the Clerk of Circuit Court.

**SECTION FIVE. EFFECTIVE DATE**

This Ordinance shall take effect immediately upon its filing with the Secretary of State.  
Duly passed and adopted in Regular Session of the Board of County Commissioners of Hendry County, Florida this 28<sup>th</sup> day of May 2019.

ATTEST:

  
Barbara Butler, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF HENDRY COUNTY, FLORIDA

  
Mitchell Wills, Chair



**Chapter 1-53 - ZONING**

Sec. 1-53-1. - Zoning map. *No change.*

Sec. 1-53-2. - Zoning districts.

1-53-2.1. *Establishment of districts.* For the purposes of this chapter, the following zoning districts are hereby established for use within the county:

A-1	Agriculture/Conservation
A-2	General Agriculture
<del>A-3</del> RR-WE	<del>Agriculture Transitional</del> Rural Residential – Wheeler Estates
RR	Rural Residential
RR-F	Rural Residential Farm
RG-1	Residential/Low Density
RG-1M	Residential/Low Density—Mobile Home
RG-2	Residential/Medium Density
RG-2M	Residential/Medium Density—Mobile Home
RG-3	Residential/High Density
RG-3M	Residential/High Density—Mobile Home
RG-4	Residential/Multifamily
C-1	Convenience Commercial
C-2	General Commercial
C-3	High Intensity Commercial
I-1	Light Industrial
I-2	Heavy Industrial

PUD	Planned Unit Development
DSAP	Detailed Specific Area Plan
RDSAP	Rural Detailed Specific Area Plan

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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:

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

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, commercial means animals raised for commercial purposes.

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**Sec. 1-53-3. - Zoning districts.**

1-53-3.1. *Table of use regulations.* Table 53-1 lists the principal uses which will be permitted on a parcel or lot in the zoning districts established in this chapter. No person or other entity may place a structure or conduct an activity, or allow a structure or an activity to occur, on land within any zoning district in the county when such use is not a use permitted by right within that zoning district as set forth in table 53-1, except that a structure or activity may be allowed by special exception granted pursuant to the provisions of chapter 1-51 in a zoning district where such structure or use is shown as a use permitted by special exception in table 53-1, and except that a use which is permitted in a zoning district county-wide by a specific provision of this code shall be allowed pursuant to that provision notwithstanding table 53-1. All uses must comply with section 1-53-6.13, Airports.

TABLE 53-1. TABLE OF USE REGULATIONS

Zoning Districts														
Land Use or Activity	A-	A-	A-3	RR	R	RG	RG	RG	RG	C-	C-	C-	I-	I-2
					R-	-1	-2	-3						

		1	2	<u>RR- WE</u>		F	RG - 1M	RG - 2M	RG - 3M	-4	1	2	3	1
<b>(a) Agricultural uses.</b>														
(1)	Agriculture	P	P	P/4	P/1	P	—	—	—	—	S	S	S	P P
(2)	Agricultural processing	—	S	—	—	—	—	—	—	—	—	—	S	P P
(3)	Agricultural worker housing	—	S	—	—	—	—	—	—	—	—	—	—	—
(4)	Hunting camp	P	P	—	—	—	—	—	—	—	—	—	—	—
<b>(b) Residential uses.</b>														
(1)	Boardinghouse and roominghouse	—	—	—	—	—	—	—	S	S	—	—	—	—
(2)	Community residential home, major	—	—	—	—	—	—	—	P	P	—	—	—	—
(3)	Community residential home, minor	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	P/3	—	—	—	—
(4)	Mobile home	P	P	—	P	P	P	P	P	—	S	—	—	—
(5)	Mobile home park	—	—	—	—	—	—	—	S/2	—	—	—	—	—
(6)	Multifamily dwelling	—	—	—	—	—	—	—	—	P	—	—	—	—







(8)	Neighborhood recreation	—	P	P	P	P	S	S	S	P	P	P	P	P
(9)	Public service/public utility	S	S	S	S	S	S	S	S	S	S	S	S	S

—	Use not permitted in this district.
P	Use permitted by right in this district.
S	Use permitted by special exception in this district.
P/1	Use permitted subject to provisions of section 1-53-6.7.
P/2	Use permitted by planned unit development in this district subject to provisions of section 1-53-5.
S/2	Mobile home park by special exception in RG-3M district only.
P/3	A minor community residential home must have a minimum separation of 1,000 feet from another minor community residential home and shall provide the planning and community development department with a list and location of all licensed facilities in the county to ensure the 1,000 feet separation is met.
P/4	<del>Agriculture</del> <u>Agricultural</u> uses in the <del>A-3</del> <u>RR-WE</u> district are permitted in accordance with <u>Section 1-53-3.7.1.e. limited to horticulture, floriculture, silviculture, and viticulture.</u>
<u>5</u>	<u>Use allowed by planned unit development in the RR-WE district subject to the provisions of section 1-53-3.7</u>

1-53-3.2. **No change.**

1-53-3.3. **No change.**

1-53-3.4. **No change.**

1-53-3.5. **No change.**

1-53-3.6. **No change.**

1-53-3.7 ~~Agricultural transitional district.~~ Rural Residential Wheeler Estates zoning district.

