

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2024-15, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE; AMENDING CHAPTER 7 TO CREATE STANDARDS FOR ACCESS VIA EASEMENT FOR EXISTING LOTS OF RECORD AND LOWERING THE LEVEL OF REVIEW FOR ACCESS VIA EASEMENT WAIVERS; 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 August 7, 2024; and

WHEREAS, the proposed text amendment to the Polk County Land Development Code shall amend standards for residential access via easement requirements; and

WHEREAS, the Board of County Commissioners held two public hearings on September 3, 2024 and September 17, 2024 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 August 7, 2024, to consider the LDC text amendments contained within Application LDCT-2024-15 and found them to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC Text Amendment contained within Application LDCT-2024-15.
- c) The adoption of LDCT-2024-15 is consistent with the Comprehensive Plan and LDC.

SECTION 2: Chapter 7, Section 705.B, Residential Access Through Easement, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

B. Residential Access Through Easement (Added 07/10/18 – Ord. 18-047)

1. An easement providing access to a residential lot from a paved road meeting County standards shall meet the following requirements; the easement shall:
 - ~~a. Provide for no more than four lots subject to other density, minimum lot size requirements and any other applicable requirements of this Code;~~
 - a. Have a minimum width of 20 feet;
 - b. Not exceed 0.25 miles (1,320 feet) in length without a waiver approved by the Planning Commission pursuant to LDC Section 932;
 - c. Provide for sufficient ingress and egress for fire trucks, ambulances, police cars, and emergency vehicles;
 - d. Be supported by the joinder and consent of all fee owners under easements to the use of the easement by the subject parcel(s). If joinders are provided for the easement, it shall be accompanied by an ownership and encumbrance report based on the legal description of the easement. In lieu of joinders, an applicant may provide a legal opinion from a licensed Florida attorney stating a lot has legal access, along with supporting documentation; and,
 - e. Be subject to a Level 1 Review and be provided written approval of same prior to obtaining a building permit.
2. When subdividing a parcel that will utilize an easement for access, the following standards shall apply:
 - a. No more than four lots, subject to density, minimum lot size requirements,

and any other applicable requirements of this Code, shall be allowed to access solely via an easement. To exceed four lots on an easement, a waiver must be approved by the Planning Commission pursuant to LDC Section 932.

b. When creating parcels that will be accessed solely via an easement as provided for herein, the parent tract (prior to subdividing) shall directly front on a public or private paved road meeting County standards. Waivers to the standards in this Subsection b. may be approved by the Planning Commission pursuant to LDC Section 932.

i. If the parent parcel fronts an unpaved road that is maintained by the County and the road is less than 0.25 miles (1,320 feet) in length, this shall suffice as direct frontage.

ii. In instances where the parent parcel accesses a County-maintained road or state highway solely via an easement and lacks direct deeded, fee-simple frontage on a County-maintained road or state highway, a one-time lot split consistent with the lot size and density requirements of the Future Land Use map may be permitted through a Level 1 Review, provided no more than four lots access the easement and the easement does not exceed 0.25 miles.

3. When an individual lot utilizes an easement that exceeds 0.25 miles and/or provides access to more than four lots, access solely via an easement may be approved through a Level 1 Review under the following conditions:

i. No lot split or subdivision of property is requested.

ii. The subject lot was eligible for a building permit when it was first recorded by deed or plat.

iii. No new easement is being created and the lot has legal access to an existing, improved easement or a private road recognized by the County Roadway Inventory.

iv. The easement shall be a minimum of 20 feet in width and be sufficient for emergency vehicles, as detailed in Subsection B.1

~~2. When creating a parcel that will be accessed solely via an easement as provided for herein, the parent tract (prior to subdividing) shall directly front on a public or private paved road meeting County standards. If the parent parcel fronts an unpaved road that is maintained by the County and the road is less than 0.25 miles (1,320 feet) in length, this shall also suffice as direct frontage.~~

- ~~3.~~ 4. The provisions as outlined in ~~subsection~~ Section 705.B ~~above~~ shall not be eligible for lots created as part of large unrecorded subdivisions where infrastructure was not constructed, as documented herein this Code.
- ~~4.~~ 5. Access provided solely via an easement shall not be permitted in undeveloped recorded subdivisions where infrastructure does not exist, commonly referred to as “paper plats.”
- ~~5.~~ 6. Access provided solely via easement shall not be permitted in the Green Swamp Area of Critical State Concern.
- ~~6.~~ 6. ~~Lot(s) gaining access solely via an easement pursuant to this Section shall be subject to a Level 1 Review and be provided written approval of same prior to obtaining a building permit.~~
- ~~7.~~ 7. ~~Waivers to Section 705.B (subsections 1.a. [number of lots] and 1.c. and 2. only) may be granted by the Board of County Commissioners pursuant to a Level 4 Review and subject to the waiver provisions in Section 932 of this Code.~~

SECTION 3: 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 4: 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 17th day of September 2024.