

AGRICULTURE EXEMPTIONS

INTERPRETATION OF FLORIDA STATUTE SECTION 553.73, FLORIDA BUILDING CODE SUB-SECTION 553.73 (8) (c) (permit exemptions)

553.73 (8) F.S. The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

- (a) Buildings and structures specifically regulated and preempted by the Federal Government.**
- (b) Railroads and ancillary facilities associated with the railroad.**
- (c) Nonresidential farm buildings on farms.**
- (d) Temporary buildings or sheds used exclusively for construction purposes.**
- (e) Mobile or modular structures used as temporary offices, except that the provisions of part V relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.**
- (f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.**
- (g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.**
- (h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code.**
- (i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.**

The following definitions are essential to correctly interpret the Florida Building Code and implement the intent of the legislation that promulgated the exemption under the Florida Statutes.

823.14 (a) F.S. "Farm" means the land, buildings, support facilities, machinery, and other appurtenances used in the production of farm or aquaculture products.

604.50 F.S. Nonresidential farm buildings.--Notwithstanding any other law to the contrary, any nonresidential farm building is exempt from the Florida Building Code and any county or municipal building code. For purposes of this section, the term "nonresidential farm building" means any building or support structure that is used for agricultural purposes, is located on a farm that is not used as a residential dwelling, and is located on land that is an integral part of a farm operation or is classified as agricultural land under 193.461 F. S.

Levy County Building Department's Interpretation of 553.73 (8) (c) F.S.
(Section 101.4.2 Building, of the Florida Building Code)

"Nonresidential farm buildings on farms"- means any nonresidential structure constructed on a farm for the purpose of supporting the production of farm or aquaculture products. (i.e. farm maintenance shops, farm office buildings that do not include dwelling units or barracks, packing sheds, drying sheds, loading docks and ramps, hay barns, horse barns without dwelling units or barracks under the same roof, cow barns, chicken coops, poultry facilities, milking parlors, hog parlors, veterinarian facilities located on the farm for the care and maintenance of the farm owner's animals, clam raceways, walk-in coolers and similar agriculture and aquaculture primary structures, support structures and support facilities)

"Residential farm buildings on farms" - means any habitable or non-habitable residential structure or residential accessory structure; or any structures supporting residential uses, including primary or accessory uses. (i.e. dwellings, guest houses, horse barns with dwelling units or barracks under the same roof, carports, porches, hobby shops, work shops, free standing garages, pet shelters, storage buildings used for storing non-farm related vehicles or materials, docks used for recreational purposes, swimming pools, masonry fences or other structures used for landscaping or residential purposes or similar nonagricultural purposes)

Compliance with County Land Development Regulations

"There is no statutory provision exempting nonresidential farm buildings from compliance with County Land Development Regulations: however, local governments are prohibited from adopting any ordinance, regulation, rule, or policy to prohibit, restrict, regulate or otherwise limit the continuing agricultural use of any land currently engaged bona fide production of a farm product.

Source: Attorney General's Opinion [No. 01-71, 2001 Fla. AG LEXIS 135, October 10, 2001]

Levy County's Requirements to Obtain Building Permit Exemption for Structures Exempted Under 553.73 (8) F.S.

Mandatory Site Plan Submittal and Zoning Compliance

Any person, firm or corporation whom wishes to construct a nonresidential farm building on a farm within "Unincorporated Levy County", with or without the benefit of building permits, must first obtain a "Zoning Compliance" from the Development Department.

