

**ORDINANCE NO. 25-\_\_\_\_\_**

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2024-21, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE; AMENDING CHAPTER 2, SECTION 206.A, ACCESSORY DWELLING UNITS, TO LIMIT THE SIZE OF THESE STRUCTURES; SECTION 208.F, ACCESSORY STRUCTURE SETBACKS, TO INCREASE THE SETBACKS FOR SHEDS; SECTION 209.D, ACCESSORY STRUCTURE LOCATION, TO PROVIDE EXCEPTIONS FOR ACCESSORY STRUCTURES ON WATERFRONT PROPERTIES; CHAPTER 9, SECTION 930, VARIANCES & SPECIAL EXCEPTIONS, TO ADD ACCESSORY DWELLING UNITS TO THE LIST OF STRUCTURES ELIGIBLE FOR A VARIANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, pursuant to Article VIII, Section I(g) of the Constitution of the State of Florida and the Community Planning Act, Chapter 163, Part II, Florida Statutes (FS), as amended, (the Act) Polk County is authorized and required to adopt a Land Development Regulations consistent with the Polk County Comprehensive Plan; and

**WHEREAS**, the Board of County Commissioners adopted said Land Development Regulations on March 1, 2000, titled the Polk County Land Development Code; and

**WHEREAS**, Chapter 9, Section 903 of the Land Development Code requires Land Development Code Amendments to be a Level 4 Review; and

**WHEREAS**, Chapter 9, Section 907 sets forth the purpose and review process for Level 4 Reviews; and

**WHEREAS**, pursuant to Section 125.67 of the Florida Statutes, every ordinance shall embrace but one subject and matter properly connected therewith; and

**WHEREAS**, pursuant to Section 163.3164 of the Florida Statutes, the Polk County Planning Commission conducted a public hearing, with due public notice having been provided, on the proposed Land Development Code Amendment on February 5, 2025; and

**WHEREAS**, the proposed text amendment to the Polk County Land Development Code shall amend standards for ADUs, utility sheds, and waterfront properties; and

**WHEREAS**, the Board of County Commissioners held two public hearings on March 4 2025 and March 18, 2025 wherein the Board reviewed and considered the Planning Commission's recommendation, the staff report, and all comments received during said public hearings, and provided for necessary revisions; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Polk

County, Florida that:

*NOTE:* The underlined text indicates proposed additions to the current language. The ~~strikeout~~ indicates text to be removed from the current ordinance.

**SECTION 1: FINDINGS** The Board hereby finds and determines that:

- a) The findings set forth in the recitals to this Ordinance are true and correct and hereby adopted.
- b) The Planning Commission, acting in its capacity as the Local Planning Agency for the County, held a public hearing on February 5, 2025, to consider the LDC text amendments contained within Application LDCT-2024-21 and found them to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC Text Amendment contained within Application LDCT-2024-21.
- c) The adoption of LDCT-2024-21 is consistent with the Comprehensive Plan and LDC.

**SECTION 2:** Chapter 2, Section 206.A, Accessory Dwelling Units, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**A. Accessory Dwelling Unit (ADU)**

Accessory dwelling units (ADUs) may be permitted as accessory uses to single-family detached homes and mobile homes in all residential districts and lots of record for residential purposes subject to the applicable district regulations and the following requirements:

1. No more than one ~~accessory dwelling unit~~ detached ADU may be permitted on any single-family residential lot or parcel.
2. Detached ADUs shall be built to the standards of the Florida Building Code, provided it is 50% or less in heated floor space than that of the primary home.
3. Variances to subsections 1 & 2, above, may be approved through the LUHO process, pursuant to LDC Sections 930 & 931. In addition to the variance criteria, the following criteria shall be met. These criteria below (a.- e.) are not eligible for a variance.
  - a. If more than one detached ADU is being requested on a single-family lot, then the total number of primary and ADU structures shall in no instance exceed the maximum residential density of the underlying FLU designation, as provided by the Comprehensive Plan.

