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4 **ORDINANCE NUMBER 2024-2**
5

6 **AN ORDINANCE OF LEVY COUNTY, FLORIDA,**
7 **AMENDING THE COUNTY CODE OF ORDINANCES**
8 **RELATED TO COMMUNITY GARDENS; BY AMENDING**
9 **DEFINITIONS; BY AMENDING PERMITS REQUIRED FOR**
10 **ELECTRICAL SERVICE; BY AMENDING THE ZONING**
11 **DISTRICT USE TABLE; BY CREATING CONDITIONAL**
12 **USE REGULATIONS; PROVIDING A SEVERABILITY**
13 **CLAUSE; PROVIDING A REPEALING CLAUSE; AND**
14 **PROVIDING DIRECTIONS TO THE CLERK AND AN**
15 **EFFECTIVE DATE.**

16
17 **WHEREAS**, Section 1, Article VIII of the Florida Constitution and Chapter 125,
18 Florida Statutes, vest the Board of County Commissioners of Levy County, Florida (the
19 “Board”) with the authority to adopt county ordinances that are not inconsistent with state
20 general or special law and provide the required procedures to adopt such ordinances;
21

22 **WHEREAS**, in 1990, the Board adopted the Levy County Comprehensive Plan
23 pursuant to the provisions of Chapter 163, Florida Statutes, which Comprehensive Plan
24 has been amended through adoption of subsequent ordinances (the “Comprehensive
25 Plan”);
26

27 **WHEREAS**, in 1991, the Board adopted the Levy County Land Development
28 Regulations, now codified as Chapter 50 titled “Land Development Code” of the Code of
29 Ordinances of Levy County to implement the Comprehensive Plan and to provide
30 regulations governing the development of land within the County;
31

32 **WHEREAS**, on December 5, 2023, the Board adopted Ordinance Number 2023-
33 9, significantly amending the Land Development Code as relates to zoning district use
34 regulations, including a new Zoning District Use Table;
35

36 **WHEREAS**, this proposed ordinance is a text change amendment to add
37 Community Gardens to the Zoning District Use Table as a principal use and to establish
38 the conditional use permit regulations for that use;
39

40 **WHEREAS**, as required by Part II of Chapter 163, Florida Statutes and Section
41 50-55 of the Land Development Code, this proposed ordinance has been reviewed by
42 the County Planning Commission for consistency with the Comprehensive Plan and the
43 Planning Commission recommendation has been forwarded to the Board;

Note: deletions shown ~~stricken~~, additions shown underlined;

1 **WHEREAS**, in accordance with Section 125.66(4)(b), Florida Statutes, notice was
2 given by publication of a first advertisement no less than two columns wide by ten inches
3 long in a newspaper of general circulation notifying the public of this proposed ordinance
4 and of a public hearing in the Levy County Government Center in Bronson, Florida, to be
5 held at least seven days after the day the first advertisement was published;
6

7 **WHEREAS**, in accordance with Section 125.66(4)(b), Florida Statutes, notice was
8 given by publication of a second advertisement no less than two columns wide by ten
9 inches long in a newspaper of general circulation notifying the public of this proposed
10 ordinance and of a second public hearing in the Levy County Government Center in
11 Bronson, Florida, to be held at least five days after the day the second advertisement was
12 published; and
13

14 **WHEREAS**, in accordance with Section 125.66(4)(b), Florida Statutes, the two
15 public hearings were held at least 10 days apart and at least one of the public hearings
16 was held after 5pm.
17

18 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners
19 of Levy County, Florida, that:
20

21 **SECTION 1.** Section 50-1 titled “Definitions” is amended to add the definition set forth
22 below. Except as amended herein, the remainder of Sec. 50-1 remain in full force and
23 effect.
24

25 **Chapter 50 – Land Development Code**
26 **Article I. – In General**
27 **Sec. 50-1. Definitions.**