In order for the Development Department to issue a "Zoning Compliance" and to confirm an exemption from building permits, as provided for in section 553.73 (8) F.S., all applicants must provide the following documents or drawings:

- 1.) A completed building permit application (this is required to collect all necessary data for the use of other departments such as the Road Department, Property Appraiser's Office, Emergency Management and the 911 Addressing Department of the Sheriff's Office);**
- 2.) For existing farms, a copy of a property record card indicating an agriculture exemption has been issued by the property appraiser; or, if initiating a new farming operation or applying for a permit exemption on a parcel of land not currently receiving an agricultural exemption, a farm plan must be submitted with the application. The farm plan shall describe the farming operation in general terms and provide specific information as to how the structure(s) that is the subject of the agricultural exemption is used to support the farming operation.**
- 3.) A request for exemption from building permits as provided for in section 553.73 (8);**
- 4.) A floor plan of each structure proposed for construction, depicting the agricultural use of all areas of each structure, and the over-all dimensions of the structure;**
- 5.) An elevation view of each structure depicting the over-all height of the structure above ground level;**
- 6.) A "to scale" site plan in compliance with the current Land Development Regulations, specifically Chapter 50, Code of Ordinances of Levy County. The site plan shall show all existing and proposed structures, and indicate their existing use or proposed use.**

All applicants must pay the applicable service fee for "Zoning Compliance Review" as specified in the most current adopted fee schedule prior to the issuance of the Zoning Compliance and permit exemption.

Construction Industry Licensing Laws, Mechanic's Lien Law, and Insurance Requirements

There are no exemptions from any state or county construction industry licensing law, worker's compensation law, or mechanic's lien law for any person, firm or corporation that constructs, modifies, adds to, re-roofs, repairs, or installs plumbing, electrical or mechanical building systems in nonresidential farm buildings on farms.

Property Access

Any new connection to a county or state road shall require a connection permit and subsequent approval by the applicable road department (county or state) for the work performed to satisfy the requirements of the connection permit.

Temporary Electrical Service for Construction of Exempted Structures

The Building Department may, at the applicant's option, issue a electrical permit for a construction temporary electrical service to be used exclusively for the construction of the exempted structure. Such temporary services shall generally be limited to ninety (90) days from the time of inspection and approval of the electrical service and associated electrical equipment.

EXCEPTIONS:

- 1.) Large structures that require additional construction time, not to exceed six months.
- 2.) Any temporary electrical service energized by a utility company without the benefit of an electrical permit and subsequent approval of the Levy County Building Department. In such cases, the utility company supplying the electrical current shall bear total responsibility and liability for the temporary electrical service.

Permanent Electrical Services for Nonresidential Farm Buildings on Farms.

The Levy County Building Department shall not require electrical permits for the installation of electrical systems for buildings, structures, or facilities used in the production of farm or aquaculture products located on a farm as described here-in.

However, the Building Department shall issue electrical permits to install electrical systems in buildings, structures, or facilities meeting the requirements for exemption, as provided in section 553.73 (8) F.S., at the request of the property owner; or at the request of any person, firm, or corporation duly authorized by the property owner, providing all

required construction documents are submitted and approved; and providing all license laws, insurance laws and mechanic's lien laws are met; and providing the appropriate permit fees are paid.

Permanent Electrical Services for Agriculture/ Aquaculture Water Wells and Associated Farm Machinery

Electrical services for agricultural uses that provide electrical power to nonresidential farm buildings or farm equipment are exempt from building permits pursuant to 553.73 (8). Agricultural electrical services do not require an electrical permit and do not require inspections. However, some utility providers require an inspection and release from the local authority having competent jurisdiction. In those cases, the Levy County Development Department will issue a building permit and inspect the service equipment only. Applicants for electrical permits for "inspection of electrical service equipment only" shall be required to complete a hold harmless affidavit.

It shall be permissible for the electrical system of a nonresidential farm building, exempted under section 553.73 (8) F.S., to supply electrical power to other associated farm equipment including but not limited to: water wells, grain elevators, grain dryers, conveyors and similar machinery.

Plumbing and Mechanical permits for Nonresidential Farm Buildings on Farms.

The Levy County Building Department shall not require permits for the installation of plumbing or mechanical systems for buildings, structures, or facilities for the production of farm or aquaculture products located on a farm as described here-in.

However, at the request of property owner or authorized agent, the Building Department may issue plumbing and/or mechanical permits and provide all required inspections to install plumbing or mechanical systems in any exempt structure, provided all required construction documents are submitted and approved; providing all license laws, insurance laws and mechanic's lien laws are met; and the appropriate permit fees are paid.