

# POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

<b>DRC Date:</b>	February 27, 2025	<b>Level of Review:</b>	4
<b>PC Date:</b>	April 2, 2025	<b>Type:</b>	LDC Text Amendment
<b>BoCC Date:</b>	May 6, 2025	<b>Case Numbers:</b>	LDCT-2025-5
	May 20, 2025	<b>Case Name:</b>	Chicken Coops & Roosters
<b>Applicant:</b>	Polk BoCC	<b>Case Planner:</b>	Ian Nance

<b>Request:</b>	This is a County-initiated request to amend Land Development Code Chapter 2, Section 222, to allow structures for the sheltering and feeding of animals at ten feet from property lines; prohibiting roosters and other disruptive fowl on residential properties under one half acre; mending Chapter 9, Section 930, variances and special exceptions, to allow a variance process for structure setbacks; amending Chapter 10 to provide for definitions.
<b>DRC Recommendation:</b>	Approval
<b>Planning Commission Vote:</b>	Approval 4:3

## Among the changes to LDC:

- Amending LDC Section 222 to reduce setbacks from 50 to 10 feet for structures intended to feed and shelter livestock and fowl.
- Amending LDC Section 222 to prohibit roosters on properties under ½-acre.

## Summary:

This is a Board-directed, County-initiated request to revamp Land Development Code (LDC) Section 222 as it pertains to keeping livestock and fowl on residential properties. The LDC has made multiple attempts to balance responsible animal husbandry with the quality of life within residential neighborhoods. What has resulted is a complex set of standards that has left citizens and staff unhappy with the results, especially when dealing with chickens and roosters

For example, on all residential properties, structures for feeding and sheltering animals are currently required to be 50 feet from property lines. This has created physical burdens for placing coops and stables on certain lots, and while a variance process was implemented to address this in January 2024, 50 feet has been deemed to be too restrictive. This amendment will reduce the setback to 10 feet from property lines.

Furthermore, Code Enforcement handles dozens of complaints per year pertaining to noisy chickens in neighborhoods. This amendment will prohibit roosters on properties under ½-acre.

As is currently the standard in residential neighborhoods, Code Enforcement complaints regarding these matters can only be initiated by an owner of a residential property within 250 feet of the site. There is also an exemption for show animals and educational projects intended to be kept onsite on a temporary basis. Finally, these changes do not apply to any residential property in the Agricultural/Residential Rural (A/RR), Phosphate Mining (PM), or Green Swamp Core (COREX)

land use districts. It is also not applicable to properties with *bona fide* ag exemptions. Ultimately, the goal is to allow livestock and fowl while creating some reasonable limitations to protect residential areas.

### **Findings of Fact**

- *LDCT-2023-18 is a County-initiated request to amend Land Development Code Section 222 to clarify the county's code on non-commercial farm buildings and structures and allow variances to setback distances.*
- *On January 23, 2024, the BoCC approved LDCT-2023-18, which adopted Ord. No. 2024-005, allowing variances for the 50-foot setback of non-commercial farm buildings and structures from residential property lines.*
- *On January 10, 2012, the BoCC approved LDC 11T-09, which adopted Ord. No. 2012-001, requiring a 50-foot setback for non-commercial farm buildings and structures from residential property lines, except within the A/RR, A/RRX, PM, and CORE Future Land Use districts. This ordinance also set standards for Livestock and Fowl in Residential Neighborhoods in LDC Section 222.E, as follows:*

*“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 an owner of residential property within 250 feet of the property on which livestock or fowl are contained. The following provisions 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 Section 193.461, F.S.*

*1. Livestock shall be contained within fenced areas.*

*2. Fowl 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 Board of Adjustment through the process provided in Section 930 of this code.”*

- *LDC Chapter 10 defines “Fowl” as, “a flightless and primarily ground-feeding bird kept, raised, or bred for hobby or for its eggs or flesh.”*
- *LDC Chapter 10 defines “Livestock” as, “any domestic species of cattle, sheep, swine, goats, llamas, or horses, which are normally and have historically, been kept and raised on farms in the United States, and used or intended for use as recreation, food or fiber, or for improving animal*

*nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.”*

- *In 2024, Code Enforcement staff logged 225 complaints regarding setback violations for structures relating to fowl, free-range chickens, and roosters making noise (34 cases, specifically to roosters).*

### **Development Review Committee Recommendation:**

The Land Development Division, based on the Findings of Fact, finds that the proposed text change request is **CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan. Staff recommends **APPROVAL** of LDCT-2025-5.