28 Community garden means an area of land owned, managed or maintained by a
29 residential community or a non-profit organization that is used to grow and harvest food
30 crops and non-food crops, such as flowers or ornamental plants, for use by its
31 residents, members or for charitable donation to persons in need. A community garden
32 may be divided into separate plots for cultivation by individual persons or may be
33 farmed collectively by the group. Although a community garden is a type of agricultural
34 use, it may not be conducted as a business and is not considered a bona-fide
35 agricultural operation for purposes of this code.
36

37 **SECTION 2.** Sec. 50-132 titled “Permit required for electrical service” is amended as set
38 forth below.
39

Note: deletions shown ~~stricken~~, additions shown underlined;

1 **Chapter 50 – Land Development Code**
2 **Article IV. – Building and other Technical Codes and Standards**
3 **Sec. 50-132. – Permit required for electrical service.**

4 (a) As used in this section, unless a different meaning is required by the context,
5 the following definitions shall apply:

6 Cutoff order means an order issued by the department to the seller that instructs
7 the seller that the electrical service is no longer lawful and must be disconnected
8 within 24 hours of issuance of the order.

9 ~~Department means the county development department which shall be~~
10 ~~synonymous with the county building department.~~

11 *Electrical service* means the purchase, sale, delivery or receipt of electricity.

12 *Permit* means an electrical permit issued by the ~~county development~~ department.

13 *Purchaser* means any natural person or legal entity, ~~firm, corporation,~~
14 ~~partnership, society, club, or association of persons acting together as a unit, or~~
15 ~~other entity who purchases or receives~~ cause to be purchased electrical service.

16 *Seller* means any natural person or legal entity, ~~firm, corporation, partnership or~~
17 ~~associations of persons acting together as a unit, or other entity who sells ;~~
18 ~~furnish or delivers for sale~~ electrical service.

19 (b) ~~No~~ In order to receive permanent, non-agricultural electrical service, shall be
20 ~~provided until such time as the~~ a purchaser has must submit a complete permit
21 application and payment of the permit fee to the department, obtained a valid
22 permit from the department, and passed all inspections related to such permit,
23 and furnished a copy of such permit and all approved inspections to the seller
24 and posted a copy of the permit on the premises for which the electrical service
25 is to be provided by the seller, and pass all permit inspections.

26 (c) ~~Upon submittal of a completed application for a permit, payment of a the~~
27 ~~applicable permit fee, and passing of all inspections related to such permit a~~
28 ~~purchaser of electrical service may obtain electrical service at the location that is~~
29 ~~the subject for such permit application.~~

30 (dc) In order to receive agricultural electrical service, a purchaser must submit a
31 complete affidavit and any other forms required by the department, no permit fee
32 is required. If the property does not currently have agricultural classification in
33 the county property appraiser's records, a certificate of zoning compliance must
34 be obtained before a permit can be issued by the department. Upon issuance of
35 the permit from the department, the seller can provide agricultural electrical

Note: deletions shown stricken, additions shown underlined;

1 service. The use of agricultural electrical service is limited to watering of crops
2 and/or livestock, lighting for crops and/or livestock, and similar agricultural uses
3 and community gardens. Agricultural electric service may not be used for non-
4 agricultural structures or non-agricultural purposes. Upon execution of an
5 affidavit and any other forms required by the department, in the forms provided
6 by the department, and upon issuance of a permit, a purchaser may, without
7 payment of a fee, obtain agricultural electrical service for such purposes as the
8 watering of crops and/or livestock and may obtain electrical power for agricultural
9 equipment or lighting and other strictly nonstructural uses.

10 (ed) Permits for temporary electrical service during construction of a residence
11 will be issued as part of, and for a time period concurrent with, the building permit
12 for the residence for time periods of up to 180 days. If substantial construction
13 progress for such residence is not maintained, the department may issue a cutoff
14 order with compliance by the seller within 24 hours of receipt of such cutoff order.
15 Permits for t Temporary electrical service during construction of a residence may
16 be used for the property owner's recreational vehicle, if they are lawfully residing
17 in same during construction as allowed by the land development code, does not
18 authorize electrical service it may not be used for primitive camping on the
19 subject property.

