

**ORDINANCE NO. 2023-064**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT LDCT-2023-13, AMENDING ORDINANCE NO. 00-09, AS AMENDED, (ALSO KNOWN AS THE POLK COUNTY LAND DEVELOPMENT CODE); PROVIDING FINDINGS; AMENDING CHAPTER 2, SECTION 206.A, ACCESSORY APARTMENTS, GARAGE APARTMENTS, AND GUEST HOUSES, TO REDUCE PERMITTING BARRIERS AND ENABLE BROADER USE OF ACCESSORY DWELLING UNITS IN AN EFFORT TO INCREASE THE AMOUNT OF AFFORDABLE HOUSING STOCK; AMENDING SECTION 206.K, CARGO CONTAINERS FOR PERMANENT STORAGE, TO ALLOW CARGO CONTAINERS TO BE CONVERTED TO HABITABLE STRUCTURES, AMENDING CHAPTER 10, DEFINITIONS TO ADD A DEFINITION FOR ACCESSORY DWELLING UNIT, AND DELETE DEFINITIONS FOR GARAGE APARTMENT, GUEST HOUSE, AND MOTHER-IN-LAW SUITE; PROVIDING FOR SEVERABILITY; PROVIDING 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 (the "LDC") 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; 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 August 2, 2023; and

**WHEREAS** Application LDCT-2023-13 is a County-initiated application to amend the text of the LDC to is intended to reduce permitting barriers and enable broader use of accessory dwelling units in an effort to increase the amount of affordable housing stock; and

**WHEREAS**, the Board held two public hearings on September 19, 2023 and October 3, 2023 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 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 August 2, 2023, 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 206.A, Accessory Apartments, Garage Apartments, and Guest Houses, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

#### **Section 206 Accessory Uses**

Accessory uses are permitted in conjunction with the primary use in all land use districts. Accessory uses are those land uses that are incidental and subordinate to the primary use of the property (see table 2.1 for a list of primary land uses allowed per district). Specific requirements pertaining to the determination of what is incidental and subordinate for certain types of accessory uses are listed in the section and sections to follow in this chapter. All accessory uses contained herein, and any other not included shall comply with Section 209.

- A. Accessory ~~Apartments, Garage Apartments, and Guest Houses~~ Dwelling Unit (ADU)

~~Accessory apartments, garage apartments, and guest houses~~ dwelling units (ADUs) may be permitted as accessory uses to single-family detached homes and mobile homes in all residential districts and lots of record for residential purposes subject to the applicable district regulations and the following requirements:

1. No more than one accessory ~~apartment, garage apartment, or guest house~~ dwelling unit may be permitted on any single-family residential lot or parcel.
2. ~~A guest house~~ An accessory dwelling unit shall be located in the side or rear yard of the principal dwelling unit.
3. ~~Garage apartments and guest houses~~ Accessory dwelling units ~~shall meet all~~ may utilize setbacks pertaining to accessory structures unless attached to the principal structure.
4. Mobile homes shall not be permitted to be used as ~~guest houses~~ accessory dwelling units. However, where mobile homes are the primary residence, an accessory dwelling unit built to the standards of the Florida Building Code may be permitted provided it is 50% or less in heated floorspace than the mobile home.
5. Accessory dwelling ~~uses~~ units shall be permitted subject to a Level 1 Review.
6. Accessory dwelling ~~structures are prohibited in developments~~ units shall not be approved for short-term rental or vacation rental.
7. ADUs may be rented, leased, or serve as housing for living assistants, guests, or family members. ADU's may not be subdivided from the parent property or placed under separate ownership from the primary dwelling.
8. ADUs in conformance with this section do not count as additional dwelling units in the calculation of density.
9. When an ADU is attached to the principal structure, uses the same electrical service and plumbing as the primary dwelling unit, access is through a subordinate entrance on the rear or side of the principal structure, and the primary dwelling unit and ADU combined do not exceed five bedrooms, it is considered one single-family home and the parcel is eligible for an additional detached ADU.

...

**SECTION 3:** Section 206.K, Cargo Containers for Permanent Storage, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

**K. *Cargo Containers for Permanent Storage (Rev.09/02/09 – Ord. 09-058)***

Cargo containers are permitted to be used as permanent storage in accordance with the following:

1. All cargo containers shall comply with the Florida Building Code, Florida Fire Prevention code, and shall require a building permit.
2. Cargo Containers for permanent storage are prohibited in the following land use districts: RCC-R, RL, RM, RH, OC, L/R, ROS, and PRESV.

