

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT **LDCT-2024-13 Part B**, AMENDING ORDINANCE NO. 00-09, AS AMENDED, (ALSO KNOWN AS THE POLK COUNTY LAND DEVELOPMENT CODE); PROVIDING FINDINGS; AMENDING CHAPTER 5, SECTION 502 TABLE 5.3. DENSITY AND DIMENSIONAL REGULATIONS FOR GREEN SWAMP AREA OF CRITICAL STATE CONCERN, TO INCREASE THE DENSITY TRANSFERRED OUT OF **WETLANDS** IN THE A/RRX DISTRICT FROM ONE (1) UNIT PER 20 ACRES TO ONE (1) UNIT PER 10 ACRES; AMENDING SECTION 506 RURAL SPECIAL PROTECTION AREA TO ADDRESS WETLAND DENSITY TRANSFER IN THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN; PROVIDING FOR SEVERABILITY; PROVIDING 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 (the “LDC”) 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; 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 June 5, 2024; and

WHEREAS Application LDCT-2024-13 is a County-initiated application to amend the text of the LDC to implement changes approved in LDCPAL-2024-12 regarding the measurement of density in the Rural portions of the Green Swamp Area of Critical State Concern, density transfer from wetlands, and correct the date of vesting for lots of record; and

WHEREAS, the Board held two public hearings on June 18, 2024 and September 3, 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, 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 findings set forth in the recitals to this Ordinance are true and correct and hereby adopted. In addition, the Board hereby adopts and incorporates herein the staff report and makes the following findings based upon the staff report, testimony, and exhibits presented during the hearing:

- a) The Planning Commission, acting in its capacity as the Local Planning Agency for the County, held a public hearing on June 5, 2024, to consider the LDC text amendment contained within the Application and found it to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC text amendment contained within the Application.
- b) Pursuant to Section 907.D.10 of the LDC, the Board shall, in the review of the Application, consider the following factors:
 - a. Whether the proposed text amendment is consistent with all relevant requirements of the Code;
 - b. Whether the proposed text amendment is consistent with all applicable policies of the Comprehensive Plan; and
 - c. Any other matter which the BoCC may deem appropriate and relevant to the text amendment proposal.
- c) The Application is consistent with all relevant requirements of the Comprehensive Plan.
- d) The Application is consistent with all relevant requirements of the LDC, including without limitation, Section 907.

SECTION 2: Chapter 5, Section 502 Table 5.3. Density and Dimensional Regulations for Green Swamp Area of Critical State Concern, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

Table 5.3. Density and Dimensional Regulations for Green Swamp Area of Critical State Concern

	CORE	A/RRX uplands	A/RRX wetlands	RSX	RLX-1	RLX-2	RLX-3	RLX-4
Maximum Residential Gross Density^{1,2}	1 du/20 ac	1 du/10 ac	1 du/20 ac	1 du/5 ac	8 du/ac	8 du/ac	8 du/ac	8 du/ac
Minimum Residential Gross Density^{1,2}	none	none	none	none	none	none	none	none
Minimum Residential Lot Area³	20 ac	10 ac	20 ac	5 ac	40,000 sf	15,000 sf	10,000 sf	6,000 sf
Maximum Non-residential Impervious Surface Ratio (ISR)⁴	0.50	0.50	0.50	0.60	0.65	0.65	0.70	0.70
Maximum Non-	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.25

	CORE	A/RRX uplands	A/RRX wetlands	RSX	RLX-1	RLX-2	RLX-3	RLX-4
residential Floor Area Ratio (FAR) ⁵								

Table 5.3. Density and Dimensional Regulations for Green Swamp Area of Critical State Concern

	RMX	RHX	TCCX	LCCX	RACX	CEX	CCX	OC
Maximum Residential Gross Density ^{1,2}	15 du/ac	20 du/ac 14, 15	none	none	25 du/ac	none	NA	N/A
Minimum Residential Gross Density ^{1,2}	none	none	none	none	15 du/ac	none	none	N/A
Minimum Residential Lot Area ³	6,000 sf	5,000 sf	none	none	none	none	none	none
Maximum Non-residential Impervious Surface Ratio (ISR) ⁴								
UGA/TSDA	0.70	0.60	0.70	0.70	0.70	0.70	0.70	0.70
SDA			0.60	0.60		0.60	0.60	0.60
RDA			0.50	0.50		0.50		

Table 5.3. Density and Dimensional Regulations for Green Swamp Area of Critical State Concern (For revision history, see last row in table below footnotes.)

