

ORDINANCE NO. 25-_____

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2025-5, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 2, SECTION 222, TO ALLOW STRUCTURES FOR THE SHELTERING AND FEEDING OF ANIMALS AT TEN FEET FROM PROPERTY LINES; PROHIBITING ROOSTERS AND OTHER DISRUPTIVE FOWL ON RESIDENTIAL PROPERTIES UNDER ONE HALF ACRE; AMENDING CHAPTER 9, SECTION 930, VARIANCES AND SPECIAL EXCEPTIONS, TO ALLOW A VARIANCE PROCESS FOR STRUCTURE SETBACKS; AMENDING CHAPTER 10 TO PROVIDE FOR DEFINITIONS; 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 (the “Board”) adopted said Land Development Regulations on March 1, 2000, titled the Polk County Land Development Code (the “LDC”); 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 April 2, 2025; and

WHEREAS, LDCT-2025-5 is a County-initiated request to amend Chapter 2, Section 222 to restrict roosters on properties under a half-acre and to reduce setbacks for structures for feeding and sheltering livestock and fowl; and

WHEREAS, the Board of County Commissioners of Polk County has determined it appropriate to adopt regulations that are consistent with the Comprehensive Plan;

WHEREAS, the Board held two public hearings on May 6, 2025 and May 20, 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, if any.

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 April 2, 2025, to consider the LDC text amendments contained within Application LDCT-2025-5 and found them to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC Text Amendment contained within Application LDCT-2025-5.
- c) The adoption of LDCT-2025-5 is consistent with the Comprehensive Plan and LDC.

SECTION 2: Chapter 2, Section 222 of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

Section 222 Agricultural

A. ~~Non-Commercial Farming~~ Livestock and Fowl on Residential Property (Revised 1/10/12; Ord. 12-001)

~~No structure for the sheltering or feeding of animals (such as barns, stables, coups, aviaries, troughs or feeders) shall be permitted to be built within 50 feet of a property boundary except within the A/RR, A/RRX, PM and CORE Future Land Use Map districts. Relaxation of the standards set forth in this section may be approved by the Land Use Hearing Officer through the process provided in Section 930 of this Code~~

This section is intended to address the balance between quality of life for residents and responsible animal husbandry in residential areas. These provisions do not apply to the good faith commercial agricultural use of land (bona fide agricultural purposes), as defined in F.S. § 193.461, or any property within the A/RR, A/RRX, PM, and CORE Future Land Use Map districts.

1. Livestock and fowl shall be permitted on residential properties less than ½ acre (21,780 square feet) in size as follows:
 - a. Livestock and fowl shall be contained within fenced areas.

- b. The keeping of male fowl, including but not limited to, roosters, cockerels, toms, ganders, etc., is deemed to be a nuisance due to the noises produced and is, therefore, specifically prohibited.
 - c. Swine shall be kept in pens or fenced areas at least 50 feet from neighboring residential property lines.
 - d. The collection and storage of animal waste shall be located at least 50 feet from neighboring residential property lines.
2. No structures intended for the sheltering or feeding of animals (such as barns, stables, coops, aviaries, troughs, or feeders) shall be permitted to be built within 10 feet of a residential property boundary.
 3. Variances to the setbacks in subsections 1 & 2 may be approved by the Land Use Hearing Officer (LUHO) through the process provided in Section 930 of this Code.
 4. Show animals and educational projects intended to be kept onsite on a temporary basis shall be exempted from Section 222.A, provided the manure setback requirement in Section 222.A.1.d. is met.
 5. Code enforcement action of this subsection may be initiated only by complaint from an owner of residential property within 250 feet of the property on which fowl are contained.

B. Non-residential Farm Buildings (Revised 1/6/2010; Ord. 10-002; 09/02/09; Ord. 09-054):

Non-residential farming related buildings are not required to meet the standards of the Florida Building Code except as required by F.S. Ch. 553.73.

C. Farm Worker Housing (Revised 09/02/09; Ord. 09-054):

Nothing in this Code shall prohibit the use of a single-family, duplex, or multifamily unit from housing farm workers in the same manner as a family defined within Chapter 10 of this Code.

