

ORDINANCE NO. 22-26

**AN ORDINANCE OF OKALOOSA COUNTY, FLORIDA,
CREATING A NEW ARTICLE VII, BIOSOLIDS DISPOSAL,
OF CHAPTER 11, HEALTH AND SANITATION, OF THE
CODE OF ORDINANCES OF OKALOOSA COUNTY,
FLORIDA; PROVIDING FOR PURPOSE, INTENT, AND
AUTHORITY; PROVIDING FOR DEFINITIONS;
PROVIDING FOR PENALTIES AND VIOLATIONS;
PROVIDING STANDARDS FOR BIOSOLIDS DISPOSAL;
PROVIDING FOR INCLUSION IN THE CODE OF
ORDINANCES OF OKALOOSA COUNTY, FLORIDA;
PROVIDING FOR SEVERABILITY; PROVIDING FOR THE
REPEAL OF CONFLICTING PROVISIONS; AND
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, effective January 1, 2016, section 381.0065(6), Florida Statutes, banned the land application of septage due to concern for the public health and safety; and

WHEREAS, while the Code of Ordinances of Okaloosa County, Florida (the “County Code”), includes provisions to protect the health, safety, and general welfare of the public, it does not currently include standards for the land application of human waste; and

WHEREAS, it is the duty and intention of the Board of County Commissioners (the “Board”) to protect the health, safety, and welfare of the citizens, residents, visitors, and businesses of Okaloosa County; and

WHEREAS, upon determining that the Florida Department of Environmental Protection (the “FDEP”) has received an application for the development of a septage management facility in Okaloosa County that would, if approved, include the land application of septage materials, on June 21, 2022 the Board adopted Ordinance 2022-12, enacting a 180 day moratorium on the County’s acceptance of any applications for development approval, including temporary use permits, for septage management facilities and/or the land application of treated septage products; and

WHEREAS, after careful consideration of all relevant information and consistent with the intent of section 381.0065(6), Florida Statutes, the Board hereby finds that it is necessary and in the public interest to establish a treatment standard for the land application of human waste products and to prohibit the land application of septage management facility biosolids within Okaloosa County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Recitals

The recitals set forth above are incorporated herein as findings of the Board.

Section 2. Creation of Article VII of Chapter 11 of the Code of Ordinances of Okaloosa County, Florida

There is hereby created Article VII of Chapter 11 of the County Code, which shall be as provided in Exhibit A attached hereto.

Section 3. Inclusion in the Code

The provisions of Exhibit A attached hereto shall be incorporated in and made a part of the County Code and the sections of Exhibit A may be renumbered or re-ordered as necessary.

Section 4. Severability

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

Section 5. Repeal of Conflicting Provisions

This Ordinance does hereby repeal all Ordinances or provisions thereof in conflict herewith.

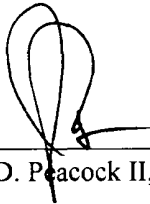
Section 6. Effective Date

This Ordinance shall be effective as provided by law.

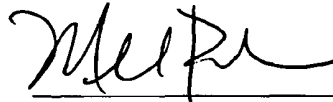
PASSED AND DULY ADOPTED in this 6th day of December, 2022.

**BOARD OF COUNTY COMMISSIONERS
OF OKALOOSA COUNTY, FLORIDA**

ATTEST:



J.D. Peacock II, Clerk of Court



Mel Ponder, Chairman



APPROVED AS TO FORM:

**Lynn M.
Hoshihara**

Digitally signed by Lynn M. Hoshihara
DN: cn=Lynn M. Hoshihara, o=Okaloosa
County, ou=County Attorney,
email=lhoshihara@myokaloosa.com,
c=US
Date: 2022.12.06 16:22:53 -05'00'

Lynn M. Hoshihara
County Attorney

Exhibit A

Sec. 11-701. Intent, purpose and authority.

Effective January 1, 2016, section 381.0065(6), Florida Statutes, banned the land application of septage due to concern for the public health and safety. It is the intent of this article to regulate the disposal of waste materials and biosolids to protect the groundwater from nutrient and pathogen pollution and to minimize vector attraction including flies, rodents, and nuisance animals for the benefit and protection of public health, safety and welfare and the environment. The county is authorized to regulate the treatment and disposal of wastes including treated and untreated septage and biosolids in the county, pursuant to Article VIII, Section I, Florida Constitution, 1968, and Chapters 125 and 403, Florida Statutes.

Sec. 11-702. Definitions.