	TCX	L/RX	BPCX-1	BPCX-2	INSTX	ROSX	PRESVX
Maximum Residential Gross Density ^{1,2}	10 du/ac	10 du/ac	none	none	none	none	none
Maximum Non-residential Impervious Surface Ratio (ISR)							
UGA/TSDA	0.70	0.70	0.70	0.70	0.70	0.20	0.01
SDA	0.60	0.60	0.60	0.60	0.60	0.15	
RDA		0.50	0.55	0.55	0.50	1.10	
Minimum Residential Gross Density ^{1,2}	5.01 du/ac	none	none	none	none	none	none
Minimum Residential Lot Area ³	4,000 sf	none	none	none	none	none	none

Footnotes for Table 5.3

1. Residential density is the average number of dwelling units per acre of land. Gross density is calculated by dividing the total number of dwelling units on a site by the gross site area, exclusive of existing water bodies and limited transfer of density out of wetlands per Section 620. (Note: The term "water bodies" does not include man-made wet retention/detention areas, lakes, or ponds that are to be created as part of a proposed development). The area for computing gross density shall include all public and institutional land areas (e.g., internal streets, sewer plants, schools, or parks) located within a site, as well as one-half of the right-of-way area for perimeter local streets, and one-fourth of the right-of-way area for perimeter local street intersections (measured from the right-of-way when the right-of-way meets County standards. If the right-of-way does not meet County standards, then the area shall be measured from the centerline of the roadway).
2. Higher or lower densities may be achieved through a Planned Development. See Chapter 3.
3. Lot areas are given on a per unit basis for single-family and duplex units. Smaller lot areas may be achieved through a Planned Development. See Section 503.
4. The Impervious Surface Ratio (ISR) is the relationship between the total amount of impervious surface which is present on a site and the total site area. Impervious surfaces are those which do not absorb water. They include buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt. The ISR is calculated by dividing the total area of all impervious surfaces on a site by the gross site area, excluding existing water bodies (Note: The term "water bodies" does not include man-made wet retention/detention areas, lakes, or ponds that are to be created as part of a proposed development).

5. The floor area ratio (FAR) is the relationship between the total floor area on a site and the total site area. The FAR is calculated by adding together all floor areas of all floors and dividing this total by the gross site area, exclusive of existing water bodies (Note: The term "water bodies" does not include man-made wet retention/detention areas, lakes, or ponds that are to be created as part of a proposed development).
 6. Front, exterior side, and exterior rear setbacks for principal and accessory structures shall be determined by the distance from the road right-of-way (R/W) or road centerline (C/L), whichever results in the greatest distance from the property line. Setbacks from private roads shall be calculated in the same manner or from the edge of pavement, whichever is greater. All linear dimensions are given in feet.
 7. All development is subject to Section 507 C. - Setbacks from lakes and surface waters.
 8. All development is subject to Section 220 - Compatibility.
 9. All development is subject to Section 219 - Infill Requirements.
 10. Chimneys, smoke stacks, communication towers, and Religious Institution symbols, including, but not limited to: minarets, prayer towers, steeples, crosses, menorahs, Star of David, and bell towers are exempt from the structure height limitations.
 11. All structures are subject to compliance with the Polk County Joint Airport Regulations.
 12. There are no minimum setback requirements from railroad rights-of-way in the BPCX districts. Structures in all other categories shall use the applicable setback.
 13. All structures shall comply with Section 214 - Distance between Buildings.
 14. The maximum density for RHX shall be 20 dwelling units per acre unless the RHX is adjacent to a RACX or TCX, in which case the minimum density shall be 15 dwelling units per acre with a maximum density of 25 units per acre.
 15. Location of residential units above non-residential uses in the RHX shall be encouraged by not considering such units, up to a maximum of 150 units, against the maximum residential percentages and densities.
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SECTION 3: Section 506 Rural Special Protection Area, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

Section 506 Section 506 Rural Special Protection Area (RURAL-SPA)

A. Connection to Public Facilities

All development within the Rural-SPA, except in the CORE, meeting the definition of availability as provided in Section 702 shall be connected to central water and sewer.

