ORDINANCE NO. 24 -_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS, POLK COUNTY, FLORIDA, LAND DEVELOPMENT CODE AMENDMENT **LDCT-2024-7**, AMENDING ORDINANCE NO. 00-09, AS AMENDED, (ALSO KNOWN AS THE POLK COUNTY LAND DEVELOPMENT CODE); PROVIDING FINDINGS; ADDING CHAPTER 2, SECTION 212, PLUMBING FIXTURES AND APPLIANCES, TO INTRODUCE WATER SENSE AND ENERGY STAR REQUIREMENTS; AMENDING CHAPTER 2, SECTION 226, IRRIGATION SYSTEMS, TO IMPLEMENT UNIFORM PROCEDURES THAT PROMOTE WATER CONSERVATION THROUGH MORE EFFICIENT LANDSCAPES AND IRRIGATION SYSTEMS AND METHODS; AMENDING SECTION 720.E, WATER-EFFICIENT LANDSCAPING, TO RECOGNIZE REQUIREMENTS OF SECTION 226; AMENDING CHAPTER 10, DEFINITIONS, TO ADD, MODIFY, AND DELETE DEFINITIONS FOR CONSISTENCY WITH PROPOSED AMENDMENT AND THE FLORIDA WATER STAR PROGRAM; 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-2024-7 is a County-initiated application to amend the text of the LDC to is intended to implement uniform procedures that promote water conservation through more efficient landscapes and irrigation systems and methods; and

WHEREAS, the Board held two public hearings on June 18, 2024 and July 2, 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 212, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to add the following:

Section 212 ~~RESERVED~~ Plumbing Fixtures and Appliances

This Section shall apply to all construction in the unincorporated areas of the County when new plumbing fixtures and appliances are being installed under a building permit issued by the Polk County Building Division.

A. Applicability:

The following are exempted from the provisions of this article:

1. Fixtures or appliances installed by the homeowner or business owner.
2. Renovation of historic structures.
3. Repair work to existing structures is less than $5,000.

B. Standards:

1. Contractors obtaining building permits in the unincorporated areas of Polk County, for all new residential, office, commercial, institutional, and industrial construction, shall certify that Water Sense plumbing fixtures (faucets, showerheads, and toilets) and Energy Star® appliances (clothes washer, dryer, and dishwasher) are incorporated into said construction. Certification that WaterSense® plumbing fixtures and Energy Star® appliances under contract for the construction were installed prior to the time of closing shall be provided prior to the certificate of occupancy. The contractor shall not be responsible for appliances or fixtures installed by the homeowner after closing.
2. In appliances where WaterSense® plumbing fixtures and Energy Star® appliance are not available, a written request for an exception may be submitted and approved by the Building Official. For an exception to be approved, the best alternative water or energy conservation fixture or appliance should be identified in the submittal.

SECTION 3: Section 226, Irrigation Systems, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

Section 226 Irrigation Systems:

It is the intent and purpose of this Section to implement uniform procedures that promote water conservation through more efficient landscapes and irrigation systems and methods. The following shall be required of all subsurface and automatic irrigation systems installed within unincorporated Polk County.

A. Permit Requirements

1. Irrigation systems shall require a permit, issued by the Building Division.
2. ~~Prior to issuance of an irrigation permit, the applicant shall either certify by check list or demonstrate with a lot landscape plan compliance with Section 720. E. The checklist is available through the Polk County Building Division and the Land Development Division.~~ Prior to issuance of an irrigation permit, permit including irrigation, and/or home permit, the County will require the submission of Self-Certification from either the contractor, builder, licensed professional irrigation installer and/or homeowner identifying compliance with the specific elements of the Water Star Program as required herein.

