

ORDINANCE NO. 24-_____

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2023-24, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 5, CHAPTER 6, CHAPTER 7, CHAPTER 8, AND CHAPTER 10, TO ADD THE NUTRIENT RESTORATION PLAN OVERLAY AND RESTRICTIONS ON SEPTIC TANKS, AND ADD 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 December 6, 2023; and

WHEREAS, LDCT-2023-24 is a County-initiated request to add the Nutrient Restoration Plan Overlay and restrictions on septic tanks; 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 April 16, 2024 and June 18, 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 March 6, 2024 to consider the LDC text amendments contained within Application LDCT-2023-24 and found them to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC Text Amendment contained within Application LDCT-2023-24.
- c) The adoption of LDCT-2023-24 is consistent with the Comprehensive Plan and LDC.

SECTION 2: Chapter 5, Section 504, 505, 506, and 507 of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

Section 504 - Ridge Special Protection Area (Ridge-SPA)

A. Connection to Public Facilities

All development within the Ridge-SPA shall be connected to central water and sewer. If sewer is not available and the parcel is located in the Nutrient Restoration Plan Overlay (NRPO), an Enhanced Nitrogen Septic System shall be required if the parcel is one acre or less.

Section 505 - Polk City/Urban Growth Special Protection Area (PC-SPA)

A. Connection to Public Facilities

All development within the Polk City SPA meeting the definition of availability as provided in Section 702 shall be connected to central water and sewer. If sewer is not available and the parcel is located in the Nutrient Restoration Plan Overlay (NRPO), an Enhanced Nitrogen Septic System shall be required if the parcel one acre or less.

Section 506 - Rural Special Protection Area (RURAL-SPA) (Rev. 12/08/04 - Ord. 03-68)

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. If sewer is not available and the parcel is located in the Nutrient Restoration Plan Overlay (NRPO), an Enhanced Nitrogen Septic System shall be required if the parcel one acre or less.

Section 507 - Resource Protection

C. Surface Water Protection

In order to maintain surface water within the Green Swamp ACSC quality and reduce nutrient loading in lakes and watercourses and areas within the Nutrient Restoration Plan Overlay, this Section restricts the amount of clearing or removal of shoreline vegetation, requires that new structures be set back a reasonable distance from surface waters, cypress domes, swamps, sloughs and watercourses, ~~and requires additional stormwater treatment, and requires higher treatment for OSTD systems in the Nutrient Restoration Plan Overlay.~~ See Section 610 for a list of provisions that apply concerning surface water protection and the Nutrient Restoration Plan Overlay.

SECTION 3: Chapter 6, Section 602 and 610 of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

Section 602 - General Provisions (Revised 11/1/16 - Ord. 16-068)

The Polk County Future Land Use Map Series designates and maps aquifers, wetlands, floodplains, well fields, ecological communities, and historic resources, along with areas designated as being covered by a Basin Management Action Plan (BMAP), Reasonable Assurance Plan (RAP), or Pollution Reduction Plan (PRP) for nutrients, which are referred to as the Nutrient Restoration Plan Overlay (NRPO). The surface waters regulated in Section 630 are not mapped. These areas are shown on the Future Land Use Map Series with presumptively correct borders. In most cases, the specific boundaries of these areas may not be finalized until site specific field inspections are conducted for verification. It shall be the responsibility of the applicant to submit documentation, exhibits, or studies, for the purpose of establishing that land should, or should not, be included within a Development Limitation Area Overlay District when the adopted land use maps indicate otherwise. Each overlay district supersedes all other requirements of this Code to the extent that provisions of the overlay district are in conflict with other provisions.

Section 610 - Surface Water Protection (Rev. 06/08/04 Ord. 03-96)

A. Purpose and Intent

In order to maintain surface water quality and reduce nutrient loading in lakes and watercourses, this Section requires that new structures, onsite sewage disposal systems and mines be set back a reasonable distance from surface waters and requires additional storm water treatment. This Section also includes requirements for new onsite sewage disposal systems (septic tanks) in areas within Nutrient Restoration Plan Overlay (NRPO).

B. Applicability

Unless otherwise specifically stated, the ~~The~~ regulations set forth in this Section, shall apply to all lands, lakes, and watercourses within the unincorporated areas of Polk County, Florida. The Surface Water Protection Zones are not mapped but are established to implement these requirements. Surface Water Protection Zones shall extend 200 feet landward from the Ordinary High Water Line (OHWL) of all lakes and watercourses.

