

ORDINANCE NO. 2022-5

AN ORDINANCE OF LIBERTY COUNTY, FLORIDA THAT AMENDS THE LAND DEVELOPMENT CODE TO ADD SOLID WASTE MANAGEMENT, PROCESSING AND RECYCLING FACILITIES AND WASTE TO FUEL PLANTS AS A CONDITIONAL OR SPECIAL EXCEPTION USE IN THE INDUSTRIAL LAND USE CATEGORY; PROVIDING A PURPOSE AND INTENT; PROVIDING LOCATION STANDARDS, SETBACKS AND SCREENING; PROVIDING FOR ROAD ACCESS STANDARDS; REQUIRING AN OPERATIONAL PLAN AND REQUIRING OPERATIONAL STANDARDS; REQUIRING DESIGN AND CONSTRUCTION STANDARDS; PROVIDING FOR PERMITS, INSPECTIONS, AND MONITORING; REQUIRING PERFORMANCE GUARANTEES; ESTABLISHING A COMMUNITY SOLID WASTE TRUST FUND; PROVIDING FOR APPLICATION AND PERMIT FEES; PROVIDING FOR SEVERABILITY; REPEALING ANY ORDINANCES IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LIBERTY COUNTY, FLORIDA AS FOLLOWS:

SECTION 1. Liberty County Land Development Code Section 4.3.1.1 is hereby amended to read as follows (new text **bold and underlined**):

4.3.1.1 Conditional or Special Exception Uses

Conditional Use or Special Exception

A use that would not be appropriate generally or without restriction throughout any land use division or district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote, the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or the general welfare.

Conditional uses or Special Exceptions include all uses that are not listed as permitted uses, accessory uses or restricted uses in these Land Development Regulations. The following uses shall always be Conditional Uses.

Commercial Establishments that sell Alcoholic Beverages, Cocktail Lounges, Bars, Pubs.

Junkyards

Communications Towers

Night clubs, Social clubs which include adult entertainment and/or which sell adult materials

Retail establishments that sell adult materials and/or medical marijuana or cannabis.

Solid Waste Management, Processing and Recycling Facilities and Waste to Fuel Plants.

A. The Liberty County Commission shall hear and decide those applications for Conditional Uses as identified in these Land Use regulations. The Liberty County Commission shall decide such questions as are pertinent and necessary when determining whether restricted use exceptions shall be granted, determining appropriate conditions and safeguards or denying special exceptions when not in

harmony with the purpose and intent of these Land Development Regulations and/or when not a benefit to the health, safety and welfare of the Community as a whole.

Procedure

Upon receipt of an application for a Conditional use, the Office of the Clerk and/or the Building Department shall examine such application and make a recommendation thereon together with all supporting documentation, and shall transmit a copy of the application, together with supporting and explanatory information, to the Liberty County Commission.

B. Decision

Prior to rendering a decision on an application for a conditional use, the Liberty County Commission shall hold a public hearing on the application. The Liberty County Commission shall fix a reasonable time of day for the hearing and give public notice thereof as well as due notice to the parties involved. The hearing shall be advertised 7 to 10 days prior to the meeting, in a newspaper of general circulation. Certified letters shall be sent to all property owners within 500 feet of the application site, informing them of the date, time and purpose of the hearing.

C. Conditions

The Liberty County Commission may require appropriate conditions and safeguards in conformity with these Land Development Regulations.

D. Specific Conditions

1. Retail Alcohol sales establishments. Only retail package sells of alcohol products shall be allowed in Liberty County, except for the sale of beer and wine for consumption on the premises, at restaurant establishments that are permitted by the State to prepare and serve complete meals on site. Businesses that sell alcohol products are only allowed in Town Center, Rural Village and Mixed Use Rural Residential Land Use areas designated on the adopted Liberty County Future Land Use Map consistent with the following conditions:

(a) Retail Package Liquors, Wine and/or Beer sales establishments must be at least 1000 feet from the nearest property line of an established residential use or district, church, school or public playground and the nearest property line of the establishment.

(b) Restaurant establishments, as defined and governed by the State, that are permitted by the State to prepare and serve complete meals on site, which sell beer and/or wine for consumption on the premises, must be at least 1000 feet from the nearest property line of an established residential use or district, church, school or public playground and the nearest property line of the establishment. The sale of beer and/or wine for consumption on the premises is prohibited from 12:00 A.M (mid-night) until 10:00 A.M. the next morning.

