

**ORDINANCE NO. 23-\_\_\_\_\_**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT **LDCT-2022-25**, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 7, SECTION 702.G, RECLAIMED REUSE SYSTEMS, TO ENABLE DEVELOPMENT TO USE SPECIFIED ALTERNATIVE IRRIGATION SYSTEMS TO COUNTY RECLAIMED WATER CONNECTION; AMENDING SECTION 932.B TO ENABLE ADMINISTRATIVE WAIVERS TO SECTION 702, CONNECTION TO CENTRALIZED WATER, SEWER, AND REUSE WATER PROVISIONS; 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 Local Government Comprehensive Plan and Land Development Regulation 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 1, 2023; and

**WHEREAS** the proposed text amendment to the Polk County Land Development Code is intended to enable development to utilize similar non-potable water sources as alternatives to connection to County reclaimed water; and

**WHEREAS**, the Board of County Commissioners, reviewed and considered all comments received during said public hearing, 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 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 February 1, 2023, 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:** Section 702.G, Reclaimed Reuse Systems, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**Section 702 Connection to Centralized Water, Sewer, and Reuse Water Provisions** (*Rev. 07/22/09 – Ord. 09-048; 3/25/03 - Ord. 03/26*) (11/3/2020 ORD 2020-042)

Development located in the Transit Supportive Development Area (TSDA), Urban Growth Area (UGA), Suburban Development Area (SDA), or Utility Enclave Area (UEA) must meet the following standards for connection to potable water and wastewater, and reclaimed water systems.  
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**G. Reclaimed Reuse Systems** (*Revised 07/22/09 – Ord. 09-048*)

- 1. A municipal, County-franchised, or County-owned reclaimed water system is considered available pursuant to the following:

- a. For any residential subdivision, and all non-residential uses that have an estimated wastewater flow of 1,000 gallons per day or more, a reclaimed water main shall be considered available and connection shall be required if a reclaimed water main is in an easement or right of way existing under one of the following conditions:
    - i. Is within 1/2 mile (2,640 feet) of the property;
    - ii. Will serve 10 or more Equivalent Residential Connections (ERCs) or more of wastewater flow and is within 3/4 mile (3,960 feet) of the property;
    - iii. Will serve 20 Equivalent Residential Connections (ERCs) or more of wastewater flow and is within one (1) mile (5,280 feet) of the property; and
  - b. The wastewater treatment facility generating the reclaimed water shall have adequate capacity to serve the proposed development with reclaimed water as determined by the utility purveyor.
2. Except for single-family attached and single-family detached subdivisions located in Polk County Utilities' Northwest Regional Utility Service Area (NWRUSA), a connection to reclaimed water, as outlined in this section, shall not be required when an irrigation system is not installed and landscaping is provided in accordance with Section 720.E.6, Non-Irrigated Landscape Areas. Installation of or expansion of an irrigation system where one was not originally approved shall require another Level 2 Review and connection to reclaimed water may be necessary pursuant to this section. This provision shall apply to single-family attached and single-family detached subdivisions only when the entire subdivision, inclusive of every lot and common areas, complies with Section 720.E.6. When exercising this provision, 702.G.2, notice shall be provided on all applicable construction plans, recorded plats, and recorded restrictive covenants associated with the development.
3. The requirement to connect to reclaimed water may be waived if the applicant provides an alternative irrigation system, to be privately owned and operated, utilizing one of the following sources:
  - a. Surface water;
  - b. A groundwater well with an existing, current Water Use Permit from the applicable Water Management District;
  - c. Stormwater management system (e.g. stormwater ponds, cisterns, etc.)
- ~~34.~~ Nothing contained herein this section shall supersede any municipality's or private provider's authority to require a connection to reclaimed water.

**SECTION 3:** Section 932.B, Authority, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**Section 932 Waivers to Technical Standards**

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- B. *Authority (Rev 9/6/16 – Ord. 16-042; 06/04/13 Ord. # 13-020; Revised 12/6/11 – Ord. 11-033; 12/1/10 - Ord. 10-082; 3/18/09 – Ord. 09-010; 05/06/09 - Ord. 09-021) (11-3-2020 ORD 2020-042) (8/17/21-Ord 21-047)*

Where there is no other form of relief available, the Development Review Committee shall have the authority to grant waivers from the terms and requirements of this Code relative to the following sections:

1. The Impervious Surface Ratio (ISR) requirements contained in Table 2.2, and Table 4.18, unless specified otherwise in the Comprehensive Plan or Land Development code. This waiver shall only be allowed within non-residential land use districts within the Transit Supportive Development Area (TSDA) and the Urban Growth Area (UGA). Approval of this waiver is contingent upon the applicant complying with all landscape and buffer requirements. A waiver request shall not be granted for both the landscaping and ISR requirements. This waiver shall not be permitted within the Green Swamp ACSC. In no instance shall the ISR exceed the ratios provided for in the Comprehensive Plan.
2. Section 230, Specific Provisions Applicable to Non-Residential Districts and Uses
3. Section 303, Solar Electric-Power Generation Facility (subsection l.e.i)
4. Section 401.02.E.1.c. Multiple access to residential developments of 200 dwelling units or more in the Ronald Reagan Selected Area Plan
5. Section 401.04.D.8.b, ISR in TCX in the US Highway 98 Selected Area Plan
6. Section 401.04.N.1.a, Sidewalks along US highway 98 and the Ft. Fraser Trail in the US Highway 98 Selected Area Plan
7. Section 630.I, Flood Hazard Management and Flood Plain Protection (Allowable Uses)
8. Section 630.N., Flood Hazard Management and Flood Plain Protection (Specific Standards for Appurtenant Structures or Accessory Structures)
9. Section 630.W., Flood Hazard Management and Flood Plain Protection (Agricultural Structures)
10. Section 702, Connection to Centralized Water, Sewer, and Reuse Water Provisions

- ~~40~~11. Section 705, Site Access
- ~~41~~12. Section 707, Sidewalks
- ~~42~~13. Section 708, Parking Space Requirements
- ~~43~~14. Section 709, Parking Area Design
- ~~44~~15. Section 720, Landscaping, and buffering
- ~~45~~16. Section 740, Storm Water Management
- ~~46~~17. Chapter 8
- ~~47~~18. Appendix A, Technical Standards Manual

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#### **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 \_\_\_\_\_, 2023.