Applicability. The Rural Residential - Wheeler Estates (RR-WE) zoning district shall apply to those parcels formerly zoned agricultural transitional (A-3) and RG-1 as set forth on the Hendry County Zoning Map, and generally located in the west one-half of Sections 6, 7, 18, 19, 30, and 31, Township 44 South, Range 28 East, Hendry County, Florida. Those parcels located within the aforementioned Sections, Township and Range that are zoned agriculture, industrial and general commercial shall remain in those zoning districts, but may be rezoned to RR-WE by the property owner.

Permitted Uses. Uses permitted within Wheeler Estates shall consist of single-family residential dwellings, accessory structures, and small-scale agricultural uses that are accessory to permitted residential uses. Limited, neighborhood-scale non-residential uses, institutional uses, and recreational uses are permitted subject to the provisions set forth herein.

Prohibited uses. In accordance with Table 53-1, residential development in the RR-WE zoning district is limited to single-family homes. Mobile homes and RVs as living quarters are specifically prohibited in this district.

~~The agricultural transitional district was established specifically for the Wheeler Estates development. The minimum lot size for the agricultural transitional district is five acres, unless the lot received a vested rights determination as a nonconforming lot of record for a lot size less than five acres, or it is one of the 771 lots remaining as of October 22, 2013, which is less than five acres and did not receive a vested rights determination. The lots smaller than five acres remaining as of October 22, 2013, without a vested rights determination are listed in exhibit A to Ordinance No. 2014-02. The lots may be used for the placement of single family homes provided that setbacks and other requirements of the district shall conform to the regulations established herein.~~

~~Residential development in this district is limited to single family homes. Mobile homes are specifically prohibited in this district.~~

~~In order to receive a building permit to construct a single family home in the Wheeler Estates development, the property owner must provide evidence with the building permit application that he/she: 1) has legal access to the property from a public road, and 2) will construct a private driveway in accordance with county specifications unless and until a private road is required to provide access to the property, and 3) will participate in a private road agreement with other landowners to construct a private road to county specifications when development warrants such construction, and 4) that the lot (a) is at least five acres in size, (b) previously received a vested rights determination or (c) is on the list of lots vested by way of Ordinance No. 2014-02.~~

~~Further, 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/or the East County Water Control District regarding appropriate drainage facilities for the property.~~

(b)

~~Applicability.~~ The provisions of this section shall apply in the west one-half of Sections 6, 7, 18, 19, 30, and 31, Township 44 South, Range 28 East, Hendry County, Florida. The zoning

~~established by Resolution Number 81-18, approved April 14, 1981, Ordinance No. 2002-07, approved January 22, 2002, and Ordinance No. 2002-26, approved September 23, 2002, remains in effect.~~

1-53-3.7.1 Wheeler Estates Development Standards.

- (a) Minimum access requirements. In order to receive a building permit to construct a single-family home in the Wheeler Estates zoning district the property owner must be able to access his or her parcel by way of 1) a private driveway utilized by no more than three residential parcels meeting the specifications in Sect. 1-53-6.14(b) or 2) a private road meeting the specifications in Sect. 1-53-6.14(a) except paving of the road will not be required. Private roads shall be constructed by the joint efforts of the owners of the residential parcels served by the road or, in the event the affected owners will not or do not construct the private road, the County shall, if it possesses easement rights over all necessary lands, construct the private road and specially assess the owners of the residential parcels served by the road for the costs to construct and maintain the road.
- (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 Lehigh Acres Municipal Services Improvement District regarding appropriate drainage facilities for the property.
- (c) Residential use standards. Residential uses shall be the principal use in the RR-WE zoning district. Construction and design standards shall comply with all applicable regulations in the LDC unless superseded herein.
- (d) Non-residential use standards. The following standards apply to all development, redevelopment and expansion of existing and permitted non-residential development within its boundaries, unless otherwise specified.