D. Development Standards (Rev. 7/25/01 - Ord. 01-57; Rev. 06/08/04 Ord. 03-96)

All development in a Surface Water Protection Zone shall be designed, constructed and maintained in accordance with the following requirements:

1. Siltation and erosion control measures shall be applied as needed to stabilize banks and un-vegetated areas during and after construction. Sediment settling ponds, if required, shall be installed for storm water runoff prior to the creation of any impervious surfaces.
2. An undisturbed vegetative buffer adjacent to surface waters with an average width of 25 feet and a minimum width of 15 feet shall be maintained for storm-water treatment and wildlife utilization measured perpendicularly from the OHWL or the jurisdictional wetland line, whichever is greater.
3. Complete re-vegetation of the Surface Water Protection Zone is required upon completion of construction.
4. Onsite Sewage Disposal System (OSDS)
 - a. Onsite sewage disposal system on lands with soils identified in the Polk County Soil Survey as having soil limitation ratings of "slight" or "moderate" with respect to septic tank absorption fields shall not be located within 150 feet of the ordinary high water line (OHWL) or mean annual water line of surface waters or water filled mine pits. This setback may be reduced if a higher treatment system is used in accordance with performance-based treatment standards listed in Table 6-1 , and permitting requirements by the Polk County Health Department:

Table 6-1: OSDS Setback Reduction

	Setback Reduction
Standard Septic Tank System	No change.
Aerobic Treatment Unit (ATU)	25%
Secondary Treatment	25%
Advanced Secondary Treatment	30%
Advanced Wastewater Treatment	40%

- b. Onsite sewage disposal system on lands with soils identified in the Polk County Soil Survey as having soil limitation ratings of "severe" with respect to septic tank absorption fields shall not be located within 200 feet of the OHWL or mean annual water line of surface waters or water filled mine pits. This setback may be reduced if a higher treatment system is used in accordance with performance- based treatment standards listed in Table

6-1, and permitting requirements by the Polk County Health Department.

- c. Mining activities, phosphate and non-phosphate, shall provide setbacks from existing onsite sewage disposal system as follows:
 - i. Mines, measured from their design OHWL, shall be no closer than 150 feet from existing on-site disposal systems on lands with soils identified in the Polk County Soil Survey as having soil limitation ratings of "slight" or "moderate" with respect to septic tank absorption fields.
 - ii. Mines, measured from its design OHWL, shall be no closer than 200 feet from existing on-site disposal systems on lands with soils identified in the Polk County Soil Survey as having soil limitation ratings of "severe" with respect to septic tank absorption fields.
 - d. New onsite sewage disposal systems shall be prohibited within Nutrient Restoration Plan Overlay where connection to a publicly owned or investor-owned sewer is available, as defined in Section 702, E. If sewer lines are not available in these areas, new onsite sewage disposal systems on lots one acre or less shall be an enhanced nutrient-reducing system that achieves at least a 50 percent reduction in total nitrogen before discharge to the drainfield or at least a 65 percent nitrogen reduction combined after leaving the drainfield. Enhanced nutrient reduction systems must either be types approved by the Florida Department of Environmental Protection (Aerobic Treatment Units and Performance-Based Treatment Systems) or meet the standards for In-Ground Nitrogen-Reducing Biofilters in Rule 62-6.009(7), Florida Administrative Code.
 - e. Existing properly functioning onsite sewage disposal systems shall be required to connect to the centralized wastewater system within one year of it becoming available, as defined in Subsection 702, E. Existing failing onsite sewage disposal systems shall be required to connect to an available centralized wastewater system within 90 days of notification from the Department of Environmental Protection or the Department of Health unless an extension is granted for financial hardship.
 - f. If a parcel is partially in the Nutrient Restoration Plan Overlay (NRPO), the Department of Health will decide if the site will be required to have an Enhanced Nitrogen Septic System.
5. All water bodies or canals maintained, constructed by, or belonging to the Lake Region Lakes Management District are prohibited from having structures within 20 feet of a seawall or bank or canal. Water dependent structures are not exempt from this requirement. Construction of buildings, swimming pools, docks, boathouses, davits, retention ponds, and any load bearing structure is prohibited within 20 feet of the seawall or bank of any canal constructed by, belonging to, or maintained by the Lake Region Lakes Management District. This prohibition shall extend to any structure which could, over time, damage a District seawall or bank or which would significantly obstruct access by District employees to the seawall or bank for the purpose of repair and maintenance of said seawall, bank, or canal, but shall not be construed to prohibit the installation of fences, irrigation, landscaping, or other non load bearing devices or structures. Trees must be

planted such that their canopy at maturity will be five feet back from a District seawall or bank or their trunk within twenty feet back from a District seawall or bank, whichever is less.

6. All new structures adjacent to surface water or watercourses shall be located landward of the 100 year flood plain or 50 feet landward of the 10 year flood plain if one has been established (whichever is less restrictive). A site specific survey shall be performed, signed and sealed by a professional surveyor and mapper. Water dependent structures are exempt from this requirement.

