

ORDINANCE NO. 25-_____

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2025-13, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, CHAPTER 2, SECTION 227, FILLING AND EXCAVATING LAND, AND CHAPTER 3, SECTION 303, CRITERIA FOR CONDITIONAL USES, TO EXEMPT FILL MATERIAL EXCAVATION ASSOCIATED WITH SITE MANAGEMENT FOR A PHOSPHATE MINE OR PHOSPHOGYPSUM STACK FROM NON-PHOSPHATE MINING REQUIREMENTS; 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 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 September 10, 2025; and

WHEREAS, the proposed text amendment to the Polk County Land Development Code shall provide an exemption for the non-commercial extraction of soil and fill material on properties approved for phosphate mining; and

WHEREAS, the Board of County Commissioners held two public hearings on October 7, 2025, and October 21, 2025, 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 September 10, 2025, to consider the LDC text amendments contained within Application LDCT-2025-13 and found them to be consistent with the Comprehensive Plan and recommended that the Board adopt the LDC Text Amendment contained within Application LDCT-2025-13.
- c) The adoption of LDCT-2025-13 is consistent with the Comprehensive Plan and LDC.

SECTION 2: Chapter 3, Section 227, Filling and Excavating Land, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

Section 227 Filling and Excavating Land (Added 09-12-07 Ord. 07-55)

Clearing and grubbing of upland property is permitted in the unincorporated areas of Polk County except where prohibited by habitat or tree preservation requirements within this Code, the laws of Florida or by Federal rules and regulations. However, the addition or removal of soils from a property is required to undergo review. The filling and excavating requirements are established in this section.

All property owners and building permit applicants are required to control erosion and retain all sediments on their building site. Erosion and sediment control "Best Management Practices" shall be implemented as necessary to prevent off-site sediment discharges. Best Management Practices (BMPs) include, but are not limited to, silt fencing, entrance/exit controls, stabilization, temporary sediment basins, berms, etc.

A. Exemptions (Revised 4/7/10; Ord. 10-013)

The following land use activities are exempted from review under this section:

1. Residential dwellings on lots with a minimum width that is equal to or greater than 80 linear feet;
2. Residential development where the areas in which fill material will be placed no closer than 10 feet from the nearest property line;
3. Residential dwellings that are built on a stem wall foundation;

4. On-site sewage disposal systems installed as permitted by the Florida Department of Health;
5. Mining operations or soil excavation that will extract less than five acre/feet or 8,000 cubic yards of soil from the property when conducted in conjunction with an authorized development order or building permit. This exemption shall not apply to any site within 1,000 feet of another site under the same ownership that has been granted an exemption under this provision;
6. Soil excavation approved as part of site grading operations for development sites (not solely mining operations) with approved Level 2 Review plans, so long as the duration of the soil removal does not exceed six consecutive months. The Land Development Director may extend the duration up to an additional 90 consecutive days. This shall supersede the exemption provided for in subsection 5, above; and
7. Agricultural water management systems regulated by the water management district.
8. Fill material excavation on approved phosphate mining sites, as described in Subsection 227.F.

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F. Borrow Pits - Phosphate Industry

Fill material excavation ("borrow pit") associated with site management for an approved phosphate mine or gypsum stack permitted per the Land Development Code or Ordinance 88-19, is exempt from non-phosphate mining requirements provided the site has approvals from the Florida Department of Environmental Protection, is located greater than 1,000 feet from property developed with residential uses, and all excavated material remains on-site.

SECTION 3: Chapter 3, Section 303, Criteria for Conditional Uses, of the Polk County Land Development Code, Polk Ordinance No. 00-09, as amended, is hereby amended in the following manner:

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Mining, Non-Phosphate (Revised 08/07/18 Ord. No. 18-054; 5/21/13 Ord. 13-018; 2/21/12 - Ord. 12-008; 5/20/09 - Ord. 09-023; 10/23/02 - Ord. 02-68; 7/29/02 - Ord. 02-52)

1. The following activities and uses shall be exempt from the conditions outlined in this Section:
 - a. Land regulated under the Polk County Ordinance 88-19, regulating Phosphate Mining;

- b. Excavations for bona fide agricultural purposes, including aquiculture, where the overburden/excavated material is not taken off-site;
- c. Land excavations not defined as a mining activity (see definitions, Chapter 10), including excavation of a temporary nature such as for graves, septic tanks, swimming pools, or installation of distribution or transmission lines for electric, fuels, natural gas, water, sewer, telephone, cable or other utilities in public rights-of-way or utility easements. All other necessary permits or authorizations shall be obtained;
- d. Land excavations, other than borrow pits, by authorized units and agencies of government for roadway improvements, surface water management or mosquito control ditches and canals. This provision does not exempt such activities from any other County development regulations;
- e. Excavations for the sole purpose of surface water management, as approved by Polk County; ~~and~~
- f. Mining excavation operations which will extract less than five acre/feet or 8,000 cubic yards of resource over the life of the mine. This exemption shall not apply to any mine site within 1,000 feet of another mine under the same ownership which has been granted an exemption under this provision.
- g. Soil excavation approved as part of site grading operations for development sites (not solely mining operations) with approved Level 2 Review plans, so long as the duration of the soil removal does not exceed six consecutive months. The Land Development Director may extend the duration up to an additional 90 consecutive days. This shall supersede the exemption provided for in subsection f. above; and,
- h. Fill material excavation ("borrow pit") associated with site management for an approved phosphate mine or gypsum stack permitted per the Land Development Code or Ordinance 88-19, is exempt from non-phosphate mining requirements provided the site has approvals from the Florida Department of Environmental Protection, is located greater than 1,000 feet from property developed with residential uses, and all excavated material remains on-site.

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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 21st day of October 2025.