

**POLK COUNTY  
DEVELOPMENT REVIEW COMMITTEE  
STAFF REPORT**

<b>DRC Date:</b> January 4, 2024	<b>Level of Review:</b> 4
<b>PC Date:</b> March 6, 2024	<b>Type:</b> LDC Text Amendment
<b>BoCC Date:</b> April 16, 2024	<b>Case Numbers:</b> LDCT-2023-24
<b>Date:</b> July 16, 2024	<b>Case Name:</b> Septic to Sewer
<b>Applicant:</b> Polk BoCC	<b>Case Planner:</b> Aleya Inglima, Planner II

<b>Request:</b>	This is a County-initiated request amending Chapter 5, Chapter 6, Chapter 7, Chapter 8, and Chapter 10, to add the Nutrient Restoration Plan Overlay, restrictions on septic tanks, and definitions; providing for severability; and providing for an effective date. This case is related to LDCPAL-2023-13.
<b>Location:</b>	n/a
<b>Property Owner:</b>	n/a
<b>Parcel Size (Number):</b>	n/a
<b>Development Area:</b>	n/a
<b>Nearest Municipality:</b>	n/a
<b>DRC Recommendation:</b>	Approval
<b>Planning Commission Vote:</b>	5-1 Approval

**Among the changes to LDC:**

- Adding Nutrient Restoration Plan Overlay (NRP) requirements to Section 504, 505, 506, 507, 610, 702.
- Adding Basin Management Action Plan (BMAP), Reasonable Assurance Plan (RAP), Pollution Reduction Plan (PRP) which are referred to the Nutrient Restoration Plan Overlay (NRP) in Section 602.
- Changes to Section 806 requiring new plats located in Nutrient Restoration Plan Overlays to have a note stating Enhanced Nitrogen Septic Systems are required on parcels one acre or less if sewer is not available.
- Updating Chapter 10 definitions for on-site sewage disposal system and adding enhanced nitrogen reducing septic systems, septic tank, and private on-site disposal system.

**Summary:**

This is a County-initiated request amending Chapter 5, Chapter 6, Chapter 7, Chapter 8, and Chapter 10, to add the Nutrient Restoration Plan Overlay, restrictions on septic tanks, and definitions. HB 1379 passed in 2023 and requires local governments to conduct a feasibility analysis to provide sewer service for developments of more than 50 residential lots that have

more than one septic tank per acre within a 10-year planning horizon. The Clean Waterways Act under a recent (June 12, 2023) final order from Department of Environmental Protection, states all local governments within a Basin Management Action Plan (BMAP) area must develop a wastewater treatment plan and an onsite sewage treatment and disposal system remediation plan. If sewer is not available and the parcel is located in the Nutrient Restoration Plan Overlay (NRPO), an Enhanced Nitrogen Reducing Septic System shall be required if the parcel is one acre or less.

Polk County BoCC does not currently and will not control septic tank permitting. Through the implementation of HB 1379, Florida Department of Environmental Protection (FDEP) will assume permitting in the future. However, Polk County Land Development and Building Divisions have the responsibility of preparing development to meet statutory requirements. This amendment applies to existing lots and new lots that are less than one acre in a Nutrient Restoration Plan Overlay (See Exhibit 1). These properties, when developed, will be required to have a more expensive septic system or connect to centralized sanitary sewer if available. An Enhanced Nitrogen Septic System will cost significantly more than a standard septic system, will require a power source to operate, and more frequent maintenance.

### **Findings of Fact**

- *LDCT-2023-24 is a County-initiated request to amend Chapter 5, Chapter 6, Chapter 7, Chapter 8, and Chapter 10, to add the Nutrient Restoration Plan Overlay and restrictions on septic tanks, and definitions; providing for severability; and providing for an effective date. This case is related to LDCPAL-2023-13.*
- *LDCPAL-2023-13 changes include:*
  - *Division 2.100 Future Land Use Element (FLUE) – Creation of the Nutrient Restoration Plan Overlay and references to said overlay in several subsections of the FLUE.*
  - *Appendix 2.132 Critical Area Resource Management Plan – reference to septic prohibition for parcels one acre or smaller.*
  - *Division 2.300 Conservation Element – Reference the new Overlay and the applicable basins and septic tank limitations.*
  - *Division 3.100 Infrastructure Element – Septic to sewer conversation feasibility and listing of wastewater facilities that can accept new wastewater.*
  - *Division 4.200 Capital Improvements Element – adding a list of projects that help to achieve pollutant load reductions.*
  - *Division 4.400 Glossary – adding Septic Tank and Enhanced nitrogen-reducing septic systems, and modifying On-site Disposal System*

