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5 **ORDINANCE NUMBER 2023-11**
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7 **AN ORDINANCE OF LEVY COUNTY, FLORIDA, AMENDING THE CODE**
8 **OF ORDINANCES OF LEVY COUNTY, FLORIDA RELATING TO**
9 **MANURE COMPOSTING AND DISPOSAL; BY CREATING A NEW**
10 **ARTICLE WITHIN CHAPTER 22 - BUSINESSES; BY AMENDING**
11 **CHAPTER 74 – SOLID WASTE; BY AMENDING SEC. 2-140 TO**
12 **PROVIDE CIVIL PENALTIES FOR VIOLATIONS; ADOPTING FINDINGS**
13 **OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A**
14 **REPEALING CLAUSE; PROVIDING FOR INCLUSION IN THE CODE**
15 **AND PROVIDING DIRECTIONS TO THE CLERK AND AN EFFECTIVE**
16 **DATE.**

17
18 **WHEREAS**, Chapter 125, Florida Statutes, confers upon counties the authority to
19 adopt ordinances to protect the public health, safety and welfare;
20

21 **WHEREAS**, at its February 2, 2021 Regular Meeting, the Levy County Board of
22 County Commissioners (the “Board”) discussed the concern that the opening of the World
23 Equestrian Center near Levy County could increase the demand for facilities to handle
24 the disposal and/or composting of barn/stall waste and horse manure. The Board agreed
25 by consensus to direct the County Attorney to work with Commissioner Matt Brooks to
26 develop an ordinance and bring it back to the Board for discussion. The County Attorney
27 retired shortly thereafter without an ordinance being drafted;
28

29 **WHEREAS**, in 2021 (and currently) the Zoning Use Regulations in Sec. 50-676 of
30 the County Code do not list a horse manure or barn waste composting facility as a
31 permitted, accessory or special exception use in any zoning district;
32

33 **WHEREAS**, Sec. 50-841 of the Code provided a process for requesting a
34 “Conditional Use Permit” as “a mechanism for allowing specific uses not listed as a matter
35 of right or by special exception but which by their nature are compatible with the existing
36 zoning district.” However, County staff could not locate any record of a horse manure or
37 barn waste composting facility ever applying for or being issued a Conditional Use permit
38 by the County;
39

40 **WHEREAS**, at the February 8, 2022 Commission Meeting during Commissioner
41 Reports, the issue of barn waste and horse manure was again discussed and direction
42 was given to the new County Attorney and Planning and Zoning Director to draft a
43 resolution addressing the issue;
44

Note: Additions shown underlined, deletions shown ~~stricken~~.

1 **WHEREAS**, at the February 22, 2022 Commission Meeting, the Board adopted
2 Resolution Number 2022-4 recognizing that the “dumping, storage, disposal, treatment
3 and/or processing of barn waste/manure are not currently allowed commercial or
4 industrial uses in any zoning district within Levy County and, as such, it is recognized that
5 those uses are prohibited. It is also recognized that this prohibition of such commercial
6 or industrial uses does not operate to limit the activity of generating and re-using manure
7 on a bona fide farm operation on land classified as agricultural land, where such activity
8 is done in the course of their normal farming operations as defined and regulated under
9 State law,” and directing staff to work on draft “recommendations to address barn
10 waste/manure commercial and industrial uses in a manner that would allow
11 environmentally sound and economically viable re-use/treatment/processing of barn
12 waste/manure into beneficial product, while safeguarding against the devaluation of
13 County property values and the creation of public nuisances (e.g., odor, flies, visual blight)
14 that would result from allowing unregulated dumping, storage or processing of barn
15 waste/manure”;

16
17 **WHEREAS**, On October 18, 2022, the Board discussed this issue during a
18 workshop that focused on an update of the Zoning Article within the County Land
19 Development Code. At the workshop meeting, the Board recognized Zoning-in-Progress
20 as putting a pause on accepting applications for uses that are being studied and
21 potentially revised;

22
23 **WHEREAS**, At the November 22, 2022 Regular Meeting, County staff presented
24 an informational item with examples of zoning use regulations, including potentially
25 adding composting as a use by special exception, and the Board determined that
26 individual Commissioners and Planning Commission Members would work on
27 researching and developing regulations for particular zoning uses, including composting;