2. Junkyards, Mechanical and Chemical Waste collection and recycling facilities and any Hazardous Materials collection and recycling facilities are only allowed in the Industrial District and must be at least 1000 feet from the nearest property line of an established residential use or district, church, school or public playground and the nearest property line of the establishment.

3. Communications Towers are allowed in all Land Use Districts, except Conservation areas and must have an engineered design fall zone that does not include any existing residential structures consistent with the Tower Siting provisions of this Code.

4. Night clubs, Social clubs which include adult entertainment and/or which sell adult materials are only allowed in the Industrial District and must be at least 1000 feet from the nearest property line of an established residential district, church, school or public playground and the nearest property line of the establishment.

5. Gambling and/or Gaming Establishments that provide onsite and/or electronic services, systems and/or products which include games of chance for public use, are only allowed in the Industrial District and must be at least 1000 feet from the nearest property line of an established residential district, church, school or public playground and the nearest property line of the establishment.

6. Retail or wholesale establishments that sell medical marijuana or cannabis must be at least 1000 feet from the nearest property line of an established residential district, church, school or public playground and the nearest property line of the establishment.

7. Solid Waste Management, Processing and Recycling Facilities and Waste to Fuel Plants are allowed in the Industrial Land Use Category and must be consistent with the Solid Waste Management, Processing and Recycling and Waste to Energy Fuel Plant provisions and other requirements of this Code.

SECTION 2. Liberty County Land Development Code is hereby amended to add a new Chapter 9 entitled "Regulations for Solid Waste Management, Processing and Recycling Facilities and Waste to Fuel Plants," which shall read as follows:

CHAPTER 9
REGULATIONS FOR PRIVATE SOLID WASTE MANAGEMENT, PROCESSING AND RECYCLING FACILITIES AND WASTE TO FUEL PLANTS.

Section 9:1 Purpose and Intent.

The purpose of these regulations for Private Solid Waste Management, Processing and Recycling Facilities and Waste to Fuel Plants (“Solid Waste Facilities”) is to ensure that the placement, construction, and design of these facilities shall be compatible with adjacent land uses and protect the environment, as well as the health, safety, and welfare of the community. In addition to the provisions of this Chapter, it is the County’s intent to provide for such use in a manner which will have the least possible adverse impact. The standards set forth in this Chapter are the minimum standards required. As a Special Exception/Conditional Use, the County reserves the right to require additional or more stringent standards to mitigate impacts to the community from the proposed facility.

Section 9:2 Application, Review and Permitting

1. All Solid Waste Facilities may only be permitted as a Special Exception/Conditional land use in the Industrial Land Use category as shown on the adopted Liberty County Future Land Use Map. These “Private” Solid Waste Facilities are defined as any that are not owned and operated by Liberty County. All such facilities must meet all Federal, State, Regional and local regulatory requirements and permitting and the provisions of this Code.
2. Applicants shall include all landowners and all operators which own and rent or lease property upon which the Solid Waste Facility is located. The Liberty County Commission is the officially designated agency or body of the County to whom applications must be made, and that is authorized to grant or not grant, or revoke permits for Solid Waste Facilities. The County Commission may, at its discretion, delegate or designate other officials to review, analyze, evaluate, and make recommendations to the Commission with respect to permitting Solid Waste Facilities.
3. All applications for any permit, modification, or renewal of a permit for a Solid Waste Facility shall include the following:
 - a) A signed statement by the property owner(s) and operator(s), which attest to the truth and completeness of the information included in the application and that the Solid Waste Facility shall be operated in compliance with all the conditions of the permit and consistent with all local, state, and federal codes, ordinances and regulations.
 - b) Certification that the Solid Waste Facility operator and Professional Engineer(s) are authorized to do business in the State of Florida.
 - c) The name, address and contact information for the landowner and operator of the facility.
 - d) Site plan. Applicants must provide a site plan, at a scale not greater than 200 feet to the inch, which shows the facility location and identifies the proposed waste and final residue storage areas, total acreage of the site, setbacks and buffering, and any other features which are relevant to the location standards in this Chapter.
 - e) Access. The permittee shall designate those roadways that will be used as access to and from the nearest arterial/arterial intersection and the site. A traffic study will be required.
 - f) An Operational Plan.