B. ~~Rain Sensors and Soil Moisture Sensors~~

~~Rain sensor shut-off equipment shall be required on all permanently installed irrigation systems to avoid irrigation during periods of sufficient rainfall. The equipment shall be adjusted and maintained to shut off the irrigation system when adequate rainfall has occurred.~~

~~Soil moisture sensors may be used in addition to rain sensor shut-off equipment.~~

Irrigation System Design and Installation Standards

1. Applicability. Irrigation system design and installation standards shall apply to the following:
   a. All new residential, ~~commercial, and institutional~~ and non-residential construction where a new landscape irrigation system is proposed.
   b. Where substantial modification (as defined) of an existing landscape irrigation system will be conducted.
2. General

a. Nothing within this Section shall require the installation of an irrigation system.

b. All new or substantially modified irrigation systems must be properly installed and maintained and must operate technology such as rain and/or soil moisture sensors that inhibit or interrupt operation of the irrigation systems during periods of sufficient moisture.

c. Compliance with this Section shall not exempt an individual from any other local, state or federal requirements.

3. System Design and Installation Standards

Irrigation system design and installation shall be consistent with the irrigation system standards and the following requirements:

a. The maximum total irrigated area on residential lots, regardless of lot size, shall not exceed 0.5 acres (21,780 square feet). This provision does not apply to temporary irrigation such as portable hoses and sprinklers.

b. High-volume irrigation area shall not exceed 60 percent of the landscaped area for single-family residential lots and 50 percent for non-residential development. This standard is applicable on residential and nonresidential lots over 1/8 acre (5,445 square feet) and excludes vegetable gardens and fruit or nut trees on individual lots or community gardens.

c. Narrow areas, four feet wide or less, shall not be irrigated unless correctly installed low-volume irrigation or correctly installed side-strip irrigation are used.

d. High-volume irrigation shall not be used for trees, shrubs, or groundcover beds. Permanent micro-irrigation may be used in these areas. The County encourages the use of temporary establishment irrigation.

e. Sprinkler head types, such as spray heads and rotors, shall not be mixed in the same zone.

f. Distribution equipment in each zone shall have matched precipitation rates.

g. Rotors and spray sprinkler heads in turfgrass areas shall be spaced to provide head-to-head coverage.

h. A minimum separation of four (4) inches shall be required between distribution equipment and pavement.

i. A minimum separation of 24 inches shall be required between distribution equipment and buildings and other vertical structures, except fences.

j. Permanent irrigation systems shall be equipped with an automatic control system to provide the following minimum capabilities:

   1. Ability to be programmed in minutes, by day of week, season, and time of day;
   2. Ability to accommodate multiple start times and programs;
   3. Automatic shut off after adequate rainfall;
   4. Ability to maintain time during power outages; and
   5. Operational flexibility to meet applicable year-round water conservation requirements.

k. Sprinklers in low-lying areas have check valves to prevent head drainage.

l. Irrigation system equipment shall be installed in accordance with manufacturer's specifications.

m. No direct spray shall be allowed onto walkways, buildings, roadways, drives and impervious surfaces.

n. Pipelines shall be designed to provide the system with the appropriate

pressure required for maximum irrigation uniformity.

o. All sprinkler heads with spray nozzles (non-rotary) shall be pressure-regulated at the head or zone valve.

p. All irrigation system underground piping shall have minimum soil cover of six inches.

q. Sprinklers shall rise above turfgrass height: a minimum of 6-inch pop-up for sprays and 4-inch pop-up for rotors for St. Augustine, Zoysia and Bahia grasses; a minimum of a 4-inch pop-up for sprays and rotors for Centipede, Bermuda and Seashore Paspalum grasses.

C. Maintenance of Irrigation Systems

1. A licensed irrigation professional responsible for installing or substantially modifying an irrigation system shall provide the property owner with a maintenance checklist affixed to or near the controller and accompanied by a recommended maintenance schedule, proper irrigation system settings according to season, recommendations for checking technology that inhibits or interrupts operation of the system during periods of sufficient moisture, filter cleaning recommendations, if applicable, and information on the current water restrictions.

