

ORDINANCE NO.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT **LDC 15T-11**, AMENDING ORDINANCE NO. 00-09, AS AMENDED, THE POLK COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 2, LAND USE DISTRICTS AND REGULATIONS, TABLE 2.2, DENSITY AND DIMENSIONAL REGULATIONS FOR STANDARD DISTRICTS, TO INCREASE THE MAXIMUM STRUCTURE HEIGHT IN THE INSTITUTIONAL-2 (INST-2) FUTUTRE LAND USE DISTRICT FROM 130 FEET TO 160 FEET; 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 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 November 4, 2015; and

WHEREAS, the proposed text amendment to the Polk County Land Development Code will modify Table 2.2, Density and Dimensional Regulations for Standard Districts; and

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.

POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

DRC Date: August 27, 2015	Level of Review: 4
PC Date: November 4, 2015	Type: Land Development Code Text Amendment
BoCC Dates: December 1, 2015 December 15, 2015	Case Number: LDC 15T-11/DMS# 58094
Applicant: Polk County	Case Name: Height Increase for INST-2
	Case Planner: Todd Vargo, AICP

Request:	An LDC text amendment to Table 2.2, Density and Dimensional Regulations for Standard Districts, to increase the maximum structure height within the Institutional-2 (INST-2) Future Land Use district from 130 feet to 160 feet.
Location, Property Owner, Parcel	N/A
Overlay Areas:	N/A
Nearest Municipalities:	N/A
DRC Recommendation:	Approval
Planning Commission Vote:	Approval, 7:0
Public Comment:	None

Summary:

In the recent past, the Board of County Commissioners has approved other landfills and phosphogypsum stacks for heights of 160 feet or greater. This request is to amend the maximum structure height for the Institutional-2 (INST-2) Future Land Use district so that similar future and existing waste stacks may achieve the same height. The current maximum structure height for INST-2 is 130 feet.

The proposed request may save land acquisition costs for future and existing waste stacks as it is more expensive for such stacks to expand outward than to grow upward. This also saves usable, buildable land from being assimilated into such waste stacks. Aside from the occasional cellular communication tower, staff does not expect many structures to require heights in excess of 160 feet.

Findings of Fact

- *Table 2.2, Density and Dimensional Regulations for Standard Districts, allows a maximum structure height of 130 feet in the Institutional-2 Future Land Use district.*
- *On June 3, 2010, the Polk County Board of County Commissioners approved a height of 160 feet for the landfill portion of the Innovation Environmental Park (CU 09-17/DMS #54438).*
- *On June 2, 2015, The Polk County Board of County Commissioners approved a height of 360 feet for the New Wales Phase III and Phase IV Phosphogypsum Stack Extension (CU 14-23/DMS #57371).*
- *There are no height limits in the Industrial or Phosphate Mining Future Land Use districts, unless the site is adjacent to a residential use or district.*

Development Review Committee Recommendation:

The Land Development Division, based on the information provided with the proposed text amendment application, 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 LDC 15T-11.

Planning Commission Decision: *On November 4, 2015, in an advertised public hearing, the Planning Commission voted 7:0 to recommend **APPROVAL** of LDC 15T-11.*

Analysis

According to staff who were employed during the adoption of the Polk County Land Development Code, the basis for the original height limit in the Institutional-2 district was the height of the Polk County Courthouse. No further analysis was included in the establishment of this standard.

In the counties that also have phosphate mining and gyp stacks, there are no height limits that apply in the districts that permit the stacks. In the other counties, there are lower height limits. Also, there is little consistency in maximum height limitations among the counties surrounding Polk. Height limits are subjective and have little relation to growth management principles.

Comparisons to other Jurisdictions:

Staff reviewed the counties that line the I-4 Corridor to see what the maximum heights are in their Land Development Codes because they have a similar land use dynamic as Polk. They are a mix of urban, suburban and rural like Polk County.