### **Analysis:**

Setting policy for keeping livestock and fowl on residential properties has been an ongoing challenge due to the size, age, and diversity of Polk County, and the history and value of agriculture in central Florida. The task is to recognize this value while maintaining a quality of life expected in residential areas.

In 2024, Code Enforcement staff logged 225 complaints regarding setback violations for structures relating to fowl, free-range chickens, and roosters making noise (34 cases, specifically to roosters). In most cases regarding the roosters, the bird was removed. Other times, the code investigator was unable to determine if a rooster was onsite because of fencing and/or the animal not making noise.

With adoption of this amendment, roosters will be prohibited on properties under ½-acre. On properties exceeding this, roosters will still be allowed, unless it is in the A/RR, PM, or COREX, in which cases, property size will not matter.

Next, on all residential properties, structures for feeding and sheltering animals are currently required to be 50 feet from property lines. This has created physical burdens for placing coops and stables on certain lots, and while a variance process was implemented to address this in January 2024, 50 feet has been deemed to be too restrictive. This amendment will reduce the setback to 10 feet from property lines. This conforms with standards found in other counties and cities.

This amendment will retain standards adopted by previous boards. The one most pertinent to this case is that Code Enforcement action of the standards listed above can only come from a property owner within 250 feet of the subject property, the idea being if there is no harm, there is no foul. Exemptions remain for *bona fide ag*, show animals, and those kept for educational purposes. Furthermore, swine will need to be kept a minimum of 50 feet from neighboring property lines. All storage of animal waste must be located 50 feet or more from property lines, as well.

### **Benefit-cost Analysis of the Amendment**

#### *Who does it help?*

This amendment is going to benefit both animal owners and those on surrounding properties. One, this will reduce an onerous setback requirement for properties that cannot realistically accommodate 50-foot setbacks to keep coops and pens. In these situations, a variance will no longer be required to reduce setbacks. To further reduce the proposed 10-foot setback would still

require LUHO approval, but it would be a tough task for an applicant to prove a hardship on the property in such instances.

Neighbors of those who keep fowl onsite will benefit from not having roosters in dense residential areas. This amendment also provides County staff and citizens with clearer instructions on how to handle these matters than what is currently in the Code.

#### *Who does it hurt?*

This will affect neighbors who live next to people who own chickens, bringing these structures closer to property lines. Chicken coops are not benign structures like utility sheds. With them come noise and smells. However, these setbacks are still more than what would be applied to detached accessory structures in most residential land use districts.

People who want roosters on properties under ½-acre will not see relief. Currently, it is difficult for owners to have **any** chickens as pens and shelters must be 50 feet from property lines, without a variance. It is also worth noting here that these rules do not pre-empt deed restrictions or the covenants of an HoA, some of which prohibit keeping fowl and livestock within residential subdivisions.

#### *What is the cost?*

Code Enforcement penalties will be incurred if not in compliance. These usually begin with a \$100 per day fine but could be up to \$1,000/day per violation.

### **Comparisons to other Jurisdictions:**

For this amendment, staff has reviewed ordinances and land development codes of 12 counties that bear similarities to Polk County as well as six cities within Polk for their rules pertaining to keeping livestock and fowl on residential properties. Below are the findings:

#### **Quick stats:**

- 4 out of 12 counties do not permit chickens in residential districts without public hearing process
- 3 out of 6 cities prohibit chickens
- **Roosters are prohibited in residential districts or zones** for all 12 counties and all 6 cities
- Hens (female chickens) are typically permitted at a range of 4 to 6 in residential with restrictions (*Bartow was an outlier at 12*)
- Setbacks for penned hens range from 10' to 50' from property lines and 25' to 50' from offsite residences.
- Minimum lot sizes range from none to 1 acre
- 3 Counties required opaque fences