The following terms and definitions shall apply to all divisions of article VII, except where stated otherwise within the individual divisions:

Applicable law means all applicable federal and State of Florida laws, local (municipal and county) ordinances, and the rules and regulations of all authorities having jurisdiction.

Agricultural site means a biosolids application site consisting of land on which a food crop, a feed crop, or a fiber crop is grown, forest land, or land on which turf or ornamental plants are grown. This includes range land and land used as pasture as defined in Chapter 62-640, F.A.C.

Application site means a property (such as, but not limited to, a farm, a ranch or a mining property) where biosolids or septage are applied to land. Application sites are identified as either agricultural sites or reclamation sites as defined in Chapter 62-640 F.A.C.

Biosolids means the solid, semisolid, or liquid residue generated during the treatment of domestic wastewater in a domestic wastewater treatment facility, formerly known as “domestic wastewater residuals” or “residuals.” Not included is the treated effluent or reclaimed water from a domestic wastewater treatment facility. Also not included are solids removed from pump stations and lift stations, screenings and grit removed from the preliminary treatment components of domestic wastewater treatment facilities, other solids as defined in subsection 62-640.200(30), F.A.C., and ash generated during the incineration of biosolids. Biosolids include products and treated material from biosolids treatment facilities and septage management facilities regulated by the Department as defined in Chapter 62-640 F.A.C.

Department means the Florida Department of Environmental Protection.

Non-Publicly Owned Treatment Works or Non-POTWs means all treatment works as defined by section 212 of the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq. (the “Act”), which are not owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a non-POTW Treatment Facility. The term also means the non-municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

Onsite sewage treatment and disposal system, as defined in Chapter 381.0065, F.A.C., means a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic

Exhibit A

treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under chapter 403.

Publicly Owned Treatment Works or POTWs means a treatment works as defined by section 212 of the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq. (the “Act”), which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Facility. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

Reclamation site means a biosolids application site consisting of drastically disturbed land that is reclaimed using biosolids, such as strip mines and construction sites as defined in Chapter 62-640 F.A.C.

Secondary Treatment Regulations means the regulations as defined in 62-600.420 F.A.C. that define the level of effluent quality attainable through the application of secondary or equivalent treatment by a POTW or a non-POTW.

Septage means a mixture of sludge, fatty materials, human feces, and wastewater removed during pumping of an onsite sewage treatment and disposal system. Excluded from this definition are the contents of portable toilets, holding tanks, and grease interceptors as defined in Chapter 62-640 F.A.C.

Septage management facility means a stationary facility that treats only domestic septage or combinations of domestic septage, food establishment sludges, wastes removed from portable toilets, and wastes removed from holding tanks associated with boats, marinas, and onsite sewage treatment and disposal systems, before use or land application as defined in Chapter 62-640 F.A.C. and that is not incorporated in a POTW or non-POTW.

Sec. 11-703. Penalties and violations.

Unless otherwise specified herein, a violation of this article shall constitute a civil infraction which may result in a maximum civil penalty. Violations may be enforced by code enforcement in accordance with chapter 11 of the Okaloosa County Code of Ordinances.

Sec. 11-704. Standards for Biosolids Disposal.

- (a) POTW and Non-POTW produced biosolids disposal. Only biosolids produced by POTW and non-POTW facilities that produce treated effluent that meets the minimum secondary

Exhibit A

treatment regulations may be disposed of in Okaloosa County in accordance with all provisions of Chapter 62-640, F.A.C..

- (b) Septage Management Facility produced biosolids disposal. Biosolids produced by septage management facilities shall be discharged to Subtitle D (solid waste) landfills as regulated under the Resource Conservation and Recovery Act (RCRA), or to Subtitle C (hazardous waste) landfills as regulated under the Toxic Substances Control Act (TSCA), or to a Department permitted POTW or non-POTW. Land application of septage management facility biosolids is prohibited in Okaloosa County.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

December 7, 2022

Honorable J. D. Peacock II
Clerk of the Circuit Court
Okaloosa County
101 East James Lee Boulevard
Crestview, Florida 32536-1359

Attention: Maria Everton

Dear Honorable J.D. Peacock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Okaloosa County Ordinance No. 2022-26, which was filed in this office on December 6, 2022.

If you have any questions or need further assistance, please contact me at (850) 245-6271 or Anya.Owens@DOS.MyFlorida.com.

Sincerely,

Anya C. Owens
Program Administrator
Florida Administrative Code and Register

ACO/rra

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270