28
29 **WHEREAS**, at the December 20, 2022 Regular Meeting, the Board scheduled a
30 Zoning Uses Workshop for February 21, 2023;

31
32 **WHEREAS**, at the February 21, 2023 Workshop, the Board reviewed the draft
33 Zoning District Uses Table, heard updates from Commissioners working on particular
34 zoning uses, agreed to pull certain of those uses out of the “main” zoning uses ordinance,
35 and scheduled a workshop on composting for May 9, 2023;

36
37 **WHEREAS**, at the May 9, 2023 Workshop, the Board heard staff presentations,
38 heard from industry groups and residents and agreed to further research the issue;

39
40 **WHEREAS**, County Staff met with Florida Department of Environmental Protection
41 (FDEP) staff on May 24 and June 27, 2023 and with Florida Department of Agriculture
42 and Consumer Services (FDACS) staff on June 26, 2023, to learn more about the State
43 regulatory framework and best management practices for barn waste and horse manure;

44
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1 **WHEREAS**, in short, the FDEP regulations (Chapter 62-701.200 & 62-709.201,
2 F.A.C) define “manure” as all of the materials cleaned out of horse stalls and classify
3 “manure” as a solid waste that must be: (1) composted on a farm and put to beneficial
4 use as fertilizer in the course of “Normal Farming Operations;” (2) composted by a non-
5 farm operation that is registered as a Source-Separated Organics Facility (SOPF) and
6 sells the compost for beneficial use; or (3) disposed of in a Class I (lined) landfill;

7
8 **WHEREAS**, at the July 11, 2023 Regular Meeting, County staff presented an
9 informational item regarding the State regulatory framework, current County Code and
10 recommendations, the Board discussed and directed staff to prepare certain ordinances
11 to make clear that the business of composting manure is not permitted in the County and
12 that manure is not to be disposed of at the County Landfill;

13
14 **WHEREAS**, the Board recognizes that proximity of Levy County to the World
15 Equestrian Center and many horse farms in Marion County, and the availability of
16 relatively inexpensive land in Levy County makes it vulnerable to a proliferation of such
17 businesses in the County;

18
19 **WHEREAS**, Ordinance Number 2023-9, which is the comprehensive update of
20 Zoning District Uses, does not recognize manure composting facilities as permitted,
21 conditional or special exception uses in any zoning district and therefore such use is
22 prohibited;

23
24 **WHEREAS**, based on staff research and public input received at the various public
25 workshops and meetings on this topic and code enforcement complaints, the Board finds
26 that a manure composting facility is a nuisance business, characterized by visual blight,
27 dust, odor, flies and other vectors that accompany the processing of up to 12 foot high
28 piles of manure for up to 18 months;

29
30 **WHEREAS**, in connection with 2023 Value Adjustment Board petitions, the County
31 Property Appraiser found that “based on recent sales near . . . composting operation it
32 has been determined that the land assessments in the surrounding area needed to be
33 reduced by 20%”;

34
35 **WHEREAS**, the Board finds the foregoing to be injurious to the public health,
36 safety and welfare;

37
38 **WHEREAS**, based on these findings, this Ordinance adds manure composting
39 facility as a prohibited nuisance businesses in Chapter 22 of the Code of Ordinances and
40 provides a civil penalty for same;

41
42 **WHEREAS**, based on the State regulation of “manure” as a solid waste that, if not
43 composted and put to beneficial use, must be disposed of in a Class I (lined) landfill, the
44 Board finds that such waste is not suitable for acceptance at the County’s Class III landfill,

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1 nor, given its volume, is it a waste that the County would accept for transfer to the New
2 River Landfill or another Class I landfill, this Ordinance adds “manure” to the list of solid
3 waste that is not allowed to be deposited at the County Landfill; and
4

5 **WHEREAS**, at least ten (10) days’ notice has been given once by publication in a
6 newspaper of general circulation notifying the public of this proposed ordinance and of a
7 public hearing in the Levy County Government Center in Bronson, Florida.
8

9 **NOW THEREFORE, BE IT ORDAINED** by the Board of County Commissioners
10 of Levy County, Florida, that:
11