B. Use of On-Site Sewerage Treatment and Disposal Systems (OSTDS) (Septic Tanks)

Where septic tanks are used, the maximum net density shall be one dwelling unit per 40,000 square feet.

C. Residential Densities

Residential development shall not exceed a gross density of one dwelling unit per ten acres.

D. Conservation Area

All development located within the A/RR land use district of the Rural-SPA shall provide a conservation area set aside of at least 80 percent of the total land area of the development. This requirement shall be accomplished in accordance with the following.

1. The conservation (open space) shall be located in a large common area or areas and in buffers and shall not be located within individual platted lots,
2. For this requirement, non-phosphate mining is not deemed to be development,
3. Any subdivision of land requiring a plat shall indicate on the plat document that portion of the land which is to be conserved; and,
4. Any Plat shall clearly state that no clearing and no structures of any kind, except for family agriculture purposes, are to be placed within the conservation area.

E. Modified Districts

Rural Mixed-Use Developments and Rural Residential Developments are prohibited.

F. Conservation Core (Core) Land Use District

1. Connection to Public Facilities

Extension of central sewer in the CORE is prohibited.

2. Use of On-Site Sewerage Treatment and Disposal Systems (OSTDS) (Septic Tanks)

Where septic tanks are used, the maximum net density shall be one dwelling unit per 40,000 square feet.

3. Residential Densities

Residential development shall not exceed one dwelling unit per 20 acres.

4. Conservation Area

All development shall provide a conservation area set aside of at least 90 percent of the total land area. For this requirement, non-phosphate mining is not deemed to be development.

5. Modified Districts

Rural Mixed-Use Developments and Rural Residential Developments are prohibited.

6. Overlay Districts

In addition to the other overlay districts a Sand Mining Overlay shall be designated and located on the Future Land Use maps of Polk County, based upon the Official Settlement Agreement between the Department of Community Affairs (DCA) and Jahna Industries.

a. Once granted and maintained by Jahna Industries, Life-of-the-Mine Permit or equivalent permit from the Department of Environmental Regulation, shall trigger an amendment to the FLUM indicating the new overlay district.

b. The overlay district shall allow sand mining and ancillary uses as per the Official Settlement Agreement between DCA and Jahna Industries.

c. Nothing in these regulations regarding this overlay district shall be construed to allow, other than sand mining and ancillary uses, or expand the right to development within this district, nor weaken the controls and conditions of the Official Settlement Agreement or the Polk County Comprehensive Plan.

G. ~~Additional Density and Dimensional Regulations~~ Wetland Density Transfer

~~In addition to the densities and dimensions found in Table 5.3, development within the Rural SPA shall conform to the regulations listed:~~

~~1. The following residential densities shall apply within the A/RRX:~~

~~a. Uplands: one dwelling unit per ten acres (1 DU/10 AC).~~

~~b. Wetlands: one dwelling unit per twenty acres (1 DU/20 AC).~~

2. Wetland density, shall be when transferred to the uplands, and shall not be platted into individual lots. Wetlands shall be placed in an open space easement in perpetuity and dedicated to a homeowner's association or other not for profit entity. Wetlands shall remain in their native unaltered state.

H. Golf Courses

Golf courses are expressly prohibited in the Conservation-Core.

I. Lots of Record

Lots created prior March 3, 1993, that are less than five acres in size and have direct access onto a County approved road shall be permitted to construct one single-family detached home.

SECTION 4: 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 5: 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 _____ day of _____, 2024.