  - (1) Locational criteria. Non-residential uses must be located on improved roadways meeting the standards set forth in Section 1-53-6.14(a) and must have direct access to one of the following roadways: Wheeler Road, 10<sup>th</sup> Place, 2<sup>nd</sup> Place, or 16<sup>th</sup> Terrace.
  - (2) Planned unit development rezoning or special exception required. All non-residential development must be reviewed and approved through the Planned Unit Development rezoning process or special exception process.
  - (3) Design standards. Commercial buildings shall utilize materials that reflect the rural character.

    - i. Building materials. Traditional building materials, such as cedar, clapboard siding, masonry, stone, brick, wood, or other materials that achieve the same quality in appearance are acceptable. Aluminum, corrugated metal, and shipping containers are prohibited.

- ii. Building color. Building colors must be neutral, warm earth tones or subdued pastels. Brighter colors may be utilized on doors, windows, trim, and architectural details. The use of black and primary colors is limited to trim. Neon and fluorescent colors are prohibited.
- (4) Landscape buffers. All non-residential development must provide a 15'-wide Type "B" landscape buffer along private and/or public roadway/easement frontages, in accordance with Chapter 1-58, Article III. The clustering of trees and shrubs may be permitted.
- (5) Signage. Each parcel shall be allowed one (1) freestanding, ground sign not to exceed 32 square feet in sign face area and eight (8) feet in height, and one (1) of the following sign types, not to exceed 16 square feet in sign face area: projecting, wall, or marquee. Electronic and messaging signage is prohibited.
- (e) Agricultural use standards. New, non-commercial agricultural uses that are accessory to principal single-family residential uses may be initiated on parcels zoned RR-WE, subject to the following provisions:
  - (1) Existing commercial agricultural uses on RR-WE zoned properties may be continued, until such time as the use is discontinued for a period of one (1) year or more.
  - (2) Permitted uses include the keeping of domestic farm animals for household use, green houses, and gardens. These uses shall only be permitted as an accessory use to the residential use.
  - (3) Domestic farm animals for household use only, may be kept on parcels of any size in the RR-WE zoning district, provided that the number of animals on a parcel may not exceed the number set forth in the table below.

The following list is not cumulative for each parcel with the exception of poultry and hogs, which are permitted for each parcel regardless of size. For example, a 1.25-acre parcel is permitted a maximum of one (1) horse or cow, two (2) hogs and ten (10) poultry. A 2.5-acre parcel is permitted one horse and one (1) cow, four (4) hogs, and fifteen (15) poultry.

	<u>On parcels not exceeding 1.25 acres:</u>	<u>Allowed per additional 1.25 acres:</u> <u>(no fractional calculations permitted)</u>
<u>(1) Horses, donkeys and/ or mules</u>	<u>1</u>	<u>1</u>
<u>(2) Cows</u>	<u>1</u>	<u>1</u>
<u>(3) Hogs</u>	<u>2</u>	<u>2</u>

(4)	<u>Goats and/or sheep</u>	<u>5</u>	<u>3</u>
(5)	<u>Poultry</u>	<u>10</u>	<u>5</u>
(6)	<u>4-H animals, as defined in this chapter, are not subject to these restrictions.</u>		

(4) Notwithstanding any other part of this section, the following shall apply to the keeping of domestic farm animals in the RR-WE zoning district:

- (i) All animals shall be properly enclosed on the property.
- (ii) All animals shall be fed, watered, and cared for in a humane and proper manner.
- (iii) The keeping of animals under this subsection shall not be done in a manner which creates a common law nuisance.
- (iv) Animal waste shall not be allowed to remain on the premises in amounts which cause a health or environmental hazard.

(f) Public participation.

(1) The owner or agent applying for the following types of approvals that are within or nearby the community, as determined by the Planning & Community Development Director, must conduct one (1) public information meeting prior to being scheduled for public hearing(s):

- a. Comprehensive Plan Amendments
- b. Planned unit development zoning actions.
- c. Conventional rezoning actions.
- d. Special exceptions.

(2) Public information meeting requirements. The applicant is responsible for providing the meeting space and providing notice of the meeting. Hendry County Staff must be notified and in attendance.

Sec. 1-53-3.8. *No change.*

Sec. 1-53-4. - Dimensional and density regulations.

1-53-4.1. *Table of dimensional and density regulations.* Table 53-2 sets forth criteria for minimum lot sizes, front, side and rear setback requirements, lot dimensions, and minimum square footage for dwelling units and maximum building heights for the location of structures within the several zoning districts established in this code. Except as specifically allowed elsewhere in this code, no structure may be hereafter built, located, or erected in any zoning district on a lot which does not meet the minimum lot size or minimum lot dimensions set forth in Table 53-2 for the respective zoning districts, or which is located closer to a lot line than the minimum setback distances set forth in Table 53-2 for the respective zoning districts, or which has fewer than the minimum square feet of living area (dwelling units only, not including

porches, sheds or garages) or which exceeds the maximum building heights set forth in Table 53-2. Mobile homes, when allowed in a zoning district, must have a minimum of 500 square feet of floor space as manufactured. All structures must comply with section 1-53-6.13, Airports.