- b. When exceeding the 50% threshold or proposing more than one ADU, the total ISR of the existing structures and development onsite shall not exceed 0.60. The total ISR shall not exceed 0.50 in the COREX Future Land Use designation.
  - c. No detached ADU shall exceed 80% in heated floor space than that of the primary home.
  - d. ADUs exceeding the 50% threshold shall meet principal structure setbacks.
  - e. When applying for more than one ADU or those exceeding the 50% threshold, the applicant shall demonstrate that the use of the ADU is subordinate and incidental to the primary home.
4. ~~An accessory dwelling unit~~ Detached ADUs shall be in the side or rear yard of the principal dwelling unit. On corner lots, no detached ADU shall be located forward of the building line of the principal dwelling unit.
  5. ~~Accessory dwelling units~~ An ADU may utilize setbacks pertaining to accessory structures unless attached to the principal structure.
  6. Mobile homes shall not be permitted to be used as ~~accessory dwelling units~~ ADUs. However, where mobile homes are the primary residence, an ~~accessory dwelling unit~~ ADU built to the standards of the Florida Building Code and this section may be permitted, ~~provided it is 50% or less in heated floorspace than the mobile home.~~
  7. ~~Accessory dwelling units~~ ADUs shall be permitted subject to a Level 1 Review.
  8. ~~Accessory dwelling units~~ ADUs shall not be approved for short-term rental or vacation rental.
  9. ADUs may be rented, leased, or serve as housing for living assistants, guests, or family members. ADUs may not be subdivided from the parent property or placed under separate ownership from the primary dwelling.
  10. ADUs in conformance with this section do not count as additional dwelling units in the calculation of density.
  11. When an ADU is attached to the principal structure, uses the same electrical service and plumbing as the primary dwelling unit, access is through a subordinate entrance on the rear or side of the principal structure, and the primary dwelling unit and ADU combined do not exceed five bedrooms, it is considered one single-family home, and the parcel is eligible for an additional detached ADU.

**SECTION 3:** Chapter 2, Section 208.F, Accessory Structure Setbacks, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

#### F. Accessory Structure Setbacks

Accessory structure setbacks shall be in accordance with the district dimensional standards in Table 2.2. The following accessory structure setbacks shall be applied through a Level 1 Review and shall supersede any setback requirements found within Table 2.2, Section 303, and Chapters 4 & 5.

1. No part of any pool, spa or hot tub or its enclosure shall be closer than five feet to any seawall or property line. A variance to this setback requirement may be granted by the Land Use Hearing Officer in accordance with Section 930 and 931.
2. ~~The required accessory setbacks for accessory structures used for storage may be reduced to zero (0) feet from the side and rear property lines provided the following requirements are met:~~
  - a. ~~Height of the accessory structure used for storage does not exceed 10 feet, measured from grade to the highest point of the accessory storage structure;~~
  - b. ~~The accessory structure used for storage is less than or equal to 400 square feet in size;~~
  - c. ~~No windows or doors of the accessory storage structure may face the property line of the reduced setback;~~
  - d. ~~No part of the accessory structure used for storage, including eaves, cornices, and other similar projections, extends over adjacent properties;~~
  - e. ~~The accessory structure used for storage is not within six (6) feet of any structure on a neighboring property for public safety purposes; and~~
  - f. ~~All other standards from Section 209 of this Chapter (excluding subsection 209.H) are met.~~
3. 2. The required front setback for open carports may be reduced to six (6) feet from rights-of-way or drive aisle, provided the following requirements are met:
  - a. The structure remains open from grade up to the eave, except the portion of the carport attached to the primary habitable structure;
  - b. The carport is not converted to habitable living space (based upon Florida Building Code standards) at any time;

- c. The property is on a local road, private road meeting local road standards, or private drive aisle;
- d. Setback measurement shall be from the carport post to the right-of-way (public or private) or the edge of pavement of a drive aisle; and
- e. Eaves may extend into the front setback no more than three feet. However, there shall be no encroachment into the right-of-way.

**SECTION 4:** Chapter 2, Section 209, Accessory Structures, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**Section 209 - Accessory Structures (Rev. 2/5/19 Ord. 19-008; 12/1/10; Ord. 10-083: 12/17/03 - Ord. 03-96)**

This Section applies to accessory structures in all districts. Accessory structures may be located on a parcel provided that the following requirements are met:

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**D. Location (Rev. 12/17/13; Ord. 13-065; 12/1/10; Ord. 10-083)**