Table 1

<b>Jurisdiction</b> <i>(Code citation)</i>	<b>Are Chickens Permitted in Residential Districts?</b>	<b>What are the limitations placed on them?</b>	<b>What other livestock types are restricted?</b>
<b>Alachua County</b> <i>Sec. 404.13</i>	Yes	Up to <b>6 Hens</b> per residence. No Roosters. <b>50' setback</b> from property all lines.	Horses – 1/ac, 1 ac. min. lot Goats and Sheep – 10/ac, 1 ac. min lot Hogs – 1/ac, 1 ac. min lot Cows – 1.5/ac, 1.5 ac. min lot Pot-bellied Pigs – 0.5/ac, 0.5 ac. min lot
<b>Brevard County</b> <i>Sec. 62-2108</i>	Yes	Up to <b>4 Hens on lots ½ acre or more</b> . Meet Accessory setbacks No Roosters.	No other livestock on any land except Agricultural zoning.
<b>Duval County</b> <i>Sec. 656.422, 462.901, &amp; 462.902</i>	Yes	Requires a permit. Up to <b>5 hens, min. 1 acre</b> 5 more for every ½ acre after 1 ac. No Roosters. Accessory setbacks	No other livestock permitted in residential areas. Swine are required to be setback 200 feet from any inhabited dwelling.
<b>Hardee County</b> <i>Sec. 2.09.00</i>	<b>No.</b>	n/a	Allowed in Agricultural (A-1) and Farm Residential (F-R) districts with a 50' setback from any offsite residential structure.
<b>Highlands County</b> <i>Section 12.05.200, 12.05.316</i>	<b>No.</b>	n/a	Livestock and fowl are only permitted in Agricultural (AU) district. In AU district hogs or poultry are not permitted within 100 feet of any dwelling under separate ownership or within 50 feet of residentially zoned property or within 50 feet of any lot line. (except for 4-H, and FFA projects)
<b>Hillsborough County</b> <i>Sec. 6.11.129 Sec. 6.11.13</i>	LUHO Conditional Use	Up to <b>5 Hens, 10' setback</b> No roosters, capons or cockerels.	No other livestock in residential districts except for Honeybees.
<b>Lake County</b> <i>Sec. 10.01.06</i>	Yes	Up to <b>5 Chickens, 20' setback</b> Must be fenced or enclosed. No roosters.	Other livestock only permitted in Agriculture (A) and Agricultural Residential (AR) districts.
<b>Manatee County</b> <i>Sec. 2-4-24, 531.1</i>	Yes	Up to 4 chickens. 10' from residential property lines, 25' from residential dwelling No roosters or male chickens. Must be inside enclosure from dusk til dawn, fenced dawn til dusk. Enclosure must provide 4 square feet per chicken.	Minimum two acres and 75' setback for all other livestock.
<b>Orange County</b> <i>Sec. 38-79 (37)</i>	Conditional Use	IFAS Training Required Site Plan, Coop, Pen Up to <b>4 Chickens 15' side setback, 10' rear, 6' opaque fence</b> No roosters. Permit is not transferable.	Agricultural property: <5acres max 30 chickens 5-10 ac 100 chickens >10 unlimited Swine 100' setback from all property lines
<b>Osceola County</b> <i>Sec. 4-30</i>	Yes.	Fenced or cooped. Up to <b>6 hens. 25' from rear and side lot lines</b> Roosters prohibited in residential districts	1 horse for every undeveloped acre Pot-bellied pigs 100' setback 2 swine for every full acre
<b>Seminole County</b> <i>Sec. 3.6.19</i>	Yes	Up to <b>6 hens</b> No roosters or male chickens Opaque fence <b>10' from side and rear, 20 feet from residence</b>	In any residential area, no livestock or fowl, other than backyard chickens in compliance with Section 30.6.19, may be housed or pastured closer than one hundred fifty (150) feet to any lot line nor may any commercial production of any stock, animal, or fowl be permitted.
<b>Volusia County</b> <i>Sec. 72-307</i>	Yes	Up to <b>5 Chickens</b> No Roosters <b>Min lot size 1/3 ac.</b> <b>20' setback</b> from all property lines Must be confined	It shall be unlawful for any person to keep, harbor, breed or maintain upon any premises not zoned for agricultural use or otherwise excepted in accordance with section 72-307 or elsewhere within this article, any of the following: Bees, roosters, peacocks, horses,