- g) A Recycling Plan.
- h) A Stormwater Plan.
- i) Evidence of Insurance.
- j) There shall be a pre-application meeting with the County Planner. The purpose of the pre-application meeting will be to address issues which will help to expedite the review and permitting process.

Section 9:3 Location Standards.

- 1. Solid Waste Facilities must be at least 1000 feet from the nearest property line of an established residential use or district, church, school or public playground and the nearest property line of the Industrial Land Use.
- 2. These uses may not be in an area that has any wetlands, floodplains, high aquifer recharge, or other environmentally sensitive resources.
- 3. Solid Waste Facilities that provide temporary and/or final disposal of solid waste must be not less than 1000 feet from any existing, permitted or planned public or private potable water well.

Section 9:4 Setbacks, Buffering and Screening.

- 1. Areas of a Solid Waste Facility that are used for disposal must be a least four hundred (400) feet from any adjoining property line where the adjoining use is other than industrial and two hundred (200) feet from another industrial use.
- 2. All operations must be fenced with County approved materials to the extent necessary to eliminate visibility of the facility and to limit access.
- 3. The perimeter of a Solid Waste Facility shall provide for vegetative screening within a buffer area of not less than 200 feet from the property line, public right-of-way, or other natural barrier. This buffering system shall be designed and, if need be, replanted with natural vegetation having a minimum height at maturity of ten feet, which will serve to buffer or shield from sight activities occurring within the facility. To buffer the areas of disposal and/or high machinery activities, the site shall also include a screen of earthen berms no less than sixteen 16 in height, a 3/1 slope, with a minimum twelve 12-foot landscaped top.

Section 9:4 Access.

- 1. The access road into the facility shall be paved and consistent with DOT standards.
- 2. Where the Liberty County Engineer determines that the road surface of the access road, either in condition or thickness, is insufficient to accommodate the permittee's estimated truck traffic generated by the site, resurfacing may be required as fair share mitigation at permittee's expense as a condition of approval.
- 3. Where the Liberty County Engineer determines that improvements, such as turn lanes and acceleration lanes or traffic signal devices are necessary for traffic safety to and from the site, the permittee shall be responsible for such improvements as a condition of approval.

4. The permittee will provide sufficient turn lanes and internal site queuing space for inbound and outbound vehicles as to not block or obstruct traffic on public roads. As part of the county's permitting process, a traffic study will be required to analyze trips generated and distribution pattern.
5. The required traffic study will be performed by an independent engineer registered in the State of Florida and submitted as a signed and sealed report containing drawings and calculations sufficient for the county to review and approve the work performed. This work will specifically identify the need for turn lanes and signalization as required by detailed assessment of the existing public roadway condition within 100 feet in either direction of the entrance of the site.
6. The condition of the roadway will be reassessed upon renewal of any permit. If the amount contributed by permittee under the "fair share mitigation" program is insufficient to cover costs, the permittee will be responsible for the cost to the county for maintaining the road to the standards required in the county permit at all times.
7. The permittee shall be responsible for maintaining the full length of road frontage and up to one mile of adjacent roadway free from all litter and sediment generated as a result of transporting materials into or out of the facility. Litter will be removed on a daily basis and be completed prior to sunset. The condition of roadways and rights-of-way in the areas surrounding and accessing the proposed site are to be considered as part of the permitting process. The permittee may be responsible for improvements as a condition of approval. Sediment and debris buildup from truck fallout shall be removed from adjoining roadway surfaces, roadway shoulders and drainage systems as to ensure adequate drainage system functions.

Section 9:5 Operational Plan.

Applicants must provide an Operational Plan for the facility which includes:

1. A description of general facility operations, the number of personnel responsible for the operations including their respective job descriptions and the types of equipment that will be used at the facility.
2. Procedures to ensure any unauthorized wastes received at the site will be properly contained and removed.
3. A contingency plan to cover operation interruptions and emergencies such as fires, explosions, or natural disasters.
4. Procedures to ensure operational records needed for the facility will be adequately prepared and maintained.
5. Procedures to ensure that the wastes and final residue will be properly managed.
6. An odor and litter control plan.

Section 9:6 Operational Standards.

1. No Leachate, sludge or other discharge from solid waste facilities may be transported into Liberty County for disposal, storage, or treatment.