Table 1

County	Maximum Allowable Height	District	Section
Hillsborough	110'	M (Manufacturing)	6.01.01
Lake	50'	C1 (Neighborhood Commercial) C2 (Community Commercial) C3 (Employment Center) CP (Planned Commercial) LM (Light Industrial) HM (Heavy Industrial) MP (Planned Industrial) CFD (Community Facility)	3.02.06
Orange	75'	C-3 (Commercial Wholesaling District)	38-880
Osceola	No Limit	RM-3 (Residential Multi-Family)	3.1.3 (Table 3.2)
Seminole	100'	UC (University Community)	30.546
Volusia	115'	B-8 (Tourist)	72-241
Desoto	No Limit	Non-Residential	7101
Hardee	1 : 1 setback		12.11
Highlands	150'	R-3	12.05

Consistency with the Comprehensive Plan

The Polk County Comprehensive Plan does not contain policies that limit the height of structures in the Institutional Future Land Use districts. Height limitations for the Institutional districts are found solely in the Land Development Code.

Comments from Other Agencies: None

Draft Ordinance: under separate attachment

SECTION 1: Chapter 2, Table 2.2 (Density and Dimensional Regulations for Standard Districts), Polk County Ordinance No. 00-09, as amended, is hereby amended to add the following uses:

Table 2.2 Density and Dimensional Regulations for Standard Districts (Revised 3/18/14 – Ord. 14-015; 11/16/10 – Ord. 10-078; 01/03/05 – Ord. 04-80; 12/27/02 – Ord. 02-88; 7/29/02 – Ord. 02-51; 7/25/01 – Ord. 01-57)

	A/RR	RCC-R	RS	RL-1	RL-2	RL-3	RL-4	RM	RH	RCC	OC	CC	NAC	CAC	
RESIDENTIAL GROSS DENSITY ⁽¹⁾⁽²⁾ : MAXIMUM / MINIMUM	1 du/5 ac(2) N/A	2 du/ac N/A	1 du/5 ac(2) N/A	1 du/ac N/A	2 du/ac N/A	3 du/ac N/A	4 du/ac N/A	7 du/ac N/A	10 du/ac N/A	N/A N/A	N/A N/A	N/A N/A	N/A N/A	25/15	
MIN. RESIDENTIAL LOT AREA ⁽³⁾	5 AC	20,000 sf	5 AC	40,000 sf	15,000 sf	10,000 sf	6,000 sf	6,000 sf	5,000 sf	N/A	N/A	4,500 sf	4,000 sf	3,500 sf	
MAX. NON-RESIDENTIAL IMPERVIOUS SURFACE RATIO ^{(ISR)(4)}	0.50	0.50	0.60	0.65	0.65	0.70	0.70	0.70	0.70	0.50	0.70 0.60-SDA	0.70 0.60-SDA	0.70 0.60-SDA	0.70 0.60-SDA	
MAX. NON-RESIDENTIAL FLOOR AREA RATIO ^{(FAR)(5)}	0.25	0.30	0.25	0.25	0.25	0.25	0.25	0.25	0.25	0.30	0.30	0.25	0.25	0.30 0.25-SDA	
MIN. SETBACKS: (ROAD Rights-of-Way / Center Line)^{(6) (9) (10) (13)}															
LIMITED ACCESS	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100/NA	100 / NA	100 / NA	100 / NA	
PRINCIPAL ARTERIAL	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	
MINOR ARTERIAL	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	
URBAN COLLECTOR	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	
RURAL MAJOR COLLECTOR	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 95	35 / 95	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	
RURAL MINOR COLLECTOR	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	
LOCAL, 60' R/W, or greater	25 / 55	25 / 55	20 / 50	15 / 45	15 / 45	15 / 45	15 / 45	15 / 45	15 / 45	15 / 45	30 / 60	30 / 60	30 / 60	30 / 60	
LOCAL, 41- 60' R/W	25 / 50	25 / 50	20 / 45	15 / 40	15 / 40	15 / 40	15 / 40	15 / 40	15 / 40	15 / 40	30 / 60	30 / 60	30 / 60	30 / 60	
LOCAL, 40' R/W	25 / 45	25 / 45	20 / 40	15 / 35	15 / 35	15 / 35	15 / 35	15 / 35	15 / 35	15 / 35	30/55	30 / 55	30 / 55	30 / 55	
MINIMUM SETBACKS (Principal Structure / Accessory Structures)															
INTERIOR SIDE ^{(9) (10) (15)}	15 / 10	15 / 10	10 / 5	10 / 5	7 / 5	7 / 5	7 / 5	7 / 5	7 / 5	7 / 5	7 / 5	15 / 15	15 / 15	15 / 15	15 / 15
INTERIOR REAR ^{(9) (10)}	20 / 10	20 / 10	15 / 10	15 / 10	10 / 5	10 / 5	10 / 5	10 / 5	10 / 5	10 / 5	15 / 5	15 / 15	15 / 15	15 / 15	15 / 15
MAX. STRUCTURE HEIGHT (ft) ⁽⁷⁾⁽¹²⁾	50	50	50	50	50	50	50	50	50	75	50	50	50	75	

