

## **ORDINANCE NO. 22- 017**

AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS REGARDING LAND DEVELOPMENT CODE AMENDMENT LDCT-2021-11 AMENDING ORDINANCE NO. 00-09, AS AMENDED (ALSO KNOWN AS THE POLK COUNTY LAND DEVELOPMENT CODE); PROVIDING FINDINGS; AMENDING CHAPTER 2, SECTIONS 205, 208, 211, 214, 215, 219, AND 228 TO CONSOLIDATE SETBACKS INTO ONE SECTION; PROVIDING FURTHER STANDARDS FOR RESIDENTIAL INFILL AND LEGAL NON-CONFORMING LOT SETBACKS; ADDING SPECIFIC SETBACKS FOR ACCESSORY STRUCTURES USED FOR STORAGE; REDUCING SETBACKS FOR OPEN CARPORTS IN FRONT YARDS ON LOCAL ROADS; AMENDING CHAPTER 10, DEFINITIONS TO PROVIDE A DEFINITION FOR FLAG LOTS, 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 February 2, 2022; and

**WHEREAS**, Application LDCT-2021-11 is a County-initiated application to amend the text of the LDC to Sections 205, 208, 211, 214, 215, 219, and 228 to consolidate setbacks into one section, provide further standards for residential infill and legal non-conforming lots, add specific setbacks for storage structures used for storage, and reduce right-of-way setbacks for open carports on local roads. In addition, provide definitions to Chapter 10 for flag lots.

**WHEREAS**, the Board held two public hearings on February 15, 2022 and March 1, 2022 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. The red text indicates existing language being relocated but remaining otherwise unchanged.**

**SECTION 1: FINDINGS** The Board hereby finds and determines that:

- a) The Planning Commission, acting in its capacity as the Local Planning Agency for the County, held a public hearing on February 2, 2022 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 907D.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.

## Chapter 2

### Section 205 Use Tables for Standard Land Use Districts

#### Table 2.2 Footnotes

22. Additional setback requirements can be found in Sections 206, 207, 208, 209, 213, 220, 222, and 303 for the applicable use.

## **Section 208 Density and Dimensional Regulations for Standard Districts**

### **A. Density and Dimensional Regulations for Standard Districts (Rev. 05/06/09 - Ord. 09-020)**

Density and dimensional regulations for the standard land use districts are prescribed in Table 2.2.

### **B. Measurement of Setbacks (Revised 12/1/10 - Ord. 10-082)**

Setback shall be measured in accordance with the following:

1. Setbacks shall be measured by the shortest dimension, running from the property line to the base of the structure or vertical wall/support structure.
2. No portion of an alley shall be considered as part of a required setback.
3. For determinations of setbacks, corner lots and multiple-frontage lots shall be considered to have fronts on all street frontages unless otherwise specified in this chapter. Side setbacks shall apply to all other sides of such a lot or parcel.
4. Sills, eaves, cornices, chimneys, flues, mechanical equipment and similar projections may project into a setback area not more than three feet and shall not extend over adjacent properties except in accordance with Section 755 (zero-lot-line design). Eave(s) of a building, residence, or other structure may project into a drainage easement with the same restrictions.
5. For through lots, the orientation of the front of the home shall meet the right-of-way setbacks while the opposite road frontage (the rear of the home) shall be permitted to meet the rear yard setbacks.
6. Structures attached to a primary structure with a solid roof shall follow subsection 209.F of this code. Structures attached to the primary structure with a screen roof may utilize accessory structure setbacks.

### **C. Setbacks from Private Roads and Private Access Easements**

All principal structures shall be set back from private roads and private access easements in accordance with the following standards:

#### **1. Minimum Setbacks**

The minimum setback distance from front, exterior side, and exterior rear lot lines shall be the same distance as the minimum setback from the right-of-way line of a public local road or private access easement in the district where the principal structure is located (refer to Table 2.2).

## 2. Location of Measurements

Measurements of the minimum setback distance shall be made from the property line, ~~or the edge of road pavement, or the edge of private access easement~~ using the measurement which provides for the greatest setback distance from the private road or the edge of the private access easement.

### D. Distance Between Buildings (Revised 12/15/15 – Ord. 15-080)

#### **Building Height Adjustment**

When a building exceeds 35 feet in height, the minimum distance from an adjacent detached building shall be increased by one-half foot for each one foot of building height or fraction thereof over 25 feet.

### E. Setbacks for Residential Infill & Legal Non-Conforming Lots of Record

This Section shall be applied where the setback requirements of this Code create a burden on properties whose lot sizes are legally non-conforming to the Future Land Use Map. ~~create incompatible infill development.~~ In cases where vacant lots exist in established residential neighborhoods or subdivisions, ~~development of said vacant lots shall be compatible with those abutting lots.~~ The a proposed infill dwelling units unit shall conform to any standards required by valid recorded plats, deed restriction, or approved, valid site plans, to the extent provided by law.

Where such documentation is not available, the setbacks of the proposed ~~infill units principal structure~~ shall be based upon the average minimum setbacks of abutting units. *[Example: if a proposed infill lot abuts two single-family homes with front setbacks of 15 feet and 25 feet, the proposed unit shall be constructed with a 20 feet 20-foot front setback].*

Unless provided for otherwise through a planned development approval or recorded plat, accessory structure setbacks for infill development and non-conforming lots shall conform with the setbacks of the land use district where the equivalent minimum lot size is met as determined by Table 2.2 or the Selected Area Plans or Green Swamp Area of Critical State Concern requirements in Chapters 4 & 5.