2. The horizontal and vertical height of Facility operations shall be governed by the ability to view the operations and/or debris from adjacent properties. At no time shall the working or operational height exceed the permitted screening/buffer or be visible from beyond the property line including materials stored for future disposal or recycling.
3. The Owner/Operator is required to accept solid waste from Liberty County residents, businesses, and property owners. Owner/Operator agrees to offer a tipping fee for all Liberty County wastes that is equal to or lower than the tipping fees charged to any other customer of the Solid Waste Facility, including the Facility's internal tonnage deliveries. Liberty County waste is defined as any municipal solid waste, construction and demolition debris, or other landfill-bound material that was generated in Liberty County and collected by an approved County franchise hauler or delivered by a self-hauler able to prove they own real property or have a residence or business in Liberty County. The County reserves the right to audit customer tipping fees to confirm most favored customer status.

Section 9:7 Recycling

1. Private Landfills shall not be permitted unless they designate an area of sufficient acreage and with safe vehicular access capable of accommodating a drop-off recycling center where Liberty County residents, property owners and businesses may deposit their source-separated recyclables at no charge, and which the Private Landfill must subsequently deliver to a recycler or end market to reuse the source-separated materials. The drop-off recycling center must accept, at a minimum, the following clean and source-separated materials delivered by County residents and businesses:
 - Corrugated cardboard
 - Mixed paper, including newsprint, magazines, junk mail, office paper, paperboard, and other dry recyclable paper
 - Plastic bottles
 - Steel, bimetal, and aluminum cans
 - Metal appliances containing no freon (or certified to have had the freon evacuated by a qualified technician)
 - Scrap metal (ferrous and non-ferrous)
 - Clean (unpainted, untreated, unstained) dimensional lumber and wood pallets
 - Yard wastes (i.e., vegetative debris) and
 - Scrap tires (without rims).
2. A Private Landfill will further designate an area of sufficient acreage, construct a suitable building(s), and provide safe vehicular access capable of accommodating a household hazardous waste (HHW) collection facility where Liberty County residents (but not businesses) may deposit their HHW, universal wastes, and electronic waste (e-waste) at no charge. The Private Landfill shall assure appropriate recycling or disposal of all HHW materials received.

Section 9:8 Design and Construction Standards.

1. Stormwater Plan. A stormwater management system must be installed and maintained, subject to approval by Liberty County. The stormwater management system components shall be designed and maintained to accommodate upland surface water runoff flowing through the Solid Waste Facility and shall treat and attenuate the onsite surface water runoff and manage the upland acreage surface water runoff without negative impacts to the adjoining properties and rights-of-way. All stormwater design as it relates to treatment and attenuation must adhere to FDEP and Northwest Water Management District standards and the standards in the Liberty County Comprehensive Plan and Code.
2. Construction Plans. A duplicate copy of any Solid Waste Facility design, specifications and construction plans shall be filed with the County within sixty (60) days prior to the commencement of any construction.
3. As built drawings. Within sixty (60) days of final completion of facility construction, the developer shall file with the County a copy of as-built drawings reflecting the completion of construction. A professional engineer authorized to practice in Florida shall certify such as built drawings.

Section 9:9 Permit, Inspection and Monitoring

1. Operating Permit. This use requires an operating permit from the Liberty County Board of County Commissioners. Permits shall be issued for a five-year period and are subject to renewal based on satisfactory compliance with this Chapter.
2. The facility owner or operator shall provide copies of any groundwater, air, soil or sediment test results required for FDEP to Liberty County and shall allow Liberty County to enter the premises and inspect and test groundwater, air, soil and sediment and business records. Inspection shall be made at the County's discretion.
3. Annual Report. The owner/operator shall file an annual report for each year within 30 days of the operating permit anniversary. This report shall contain an estimate of the total quantity of waste deposited from the past year and an estimate of existing unused capacity. In addition, the owner/operator shall furnish copies to the County of any permit, permit renewal or permit modification applications submitted to FDEP, as well as any notices of violation or other correspondences related to regulatory compliance issues by FDEP.

Section 9:10 Performance Guarantees.