12 **SECTION 1.** A new Article V. titled “Manure Composting Facility” is created within
13 Chapter 22 of the Levy County Code to read as follows:
14

15 **Chapter 22 – Businesses**

16 **Article V. – Manure Composting Facility**

17 **Sec. 22-120. – Authority; intent; purpose; scope.**
18
19

20 (a) This article is adopted to protect the public health, safety, and welfare, pursuant to
21 the county’s authority set forth in F.S. Ch. 125 and Article VIII of the Florida Constitution.
22

23 (b) The intent and purpose of this article is to prohibit manure composting facilities in
24 order to avoid the unwanted nuisance conditions of visual blight, dust, odor, flies and
25 other vectors that may accompany the processing of piles of manure for months and to
26 avoid reduction in property values.
27

28 (c) This article applies in unincorporated Levy County.
29

30 **Sec. 22-121. Definitions.**

31
32 For the purpose of this article, the following terms shall have the meanings ascribed to
33 them in this section, unless the context clearly indicates otherwise.
34

35 *Beneficial use* means, as defined in Chapter 62-709.201, F.A.C., that readily-degradable
36 organics are placed on or in the soils to provide a viable benefit, such as, reducing erosion
37 and water loss, regulating soil temperature, preventing the growth of weeds, or serving
38 as a soil amendment upon decomposition. Placement of materials for purposes of
39 disposal is not considered to be a beneficial use.
40

41 *Composting* means, as defined in Chapter 62-709.201, F.A.C., the process by which
42 biological decomposition of organic solid waste is carried out under controlled aerobic
43 conditions, and that stabilizes the organic fraction into a material which can easily and

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1 safely be stored, handled and used in an environmentally acceptable manner. The
2 presence of anaerobic zones within the composting material will not cause the process
3 to be classified as other than composting.

4
5 Composting facility means, as defined in Chapter 62-709.201, F.A.C., a solid waste
6 management facility where solid waste is processed using composting technology.
7 Processing may include physical turning, windrowing, aeration or other mechanical
8 handling of organic matter.

9
10 Manure means, as defined in Chapter 62-701.200, F.A.C., a solid waste composed of
11 excreta of animals, and residual materials that have been used for bedding, sanitary or
12 feeding purposes for such animals.

13
14 Normal farming operations means, as defined in Chapter 62-701.200, F.A.C., the
15 customary and generally accepted activities, practices, and procedures that farmers
16 adopt, use, or engage in during the production and preparation for market of poultry,
17 livestock, and associated farm products; and in the production, harvesting, or packaging
18 of agricultural crops which include agronomic, horticultural, and silvicultural crops.
19 Included are the management, collection, storage, composting, transportation, and
20 utilization of organic agricultural waste, manure, and materials solely derived from
21 agricultural crops. A facility regulated as an animal feeding operation pursuant to Chapter
22 62-670, F.A.C., that manages its manure on-site will be considered to be engaging in
23 normal farming operations.

24
25 **Sec. 22-122. Prohibition of Manure Composting Facility.**

26
27 It is unlawful for any person to own, manage, maintain, or operate a manure composting
28 facility. Any manure composting facility that is operating without county zoning approval
29 shall cease operation immediately and, within one month thereafter, shall have removed
30 all manure composting materials from the site and disposed of same in accordance with
31 state law.

32
33 **Sec. 22-123. Exemptions.**

34
35 This article does not prohibit the composting of manure by a bona-fide agricultural
36 operation or an intensive agricultural operation (as those terms are defined in sec. 50-1)
37 for beneficial use by that agricultural operation as part of its normal farming operations,
38 provided no public nuisance or any condition adversely affecting the environment or
39 public health is created and the activity does not violate other federal, state or local laws.

40
41 **Sec. 22-124. Enforcement; penalties; civil remedies.**

42
43 The board of county commissioners, through its employees, agents and attorneys, shall
44 have jurisdiction to enforce this article by any of the means provided in chapter 2, article

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1 V of this code.
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4 **SECTION 2.** The following definition is added to Sec. 74-31 titled "Definitions" within
5 Chapter 74- Solid Waste, Article II. Collection and Disposal, of the Levy County Code.
6 Except for this addition, the remainder of Sec. 74-31 remains in full force and effect.