2. A property owner is encouraged to ensure that irrigation systems on their property are inspected at least annually for leaks, overspray, maladjusted heads, and heads that may be capped due to changes in the landscape, such as maturity or changes in plants. Technology that inhibits or interrupts operation of the system during periods of sufficient moisture may need to be replaced every few years to be in compliance with this section. Irrigation systems with known leaks shall not be operated until the leaks are repaired, except for testing purposes.

3. Within 60 calendar days after landscape installation, the property owner is encouraged to ensure that the irrigation controller is adjusted to operate according to normal, established landscape conditions or irrigation restrictions, if the irrigation system is installed as part of newly established landscaping.

D. Exemptions

The following are exempted from the provisions of this section, but should follow the Florida Department of Environmental Protection's applicable "Florida-Friendly Best Management Practices for the Protection of Water Resources by the Green Industries":

1. Bona fide agricultural activities;
2. Vegetable gardens and fruit and nut trees;
3. Athletic fields;
4. Neighborhood recreation areas/parks;
5. Golf courses;
6. Cemeteries;
7. Nurseries; and
8. Temporary establishment irrigation.

E. Alternative Compliance

1. An applicant may submit a proposal that varies from the strict application of the requirements of this Section (also known as "alternative compliance") in order to accommodate unique site features or characteristics, utilize innovative design, prevent extraordinary hardship, or promote the overriding public interest or general public welfare. Diminished value of property or inconvenience is not an extraordinary hardship.

2. An applicant seeking authorization for alternative compliance shall have the burden of demonstrating to the County the reasons why the strict application of the requirements of this Section should not apply.
3. Requests for alternative compliance shall be submitted as part of the irrigation system permitting approval process.
4. The County may approve an alternative compliance plan upon finding that the alternative compliance plan fulfills the purpose and intent of this Section

~~C~~F. County Watering Restrictions

Irrigation shall be conducted in accordance with County or Water Management District water restrictions, whichever is more restrictive.

SECTION 3: Section 720.E, Water-Efficient Landscaping, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended in the following manner:

E. Water-Efficient Landscaping

Florida-friendly landscape and irrigation principles are based on the premises of placing the right plant in the right location in order to optimize their growing conditions, while reducing the need for irrigation, fertilizer, and overall maintenance. The intent of this section is to establish guidelines for landscape design that promote appropriate plant selection and maintenance and promote water conservation measures intended to reduce the need for supplemental irrigation beyond natural rainfall. The following water efficient landscape and irrigation principles shall be illustrated or described on the irrigation and landscape plans. The requirements of Section 720 E. shall not apply to bona fide agricultural activities, cemeteries, plant nurseries, recreational or athletic fields or courts, neighborhood recreation areas/parks, and golf courses, ~~fairways~~ or temporary irrigation for plant establishment. Section 720 E.1 through 720 E.5 shall apply to those landscaped areas in which irrigation is installed. Section 720 E.6. shall apply to those areas for which no irrigation system is installed.

1. Irrigation Design
   a. All new irrigation systems shall be designed by licensed irrigation professionals consistent with the irrigation systems standards and as set forth in this Section and Section 226.
   ~~a~~b. Tree and plant material shall be grouped into high, moderate, and low water use zones designated by the water requirements of the plants.
   ~~b~~c. Micro/low volume irrigation shall be used for at least 50 percent of the irrigated area of a non-residential development and common areas within a residential development.
   ~~c~~d. Micro/low volume irrigation shall be required for all non-turf areas.
   ~~d~~e. Irrigation shall be designed to prevent overflow or overspray onto impervious surfaces.
   ~~e~~f. Irrigation shall be conducted in accordance with County or Water Management District water restrictions, whichever is more restrictive.
2. Plant Selection

   Appendix B includes a guideline for plant selection. Landscape plans may include other plants based on other published plant guides or similar sources, such as the most current version of the Florida Yards and Neighborhood (FYN) Handbook and FYN Florida-friendly Plant List.
   a. Minimum acceptable plant quality shall be Florida Grade No. 1.

b. Plant material shall be selected based upon its adaptability to the natural growing and soil conditions found in the landscape area of the site.
c. Plants shall be grouped according to the designated water use zones on the irrigation plan.
d. Installed plantings shall be spaced and located to accommodate their mature size on the site
e. In no case shall Class 1 or Class 2 invasive species, as defined by the Florida Exotic Pest Plan Council, be used to comply with proper plant selection.