<b>Jurisdiction</b> <i>(Code citation)</i>	<b>Are Chickens Permitted in Residential Districts?</b>	<b>What are the limitations placed on them?</b>	<b>What other livestock types are restricted?</b>
			ponies, cattle, goats, pigs, or other livestock, pigeons, ducks, or other fowl.
<b>City of Auburndale</b> <i>Chapter 5 LDR</i>	No.	n/a	All livestock except horses are prohibited in residential and commercial districts. Only allowed in Open Use Agriculture (OUA)
<b>City of Bartow</b> <i>Sec. 14-5</i>	Yes	<b>12 fowl, 10' from property line</b> is less than 40,000 square foot lot. Must be penned at all times. No roosters, cockerels, toms, ganders, etc.	No swine permitted in the city.
<b>Haines City</b> <i>Sec. 5-2, LDR Sec. 5.6.1</i>	<b>Yes, but not really.</b>	<b>Not within 100 yards (300 feet) of another residence.</b>	Livestock permitted only in Agricultural (AG) District but not within 200 feet of a residential district.
<b>City of Lakeland</b> <i>Sec. 10-2</i>	Yes.	<b>50' setback from any residence</b> No roosters within the city	No other livestock within 100' of a residence. No swine permitted in the city except 1 potbellied pig may be kept as a pet.
<b>City of Lake Wales</b> <i>Sec. 6-4</i>	No.	Unless authorized by City Council through adopted Resolution.	No livestock permitted in city except for vet clinics or schools with ag programs.
<b>City of Winter Haven</b> <i>Sec. 21-69</i>	Yes.	<b>Up to 5</b> , must be penned, <b>Accessory structure setbacks per district</b> apply. Hens only. No roosters.	No other livestock allowed in residential districts only Agricultural (AG) districts.

The proposed ordinance would be the most lenient and least restrictive of those surveyed above. It will continue to allow roosters on residential properties ½-acre or larger.

### Limits of the Proposed Ordinance

This amendment will affect all residential lots and property owners wishing to keep livestock or fowl, including within the Green Swamp Area of Critical State Concern (ACSC). This will not affect *bona fide* agriculture operations or those that are otherwise ag exempt.

### Consistency with the Comprehensive Plan

This change has no bearing on the Comprehensive Plan.

**Comments from Other Agencies:** Code Enforcement and the Building Department contributed to this amendment.

**Draft Ordinance:** Under separate attachment

**Exhibit 1** – LDCT-2025-5 Proposed Ordinance (Clean Copy)

## Exhibit 1

### Section 222 *Agricultural*

#### A. Livestock and Fowl on Residential Property (Revised 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 areas. 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, or any property within the A/RR, A/RRX, PM, and CORE Future Land Use Map districts.

1. Livestock and fowl shall be permitted on residential properties less than ½ acre (21,780 square feet) in size as follows:
  - a. Livestock and fowl shall be contained within fenced areas.
  - b. The keeping of male fowl, including but not limited to, roosters, cockerels, toms, ganders, etc., is deemed to be a nuisance due to the noises produced and is, therefore, specifically prohibited.
  - c. Swine shall be kept in pens or fenced areas at least 50 feet from neighboring residential property lines.
  - d. The collection and storage of animal waste shall be located at least 50 feet from neighboring residential property lines.
2. No structures intended for the sheltering or feeding of animals (such as barns, stables, coops, aviaries, troughs, or feeders) shall be permitted to be built within 10 feet of a residential property boundary.
3. Variances to the setbacks in subsections 1 & 2 may be approved by the Land Use Hearing Officer (LUHO) through the process provided in Section 930 of this Code.
4. Show animals and educational projects intended to be kept onsite on a temporary basis shall be exempted from Section 222.A, provided the manure setback requirement in Section 222.A.1.d. is met.
5. Code enforcement action of this subsection may be initiated only by complaint from an owner of residential property within 250 feet of the property on which fowl are contained.