- *HB 1379 became effective July 1, 2023, and these pertain to sanitary sewer services:*
  - *Requires local governments to consider the feasibility of providing sanitary sewer services for developments of more than 50 residential lots that have more than one OSTDS per acre within a 10-year planning horizon (not required for rural areas of opportunity).*
  - *Requires local governments to update their comprehensive plans to include the sanitary sewer planning element by July 1, 2024.*
  - *Requires local governments that are subject to a BMAP (or located within the basin of waters not meeting applicable nutrient-related water quality standards) to provide DEP with an annual update on the status of the construction of sanitary sewers to serve such areas.*
- *Per Chapter 10, "AVAILABLE, SANITARY SEWER: A municipal, County-franchised, or County-owned sanitary sewer system is considered available when:*
  1. *The system is not under Florida Department of Environmental Protection (DEP) moratorium;*
  2. *For all single-family residences, and for any establishment that has an estimated sewage flow of 1,000 gallons per day or less, a sanitary sewer shall be considered available if the line abuts the property and gravity flow can be maintained from the building to the sewer line;*
  3. *For any residential subdivision, and all non-residential uses that have an estimated sewage flow of 1,000 gallons per day or more, a sanitary sewer shall be considered available if a gravity line, force main, manhole, or lift station in an easement or right-of-way is existing under one of the following conditions:*
    - a. *Is within one half of one mile (2,640 feet) of the property;*
    - b. *Will serve ten or more Equivalent Residential Units (ECCS) or more and is within 3/4 mile (3,960 feet) of the property;*
    - c. *Will serve 20 Equivalent Residential Units (ECCS) or more and is within one mile (5,280 feet) of the property; and*4. *A sewer system has adequate hydraulic capacity to accept quantity of sewage to be generated by the proposed establishment."*
- *Polk County BoCC does not have jurisdiction over Onsite Sewage Treatment Disposal Systems (OSTDS).*

### **Development Review Committee Recommendation:**

The Land Development Division, based on the Findings of Fact, finds that the proposed text change request is **CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan. Staff recommends **APPROVAL** of LDCT-2023-24.

**Planning Commission:** *at an advertised public hearing on March 6, 2024, the Planning Commission voted 5:1 for APPROVAL of LDCT-2023-24.*

### **Analysis:**

HB 1379 is related to environmental protection. The major topics in the bill include wastewater treatment, onsite sewage treatment and disposal systems (OSTDSs), sanitary sewer services, basin management action plans (BMAPs), the wastewater grant program, the Indian River Lagoon (IRL), and the acquisition of state lands. Attachment four provides a more expansive summary.

HB 1379 passed in 2023 and requires local governments to conduct a feasibility analysis to provide sewer service for developments of more than 50 residential lots that have more than one septic tank per acre within a 10-year planning horizon. The Clean Waterways Act, under a recent (June 12, 2023) final order from Department of Environmental Protection, states all local governments within a Basin Management Action Plan (BMAP) area must develop a wastewater treatment plan and an onsite sewage treatment and disposal system remediation plan. This bill prohibits new septic tanks within Basin Management Action Plan (BMAP), Reasonable Assurance Plan (RAP), and Pollution Reduction Plan (PRP) areas where sewer is available. County areas with BMAPs include Hillsborough Bay Watershed (Tampa Bay RAP), Alafia River Basin, Lake Okeechobee Watershed, and Upper Ocklawaha Basin. If sewer is not available and the parcel is located in the Nutrient Restoration Plan Overlay (NRPO), an Enhanced Nitrogen Septic System shall be required if the parcel is one acre or less.

HB 1379 House of Representatives Staff analysis is provided in attachment five. This provides a background on projects to protect and restore water quality. The Department of Environmental Protection (DEP) has sorted Florida's water resources into 29 major watersheds and organized those watersheds into 5 basin groups. A watershed is an area of land that contributes to the flow of water into a body of water; it "sheds" water into the receiving body of water. Flowing water carries organic debris and dissolved organic matter that provide food and shelter for aquatic life, but it also carries pollutants such as fertilizers and pesticides over the land and into the receiving body of water.

Polk County BoCC does not currently and will not control septic tank permitting. Through the implementation of HB 1379, Florida Department of Environmental Protection (FDEP) will assume permitting in the future. However, Polk County Land Development and Building Divisions have the responsibility of preparing development to meet statutory requirements. This amendment applies to existing lots and new lots that are less than one acre in a Nutrient Restoration Plan Overlay (See Exhibit 1). These properties, when developed, will be required to have a more expensive septic system or connect to centralized sanitary sewer if available. An

Enhanced Nitrogen Septic System will cost significantly more than a standard septic system, will require a power source to operate, and more frequent maintenance.