3. Cargo containers shall be permitted in accordance with the following:
  - a. As a temporary use in any land use district in conjunction with an authorized construction project, and shall be removed upon completion of the project unless properly permitted to remain as permanent storage in accordance with section.
  - b. Bona fide agricultural properties are permitted to have one cargo container per five acres of agricultural tax exempt acres of land, with no minimum acreage being required.
  - c. parcels designated A/RR and RS shall be permitted one cargo container per five acre parcel, with a minimum property size of five acres.
  - d. Non-residential properties are permitted one cargo container per acre, with no minimum acreage being required.
4. In the instance where more than one cargo container, as outlined in this section, is allowed they shall not be stacked. However, within the IND and BPC-2 land use district they shall be permitted to be stacked two-high.
5. Cargo containers located on a residentially developed lot, or within the CE, LCC, RCC, CC, NAC, CAC land use districts, that is adjacent to residentially developed lots or structures shall be buffered and/or screened from the adjacent off-site residential lot or structure. Additionally, they shall maintain a minimum setback of 15 feet.
6. All cargo containers shall be placed in either the side or rear yard and meet accessory structure setbacks for the applicable land use district or the set back as outlined in the Condition #5 above, whichever is more restrictive.
7. Cargo containers shall not be located within any drainage easements.
8. Cargo containers shall not occupy any required off-street parking spaces, vehicular accesses or drive aisles, pedestrian facilities or landscape areas for the site.
9. Cargo containers shall not be permitted to have signage of any type.
10. Cargo Containers ~~shall not be~~ are not considered to be used for permanent storage if they are modified or retrofitted for residential habitation in accordance with the Florida Building Code. This section does not apply to the construction of residential dwellings.

**SECTION 4:** Chapter 10, Definitions, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

...

**ACCESSORY DWELLING UNIT (ADU): a residential living unit on the same parcel as a**

single-family dwelling or a parcel on which a single-family dwelling is present or may be constructed. The ADU provides complete independent living facilities for one or more persons. It may take various forms: a detached unit, a unit that is part of an accessory structure, such as a detached garage; or a unit that is part of an expanded or remodeled dwelling. Mobile homes, recreational vehicles, or structures built in conformance with Florida Statutes, Section 320.823, as amended, shall not be deemed an accessory dwelling unit.

...

**~~GARAGE APARTMENT:~~** ~~A dwelling unit including a bedroom, bathroom and kitchen, having separate electrical or plumbing service from the primary dwelling unit.~~

...

**~~GUEST HOUSE:~~** ~~Shall mean a structure which is accessory to a residential use, used for occasional housing of guests of the occupants of the principal structure, and not as a rental unit or for permanent occupancy as a housekeeping unit. Mobile homes, recreational vehicles, or structures built in conformance with Florida Statutes, Section 320.823, as amended, shall not be deemed a guest house.~~

...

**~~MOTHER-IN-LAW SUITE:~~** ~~A dwelling unit attached to the principle structure that uses the same electrical service and plumbing as the primary dwelling unit. Access to the suite shall be a subordinate entrance on the rear or side of the principal structure. A mother-in-law suite is considered part of a single family home as long as the home does not exceed five bedrooms.~~

## 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 3rd day of October, 2023.



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. 2023-064 adopted by the Board on October 3, 2023

WITNESS my hand and official seal on this 3rd day of October 2023.

STACY M. BUTTERFIELD, CLERK

By: *Yolanda Harris*  
Yolanda Harris  
Deputy Clerk





## FLORIDA DEPARTMENT of STATE

**RON DESANTIS**  
Governor

**CORD BYRD**  
Secretary of State

October 4, 2023

Stacy M. Butterfield  
Clerk of the Circuit Court and Comptroller  
Polk County  
Post Office Box 988  
Bartow, FL 33831-0988

Attention: Yolanda Harris

Dear Stacy Butterfield,

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Polk County Ordinance No. 2023-064, which was filed in this office on October 3, 2023.

Sincerely,

Anya Owens  
Administrative Code and Register Director

ACO/wlh