TABLE 53-2. TABLE OF DIMENSIONAL AND DENSITY REGULATIONS

District/Use	Minimum Lot Size (1)	Minimum Setbacks			Minimum Lot Dimensions			Maximum Building Height (feet)	Minimum Dwelling Size (square feet)	Minimum Mobile Home Size (square feet)
		Front (feet)	Side (feet)	Rear (feet)	Width (feet)	Depth (feet)	Cover (percent)			
A-1, all uses	20 acres	50	50	50	400	—	—	35	600	500
A-2, all uses	5 acres (2)	50	25	40	200	200	—	35	600	500
<del>A-3 RR-WE, Residential Uses (3)</del>	<del>Lot not less than 5 1.1 acres,</del>	<del>35</del> <del>25</del>	<del>15</del>	<del>35</del> <del>15</del>	<del>135</del>	<del>200</del>	<del>—</del>	<del>35</del>	<del>800</del> <del>1,000</del>	<del>—</del>
<del>A-3 Agriculture Uses</del>	<del>4-acre</del>	<del>35</del>	<del>45</del>	<del>25</del>	<del>135</del>	<del>200</del>	<del>—</del>	<del>35</del>	<del>800</del>	<del>—</del>
<del>RR-WE Non Residential Uses (3)</del>	<del>1 acre</del>	<del>25</del>	<del>15</del>	<del>15</del>	<del>135</del>	<del>200</del>	<del>50%</del>	<del>35</del>	<del>—</del>	<del>—</del>
RR:										
Flaghole	1 acre	40	15	25	150	200	—	35	600	500
Pioneer Plantation	2 acres	40	15	25	150	200	—	35	600	500
Fort Denaud	2 acres	40	15	25	150	200	—	35	600	500
Big Oak Acres Units 1 and 2	5 acres	40	15	25	150	200	—	35	600	500
All others	2 acres	40	15	25	150	200	—	35	600	500

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RR-F: Montura	1.10 acres	40	15	25	150	200	—	35	600	500
RG-1 and RG-1M, all uses	1 acre	40	15	25	150	200	—	35	800	500
RG-2 and RG-2M:										
a. Single-family dwelling or mobile home	21,780 sf	35	15	25	100	150	—	35	600	500
b. All other uses	1 acre	40	15	25	150	200	—	35	—	—
RG-3 and RG-3M:										
a. Single-family dwelling or mobile home	7,500 sf	25	10	15	75	100	—	35	600	500
b. All other uses	1 acre	40	15	25	150	200	50	35	—	—
RG-4:										
a. Single-family dwelling	7,500 sf	25	10	15	75	100	—	35	600	—
b. Two-family dwelling	10,000 sf	40	15	25	100	100	—	35	400	—
c. Townhouse dwelling:										
Interior unit	1,500 sf	15	—	25	20	75	—	35	400	—
End unit	2,500 sf	15	15	25	25	75	—	35	400	—
d. Multifamily	1 acre	40	15	25	150	200	50	35	400	—
e. All other uses	1 acre	40	15	25	150	200	50	35	—	—
C-1, all uses	10,000 sf	40	15	25	100	100	40	35	—	—

C-2, all uses	10,000 sf	40	15	25	100	100	40	35	—	—
C-3, all uses	10,000 sf	40	15	25	100	100	30	35	—	—
I-1, all uses	10,000 sf	40	15	25	100	100	30	35	—	—
I-2, all uses	10,000 sf	40	15	25	100	100	30	35	—	—
PUD	See section 1-53-5									
DSAP	See section 1-53-7									
RDSAP	See section 1-53-8									

**Notes:**

- (1) Minimum lot size for individual use. Overall residential density and minimum lot sizes may vary pursuant to pertinent provisions of the comprehensive plan and LDC.
- (2) Existing recorded parcels within the agriculture future land use category which are less than the minimum five (5) acre lot size for residential uses are considered "vested" for residential uses as of January 1, 2015. The lots must meet the other provisions of the land development code.
- (3) Setbacks shall be from the road right-of-way, easement, or property line, whichever is more restrictive.

1-53-4.2. *Dimensional measurements. No change.*

1-53-4.3. *No change.*

Sec. 1-53-5. - PUD district. *No change.*

Sec. 1-53-6. - Supplemental regulations. *No change.*

Sec. 1-53-7. - DSAP district. *No change*

Sec. 1-53-8. - Rural DSAP district. *No change*