

ORDINANCE NO. 2024-078

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT **LDCT-2024-13 Part A**, AMENDING ORDINANCE NO. 00-09, AS AMENDED, (ALSO KNOWN AS THE POLK COUNTY LAND DEVELOPMENT CODE); PROVIDING FINDINGS; AMENDING CHAPTER 5, SECTION 506 RURAL SPECIAL PROTECTION AREA TO SPECIFY THE **MEASUREMENT OF DENSITY** IN THE AGRICULTURAL/RESIDENTIAL RURAL (A/RRX) AND CONSERVATION CORE (COREX) FUTURE LAND USE MAP DESIGNATIONS, AND CORRECT THE VESTING DATE IN THE GREEN SWAMP AREA OF CRITICAL STATE CONCERN; 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 June 5, 2024; and

WHEREAS Application LDCT-2024-13 is a County-initiated application to amend the text of the LDC to implement changes approved in LDCPAL-2024-12 regarding the measurement of density in the Rural portions of the Green Swamp Area of Critical State Concern, density transfer from wetlands, and correct the date of vesting for lots of record; and

WHEREAS, the Board held two public hearings on June 18, 2024 and November 5, 2024 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 June 5, 2024, 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 506 Rural Special Protection Area, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

Section 506 Section 506 Rural Special Protection Area (RURAL-SPA)

A. Connection to Public Facilities

All development within the Rural-SPA, except in the CORE, meeting the definition of availability as provided in Section 702 shall be connected to central water and sewer.

B. Use of On-Site Sewerage Treatment and Disposal Systems (OSTDS) (Septic Tanks)

Where septic tanks are used, the maximum net density shall be one dwelling unit per 40,000 square feet.

C. Residential Densities

Residential development shall not exceed a gross density of one dwelling unit per ten acres. Measurement of density shall include to the centerline of local and collector roads. Ten acres is one 64th (1/64) of the size of a section. Measurement of 10 acres per unit density may also

be relative to the size of the Section for which the property lies when the Section is less than 640 acres.

D. Conservation Area

All development located within the A/RR land use district of the Rural-SPA shall provide a conservation area set aside of at least 80 percent of the total land area of the development. This requirement shall be accomplished in accordance with the following.

1. The conservation (open space) shall be located in a large common area or areas and in buffers and shall not be located within individual platted lots,
2. For this requirement, non-phosphate mining is not deemed to be development,
3. Any subdivision of land requiring a plat shall indicate on the plat document that portion of the land which is to be conserved; and,
4. Any Plat shall clearly state that no clearing and no structures of any kind, except for family agriculture purposes, are to be placed within the conservation area.

E. Modified Districts

Rural Mixed-Use Developments and Rural Residential Developments are prohibited.

F. Conservation Core (Core) Land Use District

1. Connection to Public Facilities

Extension of central sewer in the CORE is prohibited.

2. Use of On-Site Sewerage Treatment and Disposal Systems (OSTDS) (Septic Tanks)

Where septic tanks are used, the maximum net density shall be one dwelling unit per 40,000 square feet.

3. Residential Densities

Residential development shall not exceed one dwelling unit per 20 acres. Measurement of density shall include to the centerline of local and collector roads. Twenty acres is one 32nd (1/32) of the size of a section. Measurement of the 20 acres per unit density may also be relative to the size of the Section for which the property lies when the Section is less than 640 acres.

4. Conservation Area

All development shall provide a conservation area set aside of at least 90 percent of the total land area. For this requirement, non-phosphate mining is not deemed to be development.

5. Modified Districts

Rural Mixed-Use Developments and Rural Residential Developments are prohibited.

6. Overlay Districts

In addition to the other overlay districts a Sand Mining Overlay shall be designated and located on the Future Land Use maps of Polk County, based upon the Official Settlement Agreement between the Department of Community Affairs (DCA) and Jahna Industries.

- a. Once granted and maintained by Jahna Industries, Life-of-the-Mine Permit or equivalent permit from the Department of Environmental Regulation, shall trigger an amendment to the FLUM indicating the new overlay district.

- b. The overly district shall allow sand mining and ancillary uses as per the Official Settlement Agreement between DCA and Jahna Industries.
- c. Nothing in these regulations regarding this overlay district shall be construed to allow, other than sand mining and ancillary uses, or expand the right to development within this district, nor weaken the controls and conditions of the Official Settlement Agreement or the Polk County Comprehensive Plan.

G. Additional Density and Dimensional Regulations

In addition to the densities and dimensions found in Table 5.3, development within the Rural-SPA shall conform to the regulations listed:

- 1. The following residential densities shall apply within the A/RRX:
 - a. Uplands: one dwelling unit per ten acres (1 DU/10 AC).
 - b. Wetlands: one dwelling unit per twenty acres (1 DU/20 AC).
- 2. Wetland density shall be transferred to the uplands and shall not be platted into individual lots. Wetland shall be placed in an open space easement in perpetuity and dedicated to a homeowners association or other not for profit entity. Wetlands shall remain in their native unaltered state.

H. Golf Courses

Golf courses are expressly prohibited in the Conservation-Core.

I. Lots of Record

Lots created prior March 3, 1993, that are ~~less than five acres in size~~ at least 40,000 square feet and have direct access onto a County approved road shall be permitted to construct one single-family detached home.

SECTION 3: 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 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 5th day of November, 2024.



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. 2024-078 adopted by the Board on November 5, 2024

WITNESS my hand and official seal on this 5th day of November 2024.

STACY M. BUTTERFIELD, CLERK

By: Yolanda Harris
Yolanda Harris
Deputy Clerk





FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

November 6, 2024

Stacy Butterfield
County Clerk
Polk County
Post Office Box 988
Bartow, FL 33831-0988

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. 2024-078, which was filed in this office on November 5, 2024.

Sincerely,

Alexandra Leijon
Administrative Code and Register Director

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