

**ORDINANCE NO. 21-070**

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2021-16 AMENDING ORDINANCE NO. 00-09, AS AMENDED (ALSO KNOWN AS THE POLK COUNTY LAND DEVELOPMENT CODE), AMENDING CHAPTER 3, CONDITIONAL USES, SECTION 303, SOLAR ELECTRIC POWER GENERATION FACILITIES; CHAPTER 4, SECTION 401.07, THE BREWSTER SELECTED AREA PLAN, TABLE 1; AND, CHAPTER 5, SECTION 502, STANDARDS FOR LAND USE DISTRICTS IN THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN TO ALLOW FOR SOLAR FACILITIES IN ALL AGRICULTURAL COMPREHENSIVE PLAN FUTURE LAND USE MAP DISTRICTS; 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 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 October 6, 2021; and

**WHEREAS**, the proposed text amendment to the Polk County Land Development Code is required to achieve compliance with recent changes in Florida Statutes regarding Solar Power Generation Facilities in agricultural Comprehensive Plan Future Land Use Map categories;

**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 October 6, 2021. 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 303, Solar Electric-Power Generation Facility, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

***Solar Electric-Power Generation Facility (12/6/11 – Ord. 11-033)***

The location, construction, and operation of Solar Electric-Power Generating Facilities shall comply with the following standards:

1. Siting/location criteria:
  - a. Solar Electric-Power Generation Facilities shall be allowed in the A/RR, A/RRX, RS, RCC-R, HIC, BPC-1, BPC-2, IND, INST-1, INST-2 and PM land use districts subject to conditional use approval.
  - b. The minimum property size for a Solar Electric-Power Generation Facility shall be 10 acres.

- c. All solar panels and associated equipment shall be setback a minimum of 50 feet from all property lines and shall comply with all applicable right-of-way setbacks.
  - d. The height of any solar panels and solar arrays shall not exceed the height limitation for the applicable land use district; otherwise, a variance may be applied for in accordance with Section 930 of this Code.
  - e. Visual impacts of the solar panels, solar arrays and any solar energy system shall be minimized in accordance with the following:
    - i. A Type A Landscape buffer shall be required along the frontage of all public rights-of-way. If this buffer is determined to affect the functionality of the solar arrays and system, the applicant may apply for a waiver to this requirement in accordance with Section 932 of this Code.
    - ii. Clearing of natural vegetation for the installation of a Solar Electric-Power Generation Facility shall be limited to that which is necessary for the construction, operation, and maintenance of the Facility and as otherwise prescribed by applicable state and federal laws, rules, and regulations.
2. Within the ~~A/RR~~, BPC-1, BPC-2, and INST-1 districts, a Solar Electric-Power Generation facility shall require a Level 3 Review if any of the follow criteria are met:
    - a. The proposed facility will be located within one-quarter mile (1,320 feet) from a single-family residence or subdivision consisting of single-family lots;
    - b. The solar panels or any associated equipment is proposed to be closer than 50 feet to the property line.
  3. Solar Electric-Power Generation Facilities shall comply with the Florida Electrical Power Plant Siting Act when determined to be a Certified Electric-Power Generation Facility pursuant to Florida Statutes. Polk County shall, at its sole discretion, remain a party to the Electrical Power Plant Siting Act certification process. Solar Electric-Power Generation Facilities that qualify as a Certified Facility shall require a Level 4 Review.
  4. Prior to approval, the applicant shall demonstrate that the Facility complies with all other applicable state and federal laws, rules and regulations pertaining to electric-power generation facilities specific to solar power.

**SECTION 3:** Chapter 4, Section 401.07, The Brewster Selected Area Plan, Table 1, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to allow Solar Production Facilities as a Conditional Level 2 Use (C2) in the A/RRX district.

**SECTION 4:** Chapter 5, Section 502, Standards for Land Use Districts in the Green Swamp ACSC, Table 5.2, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to change Solar Production Facilities from a Conditional Level 3 Use (C3) in the A/RRX district to a Conditional Level 2 Use (C2) in the A/RRX district.

## **SECTION 5: 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 6: 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 30th day of November, 2021.



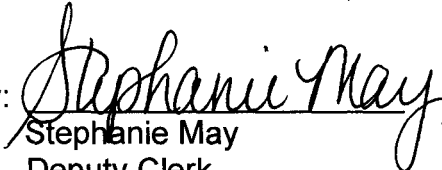
STATE OF FLORIDA     )  
                                      )  
COUNTY OF POLK        )

I Stacy M. Butterfield, County Clerk and Comptroller for Polk County, Florida, hereby certify that the foregoing is a true and correct copy of Ordinance No. 2021-070 adopted by the Board on November 30<sup>th</sup>, 2021.

WITNESS my hand and official seal on this 30<sup>th</sup> day of November 2021.



STACY M. BUTTERFIELD, CLERK

By:   
Stephanie May  
Deputy Clerk



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

November 30, 2021

Ms. Stephanie May, Support Specialist, VAB Clerk  
Polk County  
Post Office Box 988  
Bartow, Florida 33831-0988

Dear Ms. May:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Polk County Ordinance No. 21-070, which was filed in this office on November 30, 2021.

Sincerely,

Anya Owens  
Program Administrator

AO/lb