SECTION 4: Chapter 7, Section 702 of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

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

E. Wastewater Availability (Rev. 07/22/09 - Ord. 09-048; 03/25/03 - Ord. 03/26; 01/30/03 - Ord. 03-14)

A municipal, County-franchised, or County-owned wastewater system is considered available when the system is not under Florida Department of Environmental Protection (DEP) moratorium, the system has adequate hydraulic capacity to accept the quantity of wastewater to be generated by the proposed establishment and:

1. For all single-family residences, and for any establishment that has an estimated sewage flow of 1,000 gallons per day or less, a sanitary sewer shall be considered available if the line abuts the property and gravity flow can be maintained from the building to the sewer line;
2. For any residential subdivision, and all non-residential uses that have an estimated sewage flow of 1,000 gallons per day or more, a sanitary sewer shall be considered available if a gravity line, force main, manhole, or lift station in an easement or right-of-way is existing under one of the following conditions:
 - a. Is within one-half of one mile (2,540 feet) of the property;
 - b. Will serve ten or more Equivalent Residential Units (ECCS) or more and is within $\frac{3}{4}$ mile (3,960 feet) of the property;
 - c. Will serve 20 Equivalent Residential Units (ECCS) or more and is within one mile (5,280 feet) of the property;
3. Wastewater flows shall be calculated in accordance with the schedules as provided by the utility provider unless the applicant can demonstrate through sufficient competent evidence that other standards are appropriate.
4. If sewer is not available and a parcel one acre or less is located in the Nutrient Restoration Plan Overlay (NRPO), an Enhanced Nitrogen Septic System shall be required.

SECTION 5: Chapter 8, Section 806 of the Polk County Land Development Code, Polk County

Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

Section 806 - Plats (revised 3/17/10 - ord. 10-010)

B. Application (Rev. 3/17/10 - Ord. 10-010; 5/20/09 - Ord. 09-023; 12/03/03 Ord. 03-38)

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10. In addition to required certifications, plats shall be prepared to include the following:

- a. All graphic standards must conform to F.S. Ch. 177.
- b. The size of each sheet shall be 24 inches by 36 inches and shall be drawn with a marginal line or may be printed completely around each sheet and placed so as to leave at least a one half inch margin on each of three sides and a three inch margin on the left side of the plat for binding purposes.
- c. The following information shall be required on all plats:
 - i. Each plat shall show the section, township and range, as applicable, or, if in a land grant, the plat will so state. If the subdivision is in an area where State Plane Coordinates or Geodetic Control Points have been established, the State Plane Coordinate values shall be annotated on the face of the plat for at least two Permanent Reference Monuments (PRMs) on every development of 40 acres or less and at least one additional PRM for every additional 40 acres. The coordinate datum shall be based on NGRS, current adjustment. Minor subdivisions shall not be required to establish State Plane Coordinators for the plat.
 - ii. When the plat drawing is the result of a computer-generated drawing, a copy of the drawing file in DXF, DGN, DWG format is required.
 - iii. Conservation and preservation areas. Exact locations of all conservation and preservation tracts or easements, including wetlands when density transfers are uplands, mitigated wetlands and upland preserves, shall be identified.
 - iv. Two vertical control points (VCP) shall be required for every development of 40 acres or less. One additional vertical control point shall be established for each additional 40 acres. A VCP shall be a two-inch diameter or greater brass disk set into concrete in a drainage control structure, end wall or other suitable concrete structure. The elevation of the VCPs shall be referenced to either NGVD 29 or NAVD 88 datum and shall be annotated on the face of the plat and stamped into the disk together with the license number of either the Surveyor or the business entity. Minor subdivisions that contain no Special Flood Hazard Area are not required to establish VCPs.
 - v. Where a plat boundary falls within a water body, a meander line shall be established at or near the ordinary high water line and monumented in accordance with Chapter 61G17-6, F.A.C. This line shall not constitute a line of ownership.
 - vi. The minimum text height for all dimensioning shall be 0.08"
- vii. Lots shall be numbered consecutively beginning with the number one (1) with the exception

of phased subdivisions, which shall begin consecutive numbering from the previous phase.

viii. All least fractional parts of the subdivided lands having limited fixed boundaries shall be referred to as either lots or tracts.

ix. Tracts shall be dedicated to the Homeowner's Association, Community Development District (CDD), Polk County, or retained by the subdivider for future development.

x. Tracts shall be lettered consecutively beginning with the letter "A" with the exception of phased subdivisions, which may begin consecutive lettering from the previous phase.

xi. New plats located within a Nutrient Restoration Plan Overlay will be required to have a note on the plat stating Enhanced Nitrogen Septic Systems are required on parcels one acre or less if sewer is not available.

SECTION 6: Chapter 10, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to modify the following sections:

Chapter 10 Definitions

ENHANCED NITROGEN-REDUCTING SEPTIC SYSTEMS: Any domestic sewage treatment and disposal facility that achieves 50% nutrient reduction compared to standard septic tanks or at least a 65% nitrogen reduction combined after leaving the drain field.

ON SITE SEWAGE DISPOSAL SYSTEM: Any domestic sewage treatment, and disposal facility, including standard subsurface systems, gray water systems, laundry wastewater systems, alternative systems or experimental systems, installed or proposed to be installed on land of the owner or on other land to which the owner has the legal right to install a system (I.E. septic tanks, enhanced nitrogen-reducing septic systems).

PRIVATE ON-SITE DISPOSAL SYSTEM: See On-Site Disposal System

SEPTIC TANK: See On-Site Disposal System.

SECTION 7: 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 8: 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 18th day of June, 2024