Table 2.2. Density and Dimensional Regulations for Standard Districts (Revised 12/27/02 - Ord. 02-88; 7/25/01 - Ord. 01-57)

	RAC	BPC-1	BPC-2	HIC	TCC	LCC	CE	IND	PM	L/R	INST1	INST2	ROS	PRESV
RESIDENTIAL GROSS DENSITY ⁽¹⁾⁽²⁾ : MAXIMUM/ MINIMUM	25 15	15 du/ac 10.01 du/ac	N/A	N/A	N/A	N/A	N/A	N/A	N/A	10 du/ac N/A	N/A	N/A	N/A	N/A
MIN. RESIDENTIAL LOT AREA ⁽³⁾	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MAX. NON-RESIDENTIAL IMPERVIOUS SURFACE RATIO ^{(ISR)(4)}	0.70 0.60-SD A	0.75 0.60-SDA 0.55-RDA	0.75 0.60-SDA 0.55-RDA	0.80 0.70-SDA	0.70 0.60-SDA 0.50-RDA	0.70 0.60-SDA 0.50-RDA	0.70 0.60-SDA 0.50-RDA	0.75 0.60-SDA 0.50-RDA	0.75 0.60-SDA 0.50-RDA	0.70 0.60-SDA 0.50-RDA	0.70 0.60-SDA 0.50-RDA	0.70 0.60-SDA 0.50-RDA	0.20 0.15-SDA 0.10-RDA	0.0001
MAX. NON-RESIDENTIAL FLOOR AREA RATIO ^{(FAR)(5)}	0.35	0.75 0.50-SDA 0.35-RDA 0.25-COM	0.75 0.60-SDA .35-RDA 0.25-COM	0.50 0.40-SDA	0.35 0.30-SDA 0.25-RDA	0.35 0.30-SDA 0.25-RDA	0.35 0.30-SDA 0.25-RDA	0.75 0.65-SDA 0.50-RDA 0.25-COM	0.75	0.25	0.75	0.75	0.10 0.05-SDA 0.01-RDA	0.00005
MINIMUM SETBACKS:(ROAD Rights- of- Way / Center Line)⁽⁶⁾⁽⁹⁾⁽¹⁰⁾⁽¹³⁾														
LIMITED ACCESS	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA	100 / NA
PRINCIPAL ARTERIAL	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125	65 / 125
MINOR ARTERIAL	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90	50 / 90
URBAN COLLECTOR	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65
RURAL MAJOR COLLECTOR	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65
RURAL MINOR COLLECTOR	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65	35 / 65
LOCAL, 60' R/W, or greater	30 / 60	30 / 60	30 / 60	30 / 60	30 / 60	30 / 60	30 / 60	25 / 55	25 / 55	30 / 60	30 / 60	30 / 60	30 / 60	25 / 55
LOCAL, 41- 60' R/W	30 / 60	30 / 60	30 / 60	30 / 60	30 / 60	30 / 60	30 / 60	25 / 50	25 / 50	30 / 60	30 / 60	30 / 60	30 / 60	25 / 50
LOCAL, 40> R/W	30 / 55	30 / 55	30 / 55	30 / 55	30 / 55	30 / 55	30 / 55	25 / 45	25 / 45	30 / 55	30 / 55	30 / 55	30 / 55	25 / 45
MINIMUM SETBACKS (Principal Structure/ Accessory Structures)														
INTERIOR SIDE ⁽⁹⁾⁽¹⁰⁾⁽¹⁵⁾	15 / 15	20 / 20	20 / 20	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15	15 / 15
INTERIOR REAR ⁽⁹⁾⁽¹⁰⁾	30 / 10	20 / 20	20 / 20	15 / 15	15 / 15	15 / 15	15 / 15	30 / 10	30 / 10	15 / 15	15 / 15	15 / 15	15 / 15	30 / 10
MAX. STRUCTURE HEIGHT ⁽⁸⁾⁽⁷⁾⁽¹²⁾	75	75	100	50	100	35	35	N/A ¹⁸	N/A ¹⁸	50	50	130 160	25 ⁽¹⁹⁾	25

See footnotes following table.