### **Limits of the Proposed Ordinance**

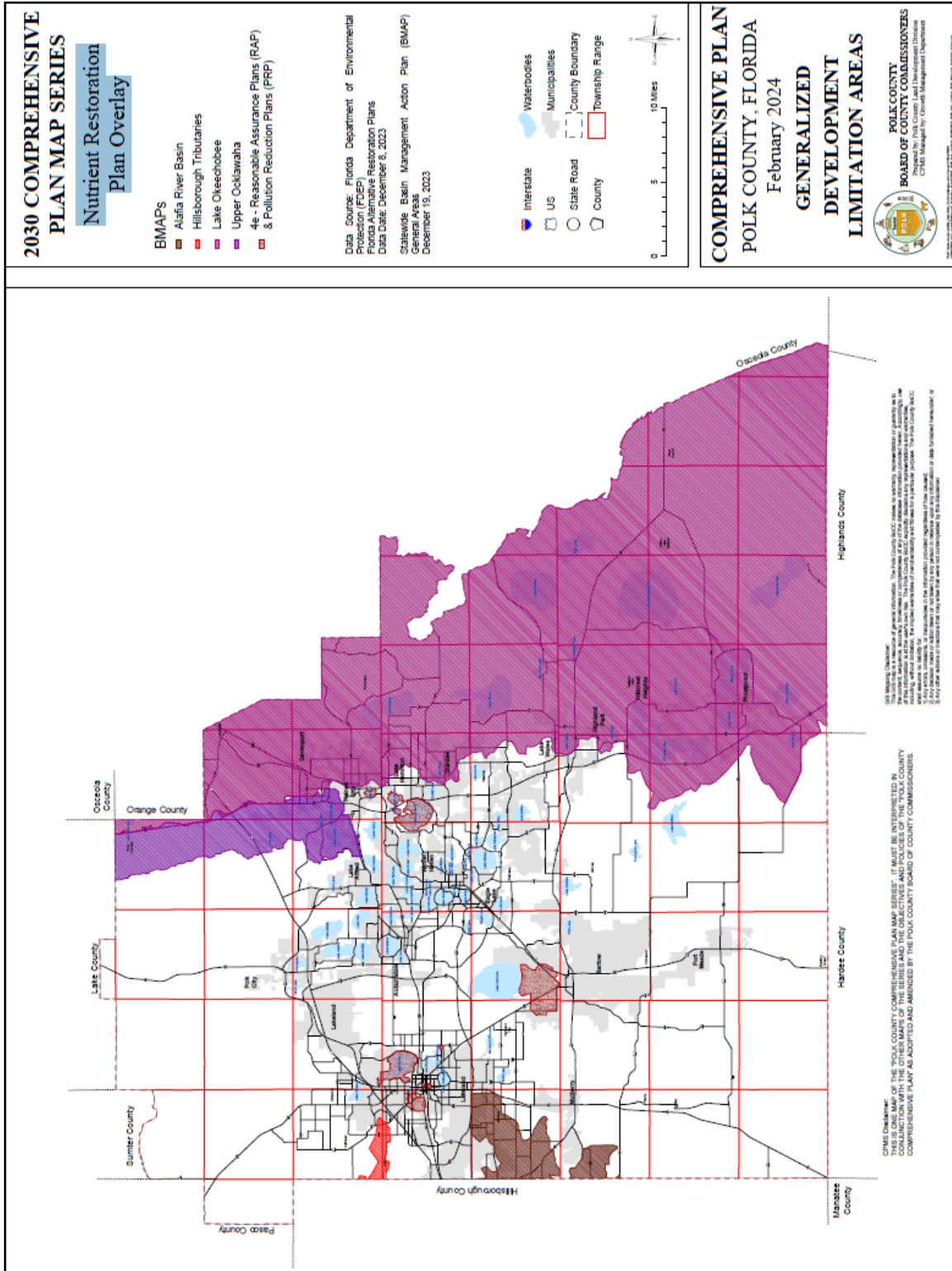
The focus of this amendment is for the environmental water quality for Polk County. HB 1379 prohibits new septic tanks within Basin Management Action Plan (BMAP), Reasonable Assurance Plan (RAP), and Pollution Reduction Plan (PRP) areas where sewer is available on parcels one acre or less (See Exhibit 1). The recommended changes apply only to residential properties one acre or less in size.

### **Consistency with the Comprehensive Plan**

This change will be in connection to LDCPAL-2023-13. This amendment will require landowners to connect to centralized sewer or have an enhanced nitrogen reducing septic system within Nutrient Reduction Plan Overlay areas in Polk County.

**Comments from Other Agencies:** None

**Draft Ordinance:** Under separate attachment



# Nutrient Restoration Plan Overlay