### F. Accessory Structure Setbacks

Accessory structure setbacks shall be in accordance with the district dimensional standards in Table 2.2. The following accessory structure setbacks shall be applied through a Level 1 Review and shall supersede any setback requirements found within Table 2.2, Section 303, and Chapters 4 & 5.

1. No part of any pool, spa or hot tub or its enclosure shall be closer than five feet to any seawall or property line. A variance to this setback requirement may be granted by the Land Use Hearing Officer in accordance with Section 930 and 931.

2. The required accessory setbacks for accessory structures used for storage may be reduced to zero (0) feet from the side and rear property lines provided the following requirements are met:
  - a. Height of the accessory structure used for storage does not exceed 10 feet, measured from grade to the highest point of the accessory storage structure;
  - b. The accessory structure used for storage is less than or equal to 400 square feet in size;
  - c. No windows or doors of the accessory storage structure may face the property line of the reduced setback;
  - d. No part of the accessory structure used for storage, including eaves, cornices, and other similar projections, extends over adjacent properties;
  - e. The accessory structure used for storage is not within six (6) feet of any structure on a neighboring property for public safety purposes; and
  - f. All other standards from Section 209 of this Chapter (excluding subsection 209.H) are met.
3. The required front setback for open carports may be reduced to six (6) feet from rights-of-way or drive aisle, provided the following requirements are met:
  - a. The structure remains open from grade up to the eave, except the portion of the carport attached to the primary habitable structure;
  - b. The carport is not converted to habitable living space (based upon Florida Building Code standards) at any time;
  - c. The property is on a local road, private road meeting local road standards, or private drive aisle;
  - d. Setback measurement shall be from the carport post to the right-of-way (public or private) or the edge of pavement of a drive aisle; and
  - e. Eaves may extend into the front setback no more than three feet. However, there shall be no encroachment into the right-of-way.

## **Section 211 Pools and Screen Enclosures**

### ***Swimming Pool Enclosures (Revised 2/5/19 Ord. 19-008; 12/1/10 - Ord. 10-082)***

A swimming pool, spa or hot tub and its enclosure may only be constructed or installed in the side or rear yard. ~~No part of any pool, spa or hot tub or its enclosure shall be closer than five feet to any seawall or property line. A variance to this setback requirement may be granted by the Land Use Hearing Officer in accordance with Section 930 and 931.~~

### **~~Section 214 Distance Between Buildings (Revised 12/15/15 Ord. 15-080)~~**

#### ***Building Height Adjustment***

~~When a building exceeds 35 feet in height, the minimum distance from an adjacent detached building shall be increased by one half foot for each one foot of building height or fraction thereof over 25 feet.~~

### **Section 214 Reserved (Relocated to Section 208.D)**

### **~~Section 215 Setbacks from Private Roads~~**

~~All principal structures shall be set back from private roads in accordance with the following standards:~~

#### **~~A. Minimum Setbacks~~**

~~The minimum setback distance from front, exterior side, and exterior rear lot lines shall be the same distance as the minimum setback from the right-of-way line of a public local road in the district where the principal structure is located (refer to Table 2.2).~~

#### **~~B. Location of Measurements~~**

~~Measurements of the minimum setback distance shall be made from the property line or the edge of road pavement, using the measurement which provides for the greatest setback distance from the private road.~~

### **Section 215 Reserved (Relocated to Section 208.C)**

### **~~Section 219 Setbacks for Residential Infill~~**

~~This Section shall be applied where the setback requirements of this Code would create incompatible infill development. In cases where vacant lots exist in established residential neighborhoods or subdivisions, development of said vacant lots shall be compatible with those abutting lots. The proposed infill units shall conform to any standards required by valid recorded plats, deed restriction or approved, valid site plans, to the extent provided by law. Where such documentation is not available, the setbacks of the proposed infill units shall be based upon the minimum setbacks of abutting units. [Example: if a proposed infill lot abuts two single family~~

~~homes with front setbacks of 15 feet and 25 feet, the proposed unit shall be constructed with a 20 feet front setback].~~

**Section 219 Reserved (Relocated to Section 208.E)**

**Section 228 Measurement of Setbacks (Revised 12/1/10 – Ord. 10-082)**

~~Setback shall be measured in accordance with the following:~~

- ~~A. Setbacks shall be measured by the shortest dimension, running from the property line to the base of the structure or vertical wall/support structure.~~
- ~~B. No portion of an alley shall be considered as part of a required setback.~~
- ~~C. For determinations of setbacks, corner lots and multiple frontage lots shall be considered to have fronts on all street frontages unless otherwise specified in this chapter. Side setbacks shall apply to all other sides of such a lot or parcel.~~
- ~~D. Sills, eaves, cornices, chimneys, flues, mechanical equipment and similar projections may project into a setback area not more than three feet and shall not extend over adjacent properties except in accordance with Section 755 (zero lot line design)~~

**Section 228 Reserved (Relocated to Section 208.B)**

**Chapter 10 – Definitions**

**LOT, FLAG – A lot accessing road frontage through a narrow section of land serving the larger rectangular main body of the parcel to the rear.**



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. 2022-017 adopted by the Board on March 1, 2022.

WITNESS my hand and official seal on this 1<sup>st</sup> day of March 2022.

STACY M. BUTTERFIELD, CLERK

By:

  
Stephanie May  
Deputy Clerk







## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

March 1, 2022

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. 22-017, which was filed in this office on March 1, 2022.

Sincerely,

Anya Owens  
Program Administrator

AO/lb