1. Liberty County requires the Solid Waste Facility owner or operator to provide the County with an appropriate financial surety as determined by Liberty County for the closure, monitoring, and maintenance of the facility. The financial surety shall be subject to negotiation and established in a written agreement with the owner/operator. The County will allow the applicant to

- provide a single financial mechanism to cover financial assurances for both the County and FDEP if an interagency agreement providing for such exists.
2. Owner/operator will maintain environmental impairment liability insurance coverage or an equivalent bond commencing with the receipt of waste and continuing through operation of the facility. Such insurance or bond will provide coverage in an amount of not less than two million dollars (\$2,000,000) per occurrence and will be in addition to other bonding requirements of federal and state regulators. Upon closure, the owner/operator will maintain coverage for a ten-year period.

Section 9:11 Community Solid Waste Trust Fund.

1. The County shall establish a Community Solid Waste Trust Fund to be administered and controlled by the Board of County Commissioners. The Community Solid Waste Trust Fund shall be created to provide financial security to the County and its citizens to help defray expenses or unforeseen cost necessitated by or reasonably related to the operation of the Solid Waste Facility on the citizens of the county. Additionally, this fund may be used for the purposes of mitigation or remediation, in the sole discretion of the Board, if other financial guarantees of the owner/operator are not available. The County shall be free to use these funds for any lawful purpose whether that purpose be related to solid waste disposal needs or not.
2. The Community Solid Waste Trust Fund shall be funded from the proceeds of a surcharge of \$3.00 per ton of solid waste deposited in a Solid Waste Facility. These funds shall be collected by the owner/operator, remitted, and paid to the County on a calendar quarterly basis and shall be paid within 20 days after the end of each calendar quarter. The above-stated dollar amount to be paid to the Community Solid Waste Trust Fund shall be subject to adjustment on every anniversary of date of the operating permit to reflect changes in the Consumer Price Index – Southeastern Region as issued by the U.S. Department of Labor.
3. For the purpose of funding the Community Solid Waste Trust Fund, yard trash that is mulched, chipped or similarly processed in a manner so as not to take up air space in any landfill, other than for cover purposes, shall not be subject to the surcharge described in this subsection.

Section 9:12 Retention of Expert Assistance and Reimbursement by Applicant

1. The County may hire any consultant or expert necessary to assist the County in reviewing and evaluating the application.
2. An applicant shall deposit with the County funds sufficient to reimburse the County for all reasonable costs of consultant and expert evaluation and consultation in connection with the review of any application. The initial deposit shall be \$5,000.00 and shall be placed in an escrow account for such funds. These funds shall be used to reimburse the County for the expert consultation. If at any time during the review and approval process this escrow account has a zero

balance, the applicant shall be notified and required to replenish the account before any further action or consideration is taken on the application. Any funds remaining in the escrow account after the permitting process is complete and all consultant fees have been paid shall be promptly refunded to the applicant.

Section 9:13 Application Fee

The applicant shall pay a non-refundable application fee of \$3,500.00 to the County.

Section 9:14 Public Hearing and Notification Requirements

1. Prior to the approval of any application for permitting, modification or renewal of a Solid Waste Facility permit, a public hearing shall be held by the County, notice of which shall be published in the official newspaper of the County no less than ten days prior to the scheduled date of the public hearing.
2. Prior to the date of publication of the notice of public hearing, the County shall notify by certified mail, all property owners within 1500 feet of the proposed property site. This notice shall include a map and a description of the Solid Waste Facility and the time and date of the public hearing.

Section 9:14 Abandonment and Removal

1. A Solid Waste Facility is considered abandoned when it is not used for solid waste purposes for one hundred eighty (180) consecutive days, at which point the County may require removal of the facility and restoration of the site.
2. If the Solid Waste Facility is determined to be in a state of disrepair such that it creates a health or safety hazard, the County may require removal of the facility and restoration of the site.

SECTION 3. REPEALER. That any other ordinance or provision or an ordinance in conflict with this Ordinance shall be repealed to the extent of, but only to the extent of, the explicit conflict with this Ordinance.

SECTION 4. SEVERABILITY. That in the event any part of this Ordinance is deemed to be unconstitutional or invalid for any reason, the remainder of the Ordinance shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective as provided by law.

PASSED AND ADOPTED BY LIBERTY COUNTY, FLORIDA ON THIS 9th DAY OF JUNE, 2022.

BOARD OF COUNTY COMMISSIONERS
OF LIBERTY COUNTY, FLORIDA


HANNAH CASSEUX, Chair


HONORABLE DANIEL STANLEY
County Clerk

APPROVED TO FORM:


County Attorney