

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2023-18, AMENDING ORDINANCE NO. 03-14, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 2, SECTION 222, AND CHAPTER 9, SECTION 930.B TO CLARIFY THE COUNTY'S CODE ON NON-COMMERCIAL FARM BUILDINGS AND STRUCTURES AND ALLOW VARIANCES TO SETBACK DISTANCES; 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 December 6, 2023; and

WHEREAS, LDCT-2023-18 is a County-initiated request to amend Chapter 2, Section 222; 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 January 9, 2024 and January 23, 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 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 December 6, 2023 to consider the LDC text amendments contained within Application LDCT-2023-18 and found them to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC Text Amendment contained within Application LDCT-2023-18.
- c) The adoption of LDCT-2023-18 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. 03-14, as amended, is hereby amended to modify the following sections:

Section 222 Agricultural

A. General Non-Commercial Farming (Revised 1/10/12; Ord. 12-001)

~~Nothing herein shall prevent the use of any land for agricultural purposes, or the construction and use of buildings or structures incidental to that purpose. No conditional use permit or certificate shall be required for any new agricultural building or structure provided, however, 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.~~

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. The following provision 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.

F. Agritourism

Recreational camping, as defined by this Code, may be located on land classified as agricultural land under F.S. § 193.461, and is use for an agritourism activity as defined by F.S. § 570.86. Recreational camping on such land shall not exceed five recreational vehicles or tents. Parking areas for recreational vehicles may contain RV connections for visiting patrons or participants of the agritourism activity. Stays by visiting patrons or participants shall not exceed 3 days and the cumulative stays by visiting patrons and participants shall not exceed 180 days in a one year time period. Recreational vehicles shall only be used by visiting patrons or participants of the

agritourism activity. Simple buildings or other structures shall not be used for stays by visiting patrons or participants of the agritourism activity.

G. Cottage Industries (Added 05/19/2015; Ord. 15-29)

Cottage industries in accordance with the definition in Chapter 10 are permitted as accessory uses to a bona fide agricultural property in the A/RR, RS, and RL-1 districts, outside of the Green Swamp Area of Critical State Concern, and under the following conditions:

1. Structures used for light manufacturing, agricultural processing and storage of the goods produced are:
 - a. No greater than an FAR of 0.025 cumulatively of the contiguous agricultural property or properties;
 - b. No single structure is greater than 15,000 square feet under roof; and,
 - c. The total square footage all structures used in production is less than 40,000 square feet cumulatively;
2. All production is conducted within enclosed structures;
3. Structures used for manufacturing, processing and storage of the goods produced are at least 200 feet from offsite residential structures;
4. All storage of finished goods is kept within enclosed structures or containers;
5. There is no slaughtering of animals permitted onsite;
6. Onsite retail sales may be approved by the Planning Commission through a Level 3 Review with consideration given to the extent of the retail activity, infrastructure available to support it, and compatibility with surrounding uses;
7. Events and activities to promote the products produced onsite may be approved in accordance with Section 229, Agritourism; and,
8. Production and sale of alcohol beverages shall be in accordance with the provisions in F.S. ch. 224 in addition to the Florida Statutes and Florida Administrative Code.
9. Mail order sales and wholesale distribution of products produced onsite is permitted.

Cottage Industries allows for greater production than the Cottage Food Operations pursuant to the Florida Statutes (Section 500.80 at the time this amendment was adopted). Therefore, state, and local food and beverage laws will apply. Cottage Food Operations as defined in section 500.03, Florida Statutes, as may be amended, are permitted in all districts as an accessory use to an existing dwelling unit regardless of district regulations.

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 on this 23rd day of January, 2024