D. Farming, General and Animal Grazing (Revised 1/10/12; Ord. 12-001; 6/28/11; Ord. 11-008)

Nothing herein shall prevent the use of any land for farming, general and animal grazing for bona fide agricultural purposes, or the good faith commercial agricultural use of land, as defined in F.S. § 193.461. This shall be allowed in all land use classifications.

~~E. Livestock and Fowl in Residential Neighborhoods (Revised 2/5/19 Ord. 19-008; 12/15/15; Ord. 15-080; 1/10/12; Ord. 12-001)~~

~~This section is intended to address the balance between quality of life for residents and responsible animal husbandry in residential neighborhoods. Code enforcement action of this subsection (222~~

~~E.) may be initiated only by complaint from and owner of residential property within 250 feet of the property on which livestock or fowl are contained. (MOVED ABOVE) The following provisions apply to only residential properties less than ½ acre (21,780 square feet) in size and do not apply to any property within the A/RR, A/RRX, PM and CORE Future Land Use Map districts. These provisions do not apply to the good faith commercial agricultural use of land (bona fide agricultural purposes), as defined in F.S. § 193.461.~~

- ~~1. Livestock shall be contained within fenced areas.~~
- ~~2. Fowl and Swine shall be kept in pens or fenced areas at least 50 feet from neighboring residential property lines.~~
- ~~3. The storage of animal waste shall be located at least 50 feet from neighboring residential property lines.~~
- ~~4. Show animals and educational projects shall be exempted from the requirements for pens in Section 222 E.2, provided the manure setback requirement in Section 222 E.3, can be met.~~
- ~~5. Relaxation of the standards set forth in this section may be approved by the Land Use Hearing Officer through the process provided in Section 930 of this Code.~~

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SECTION 3: Chapter 9, Section 930.B of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

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:

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. Section 206 M., Solar Panels and Solar Energy Systems (lot size requirement, Setbacks, height, or solar panel or equipment location requirements);
3. Section 207 D., Temporary Mobile Home for Medical Hardship (special exception);
4. Section 209 G., Accessory Structure (size);

5. Section 211 B., Swimming Pool Enclosure;
6. Section 214, Distance Between Buildings;
7. Section 215, Setbacks From Private Roads;
8. Section 216, Commercial Vehicle Parking and Storage (special exception);
9. Section 222 A.1 & 2 & E. Livestock and Fowl in on Residential Neighborhoods Property;
10. Section 224, Alcohol Sales, (Distance requirements only);
11. Section 303, Communication Towers, Section 2 (Separation from Airports);
12. Section 303, Medical Marijuana Dispensaries (Distance requirements only);
13. Section 303, Mobile Home Parks (Setbacks from Drive Aisles and Roadways);
14. Section 303, Recreation Vehicle Parks (Setbacks from lot lines for vested RV Developments with platted lots);
15. Section 303 Solar Electric Power Generation Facility (l.d - height)
16. Section 303, Utilities, subsection 8 (electrical power substations and electrical power switching stations);
17. Section 401.04, US Highway 98 Selected Area Plan, the following subsections:
 - a.[Section] 401.04 D.6.i
 - b.[Section] 401.04 D.7.d
 - c.[Section] 401.04 D.8.j
18. Section 610 D.4 & 6, (Setbacks).
19. Section 761, Maximum Permissible Noise Levels by Land Use Designation;
20. 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;
21. The height requirements in the Military Compatibility Zone as indicated in Section 642;
22. Section 401.08. Southeast Polk Selected Area Plan, subsection 401.08 H.1;
23. Section 760 K., Height of Signs

SECTION 4: Chapter 10, Definitions, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

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FOWL (Revised 1/10/12 - Ord. 12-001): a ~~flightless~~ and primarily ground-feeding bird kept, raised, or bred for hobby or for its eggs or flesh. This definition shall include, but is not limited to, chickens, turkeys, ducks, geese, guinea fowl, pheasants, partridges, and quail.

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SECTION 5: SEVERABILITY

If any provision of this Ordinance is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction the other provisions shall remain in full force and effect.

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 on this 20th day of May 2025.