Footnotes for Table 2.2 (Revised 9/18/12 – Ord 12-028; 12/27/02 - Ord. 02-88; 7/29/02 - Ord. 02-52; 7/25/01 - Ord. 01-57)

1. Residential density is the average number of dwelling units per acre of land. Gross density is calculated by dividing the total number of dwelling units on a site by the gross site area, exclusive of existing water bodies (*Note: The term "water bodies" does not include man-made wet-retention/detention areas, man made lakes, or man made ponds*). The area for computing gross density shall include all public and institutional land areas (e.g. internal streets, sewer plants, schools, and parks) located within a site, as well as one-half of the right-of-way area for perimeter local streets, and one-fourth of the right-of-way area for perimeter local street intersections.
2. Higher densities may be achieved through a Planned Development. See Section 303.
3. Lot areas are given on a per unit basis for single-family and duplex units. Smaller lot areas may be achieved through a Planned Development. See Section 303.
4. The impervious surface ratio (ISR) is the relationship between the total amount of impervious surface which is present on a site and the total site area. Impervious surfaces are those which do not absorb water. They include buildings, parking areas, driveways, roads, sidewalks, and any areas of concrete or asphalt. The ISR is calculated by dividing the total area of all impervious surfaces on a site by the gross site area, excluding existing water bodies (*Note: The term "water bodies" does not include man-made wet-retention/detention areas, man made lakes, or man made ponds*).
5. The floor area ratio (FAR) is the relationship between the total floor area on a site and the total site area. The FAR is calculated by adding together all floor areas of all floors and dividing this total by the gross site area, exclusive of existing water bodies (*Note: The term "water bodies" does not include man-made wet-retention/detention areas, man made lakes, or man made ponds*).
6. Front, exterior side, and exterior rear setbacks for principal and accessory structures shall be determined by the distance from the road right-of-way (R/W) or road centerline (C/L), whichever results in the greatest distance from the property line. Setbacks from private roads shall be calculated in the same manner or from the edge of pavement, whichever is greater. All linear dimensions are given in feet.
7. Residential structures exceeding 35 feet in height, setbacks shall be increased by one-half of one foot for each one foot of height over 35 feet.

8. All development is subject to Section 610 - Setbacks from lakes and surface waters.
9. All development is subject to Section 220 - Compatibility.
10. All development is subject to Section 219 - Residential Infill Requirements.
11. Chimneys, smoke stacks, communication towers, and Religious Institution symbols, unless located in the Avon Park Air Force Range Military Compatibility Zone, as depicted in the Military Compatibility Zone Map, are exempt from the structure height limitations.
12. All structures are subject to compliance with the Polk County Airport Zoning Regulations, adopted and administered by the Joint Airport Zoning Board (JAZB).
13. There are no minimum setback requirements from railroad rights-of-way in the IND, BPC, and HIC districts. Structures in all other categories shall use the applicable setback.
14. All structures shall comply with Section 214 - Distance Between Buildings.
15. The side yard set back for lots of 75 feet or less in width which exist at the time of adoption of this ordinance shall be a minimum of seven feet provided that the sum of both set backs shall be a minimum of 15 feet.
16. Minimum interior side setbacks for non-residential uses which adjoin non-residential districts may utilize a zero setback in accordance with the provisions in Section 755, provided that side adjoins a non-residential district.
17. Non-residential farm outbuildings are excluded from height regulations.
18. Where a structure in IND or PM abuts a residential use or district, structure height shall be limited to 50 feet at the building set back line and may be increased one foot higher for each foot a structure is placed further from the required setback.

19. Recreational lighting, seating, press boxes, and other similar appurtenances are excluded from height restrictions when approved through a Level 3 Conditional Use process.

20. The Building Official may approve a reduction in the required setbacks of up to ten percent (10%) of the requirement through a Level 1 Review process.

SECTION 2: 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 3: 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 _____ day of _____, 2015.