7 **Sec. 74-31. - Definitions.**

8 The following words, terms and phrases when used in this article, shall have the
9 meanings ascribed to them in this section, except where the context clearly indicates a
10 different meaning:

11 Manure means, as defined in Ch. 62-701.200, F.A.C., a solid waste composed of
12 excreta of animals, and residual materials that have been used for bedding, sanitary
13 or feeding purposes for such animals.

14
15
16 **SECTION 3.** Sec. 74-34 titled "Disposal requirements" within Chapter 74- Solid Waste,
17 Article II. Collection and Disposal, of the Levy County Code is amended to read as follows.

18
19 **Sec. 74-34. - Disposal requirements.**

- 20
21 (a) No person shall dispose of solid waste at any location in the county other than at
22 the Bronson landfill site.
23
24 (b) No person shall burn solid waste or any other such material unless a burning permit
25 has been issued by the appropriate authority.
26
27 (c) Sanitary landfill fees and charges shall be determined by the board of county
28 commissioners by resolution, after the conduct of a public hearing. All fees shall
29 be paid prior to accessibility to the site being permitted, except in those instances
30 where persons are billed for such charge in accordance with this article.
31
32 (d) Rules and regulations pertaining to traffic control, speed limits and coverage of
33 vehicle loads shall be posted at the landfill site and shall be strictly enforced.
34
35 (e) Types of special waste which are not allowed to be deposited at the landfill site
36 without special permission of the coordinator are as follows: Vehicles, boats, waste
37 oil, sludge and septic tank pumpings. ~~Types of special waste which are not allowed~~
38 ~~to be deposited at the landfill at any time are infectious waste and hazardous~~
39 ~~waste. Hazardous waste which are intended to be disposed of by land disposal at~~
40 ~~the sanitary landfill site shall be rendered nonhazardous at the owner's expense~~
41 ~~and approved by the coordinator prior to delivery to the sanitary landfill site. Any~~
42 ~~infectious waste shall be properly incinerated or processed by an alternate method~~

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1 ~~which shall be approved by the coordinator and shall be rendered noninfectious at~~
2 ~~the owner's expense prior to delivery to the sanitary landfill site.~~

3
4 (f) Types of special waste which are not allowed to be deposited at the landfill at any
5 time are manure, infectious waste and hazardous waste.

6
7 ~~(f)-(g)~~ Persons using the sanitary landfill site shall be required to pay the proper
8 fee for use of the landfill as established by resolution of the board of county
9 commissioners, except that the coordinator, at his sole discretion, may allow
10 persons to deposit clean fill material and good road building materials at the
11 sanitary landfill site without payment of any fee. The purpose of this provision is to
12 allow the county the advantage of encouraging the depositing of these materials
13 which are a direct value to the county and the operation of the landfill site. The
14 coordinator shall be the sole judge as to the usefulness of any materials for the
15 purposes described in this article and all materials received under this provision
16 shall be deposited at the direction of the coordinator, or his authorized
17 representative, and the coordinator shall have the sole authority to discontinue
18 operations covered under this provision at any time due to circumstances at the
19 landfill site which justify such determination.

20
21 ~~(g)-(h)~~ All solid waste deposited at the landfill site shall be as directed by the
22 coordinator or his authorized representatives.

23
24 ~~(h)~~ (i) Salvaging by any persons shall not be permitted without written authorization
25 by the board of county commissioners.

26
27 ~~(i)~~ (j) The discharge of explosives within the boundaries of the sanitary landfill shall
28 be allowed only by the proper agency of the county for the purpose of law
29 enforcement or animal control and then only with the permission of the coordinator.

30
31
32 **SECTION 4.** Sec. 2-140 titled "Civil penalties" of the Levy County Code is
33 amended to add the following violation. Except as amended herein, the remainder of
34 Sec. 2-140 remains in full force and effect.

35

Code or Ordinance Violated	Civil Penalty	
<u>Chapter 22, Article II. – Manure Composting Facility</u>	<u>Each violation</u>	<u>\$250.00 per day</u>

36
37 **SECTION 5. Findings of Fact.** The Board of County Commissioners of Levy
38 County, Florida, finds and declares that the statements set forth in the whereas clauses
39 of this ordinance are true and correct.

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