20 (fe) ~~This section shall not prevent the a~~ A seller may restore from restoring
21 electrical service to existing purchasers where service has been temporarily
22 discontinued due to either a request by the purchaser, nonpayment to the seller
23 for the electrical service, or due to service disruption from natural or man-made
24 causes, such as storms or accidentsaction of the elements-, No permit or fee is
25 required for such restoration, provided that there is no modification to the
26 electrical service or replacement of equipment is not required for any such
27 restoration.

28 (gf) Any modification to an existing electrical service or replacement of
29 equipment, except as provided in the subsection (fe) of this section, shall
30 requires application, payment of the permit fee and issuance of a permit prior to
31 the initiation of such modification by either the seller, the purchaser or any person
32 employed in any capacity by either party.

33 (hg) The department shall administer and enforce this section and any failure to
34 comply with the provisions of this section shall constitute a violation, of the
35 county code which shall result in the issuance of a cutoff order by the department
36 with compliance by the seller within 24 hours of receipt of such cutoff order, and
37 may result in additional Upon finding a violation, the department may issue a
38 cutoff order or may pursue any enforcement proceedings as may be allowed by
39 the county code or general law.

40
Note: deletions shown stricken, additions shown underlined;

1 **SECTION 3.** Sec. 50-700 titled “Generally; use table” is amended as set forth below.
2 Except as amended herein, the remainder of Sec. 50-700 remains in full force and
3 effect.

4
5 **Chapter 50 – Land Development Code**
6 **Article XIII. – Zoning**
7 **Subdivision II. – Zoning District Use Table**
8 **Sec. 50-700. - Generally; use table.**

9 This table establishes, for each zoning district, permitted uses (allowed by right),
10 conditional uses (allowed if approved by staff pursuant to subdivision 5 of this division)
11 and uses by special exception (allowed if approved by the county commission pursuant
12 to subdivision 6 of this division).

13 Any use that is not listed as permitted, conditional or special exception and is not an
14 accessory use (refer to subdivision 3 of this division) or a temporary use (refer to
15 subdivision 4 of this division) is a prohibited use in that zoning district. When the zoning
16 official interprets whether a particular proposed or existing use is permitted by right, is a
17 conditional use, a use by special exception, a temporary use, an accessory use or a
18 prohibited use in a particular zoning district, the zoning official may consider factors
19 including, but not limited to, the following:

- 20 (1) Hours of operation (including hours for service and deliveries);
- 21 (2) Building and site arrangement relative to the neighboring permitted uses;
- 22 (3) Types of vehicles used and parking requirements;
- 23 (4) The number of vehicle trips generated; and
- 24 (5) Whether the activity is likely to be found independent of the other activities on the
25 site.

26 Each use must conform with all applicable requirements of this Code. A use may be
27 listed in this table as allowed in a zoning district, but if a particular lot or structure does
28 not meet the minimum requirements of this Code, the use will not be allowed on that lot
29 or in that structure unless it is recognized as a legal non-conformity.

30 All uses, except for single-family dwellings, are subject to site plan review by staff in
31 accordance with section 50-775 and other requirements, such as environmental
32 provisions, contained in this Code.

1

Use (reference to code section that contains SE or CU requirements)	F/RR	A/RR	RR	R-1	R-2	RR-3C	C-1	C-2	C-3	C-4	I	RMU	PF	REC	NR-CON
	In this table, P=Permitted Use; CU=Conditional Use; and SE=Use by Special Exception														
Agriculture															
Agricultural operation, bona fide	P	P	P				P	P	P	P					
Agricultural operation, intensive (50-756)	SE	SE													
<u>Community Garden (50-735)</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>						<u>CU</u>		<u>CU</u>	

2

1 **SECTION 4.** A new Sec. 50-735 titled “Community Gardens” is created to read as set
2 forth below.