1. Accessory structures shall be located in the side or rear yard meeting the required setbacks. Only those accessory structures located within the Agriculture/Residential Rural land use district that are part of a bona fide agricultural use shall be permitted within any yard (front, side, or rear) and shall adhere to applicable setback requirements for the district.
2. They shall not be located in a required buffer, minimum accessory structure setback area, public rights-of-way, or easement (unless authorized by the easement or approval is obtained from the easement holder).
3. Carports, garages and any other structures intended for the storage of vehicles which have both a rigid roof and a permanent foundation may be permitted in the front yard, provided the front yard setbacks are met.
4. When a lot is determined to be a reverse frontage lot, the front, side and rear lot lines, the orientation of the primary structure (with regards to primary front access), along with the applicable setback requirements for the land use district, shall be used to determine the allowable placement location of an accessory structure(s).
5. When a residentially developed waterfront parcel or property is separated by a public right-of-way, docks, boat houses and covers, gazebos, pergolas, and related accessory structures not intended for storage or habitation may be located on that portion of the parcel or property under common ownership nearest the waterfront and without the

primary structure, provided all setbacks are met.

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**SECTION 5:** Chapter 9, Section 930, Variances & Special Exceptions, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**Section 930 - Variances & Special Exceptions**

A. Land Use Hearing Officer (Revised 02/05/19 - Ord. No. 19-008)

The Land Use Hearing Officer may grant a variance or special exception from the strict application of this Code, if the following procedures are followed and findings made. Variances to the Green Swamp protection standards in Chapter 5 and all Use Tables in Chapters 2 and 4 are prohibited.

B. Authority (Rev. 02/05/19 - Ord. No. 19-008; 7/11/17 - Ord. 17-036; 9/1/15 - Ord. 15-056; 08/19/14 - Ord. 14-054; 12/3/13 - Ord. 13-0-62; Rev. 9/18/12 - Ord 12-028; (Rev. 1/10/12 - Ord. 12-001; 12/6/11 - Ord. 11 - 033; 12/1/10 - Ord. 10-083; 12/1/10 - Ord. 10-082; 06/03/09 - Ord. 09-024; 02/16/05 - Ord. 05-05, Rev. 9/18/12 - Ord 12-028, Rev 09/18/12 - Ord. 12-028)

Where there is no other form of relief available, the Land Use Hearing Officer shall have the authority to grant variances or special exceptions from the terms and requirements of this Code relative to:

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1. The dimensional requirements in Tables 2.2, 4.2, 4.4, 4.9, 4.13, 4.15, 4.17, 401.08.04 and 5.3. Variances to density, floor area ratio and minimum lot size requirements are prohibited;
2. 206.A.1&2, Number and Size of Accessory Dwelling Units;
3. Section 206 M., Solar Panels and Solar Energy Systems (lot size requirement, Setbacks, height, or solar panel or equipment location requirements);
4. Section 207 D., Temporary Mobile Home for Medical Hardship (special exception);
5. Section 209 G., Accessory Structure (size);
6. Section 211 B., Swimming Pool Enclosure;
7. Section 214, Distance Between Buildings;

8. Section 215, Setbacks From Private Roads;
9. Section 216, Commercial Vehicle Parking and Storage (special exception);
10. Section 222 A & E. Livestock and Fowl in Residential Neighborhoods;
11. Section 224, Alcohol Sales, (Distance requirements only);
12. Section 303, Communication Towers, Section 2 (Separation from Airports);
13. Section 303, Medical Marijuana Dispensaries (Distance requirements only);
14. Section 303, Mobile Home Parks (Setbacks from Drive Aisles and Roadways);
15. Section 303, Recreation Vehicle Parks (Setbacks from lot lines for vested RV Developments with platted lots);
16. Section 303 Solar Electric Power Generation Facility (l.d - height);
17. Section 303, Utilities, subsection 8 (electrical power substations and electrical power switching stations);
18. Section 401.04, US Highway 98 Selected Area Plan, the following subsections:a.[Section] 401.04 D.6.ib.[Section] 401.04 D.7.dc.[Section] 401.04 D.8.j
19. Section 610 D.4 & 6, (Setbacks).
20. Section 761, Maximum Permissible Noise Levels by Land Use Designation;
21. The linear distance measurement and height approved by Level 3 Review or Level 4 Review. Variances to density, floor area ratio and minimum lot size requirements are prohibited;
22. The height requirements in the Military Compatibility Zone as indicated in Section 642;
23. Section 401.08. Southeast Polk Selected Area Plan, subsection 401.08 H.1;
24. Section 760 K., Height of Signs

## **SECTION 6: EFFECTIVE DATE**

This ordinance shall become effective upon filing with the Department of State.

ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY,  
FLORIDA this 18<sup>th</sup> day of March 2025.