3
4 **Chapter 50 – Land Development Code**
5 **Article XIII. – Zoning**
6 **Subdivision V. – Conditional Uses**
7 **Sec. 50-735. – Community Gardens.**
8

- 9 (1) Plantings shall not be closer than ten feet to the front property line and five feet to
10 the side and rear property lines.
11 (2) The only allowable activities are garden and property maintenance (e.g., tilling,
12 planting, fertilizing, harvesting and mowing) and a produce stand to distribute the
13 crops grown on-site to the residents, members or persons in need. All such
14 activities must occur between the hours of 7:00 a.m. to 7:00 p.m.
15 (3) An identification sign shall be posted at the driveway or entrance that contains the
16 name of the community garden and contact information for the person or entity
17 responsible for the garden. The identification sign is limited in size to the exemption
18 set forth in Sec. 50-412(4) and if it is a freestanding sign shall be no more than four
19 (4) feet in height.
20 (4) The following accessory structures directly related to the allowable activities are
21 permitted: storage sheds or barns for tools, supplies and equipment; hoop houses,
22 cold frames, greenhouses and vertical vegetable structures; and a produce stand.
23 Any such accessory structures must meet the building setbacks required of the
24 zoning district.
25 (5) No trash or debris may be stored on the property except in appropriate containers.
26 Large equipment (e.g., mowers, tractors, tillers) must be stored indoors or at the
27 rear of the property. Small tools and supplies must be stored indoors or removed
28 from the property daily. Vegetative material (e.g., compost), soil and other bulk
29 supplies must be stored to the rear or center of the property and must not create
30 visual blight or offensive odors.
31
32 (6) The community garden must comply with all federal, state and local regulations
33 pertaining to pesticides, herbicides and fertilizer and shall be designed and
34 maintained to prevent any such substances or other garden waste from draining
35 off of the property. Any pesticides, herbicides or fertilizers stored on-site must be
36 within a locked building or shed and must comply with any applicable requirements
37 for hazardous materials.
38

39 **SECTION 5.** The provisions of Sections 1 through 4 of this Ordinance shall become and
40 be made a part of the Levy County Code, and the sections of this ordinance may be
41 renumbered or relettered and the word “ordinance” may be changed to “section,” “article,”
42 “regulation,” or other appropriate word or phrase in order to accomplish the codification.
43

Note: deletions shown ~~stricken~~, additions shown underlined;

1 **SECTION 6.** It is declared to be the intent of the Board that if any section, subsection,
2 sentence, clause, phrase, portion or provision of this Ordinance is for any reason declared
3 or held invalid or unconstitutional by any court of competent jurisdiction, such section,
4 subsection, sentence, clause, phrase, portion or provision shall be deemed a separate,
5 distinct and independent provision, and the remainder of this Ordinance shall not be
6 affected by such declaration or holding.

7
8 **SECTION 7.** All ordinances or parts of ordinances and all resolutions or parts of
9 resolutions of Levy County in conflict herewith are hereby repealed to the extent of such
10 conflict

11
12 **SECTION 8.** In accordance with Section 125.66, Florida Statutes, the Clerk to the Board
13 of County Commissioners is directed to file this ordinance with the Florida Department of
14 State within 10 days after adoption at the Second Public Hearing and upon such filing,
15 this ordinance shall become effective.

16
17 APPROVED ON FIRST READING on May 21, 2024.

18 ADOPTED AT SECOND READING on June 4, 2024.

19
20 BOARD OF COUNTY COMMISSIONERS
21 OF LEVY COUNTY, FLORIDA

22
23
24 _____
25 Desiree Mills, Chair

26 ATTEST: Danny J. Shipp, Clerk of
27 the Circuit Court and Ex-Officio Clerk
28 to the Board of County Commissioners

29
30 _____
31 Danny J. Shipp

32
33 Approved as to form and legal sufficiency

34
35 _____
36 Nicolle M. Shalley, County Attorney

Note: deletions shown ~~stricken~~, additions shown underlined;