3. Turf Grass and Other Ground Cover

Appendix B includes a guideline for ground cover selection. Landscape plans may include ground cover based on other published plant guides or similar sources, such as the most current version of the Florida Yards and Neighborhood (FYN) Handbook and FYN Florida-friendly Plant List.

a. Turf grass and other groundcover shall be selected based upon its adaptability to the natural growing and soil conditions found in the landscape area of the site.
b. Turf grass areas shall be designed to be irrigated separately from trees, shrubs, and landscape bed areas.
c. Turf grass shall not be planted in areas smaller than four feet in width. Native or drought tolerant ground cover is an effective alternative to turf in such areas.

4. Mulch

a. A three-inch layer of mulch shall be placed in shrub beds and around individual trees in turf grass areas to assist soils in retaining moisture.
b. Mulch may also be used in areas of the site where growing conditions are not favorable or conducive to turf or other ground covers.
c. Examples of mulches include wood bark chips, wood grindings, pine straw, nut shells, small gravel, and shredded landscape clippings.

5. Trees

Appendix B includes a guideline for tree selection. Landscape plans ~~my~~ may include other trees based on other published plant guides or similar sources such as the most current version of the Florida Yards and Neighborhood (FYN) Handbook and FYN Florida-friendly Plant List.

a. Minimum acceptable tree quality shall be Florida Grade No. 1.
b. Trees shall be selected based upon their adaptability to the natural growing, light and soil conditions found in the landscape area of the site.
c. Understory trees shall not be used to meet the canopy tree requirements.
d. Trees planted within 30 feet of existing power line easements shall adhere to the proximity to power line height restrictions (P/L column) in Appendix B.
e. Native trees shall comprise at least 60 percent of all required trees within the landscape areas of the site. Appendix B includes a guideline for tree selection.
f. In no case shall Class 1 or Class 2 invasive species, as defined by the Florida Exotic Pest Plant Council, be used to comply with proper plant selection.
g. Installed plantings shall be spaced and located to accommodate their mature size on the site.

h. Root barriers shall be required for all trees within three feet of impervious surfaces, ~~accept~~ except for trees located within private non-residential parking areas or drive aisles.

6. Non-Irrigated Landscape Areas
   a. Irrigation, through temporary measures, shall only be allowed for the establishment of plants and trees.
   b. Landscaping and buffering requirements of this Code can be met either by maintaining existing trees and vegetation on site or through plantings that are sustainable through normal precipitation.
   c. Plant selections shall be appropriate for site conditions. Appendix B includes a guideline for plant selection. Landscape plans may include other plants based on other published plant guides or similar sources such as the most current versions of the Florida Yards and Neighborhood (FYN) Handbook and FYN Florida-friendly Plant List.
   d. Installed plantings shall be spaced and located to accommodate their mature size on the site.
   e. Mulch use shall be consistent with Section 720 E.4.
   f. Trees shall be planted consistent with Section 720 E.5.
   g. Installation of an irrigation system where one was not approved or expansion to an irrigation system originally approved through a Level 2 Review shall require another Level 2 Review.

7. Water Star Certification

   Prior to issuance of an irrigation permit or permit that includes irrigation, the County will require the submission of Self-Certification from either the contractor, builder, licensed professional irrigation installer identifying compliance with the specific elements of the Water Star Program as identified and adopted.

SECTION 4: Chapter 10, Definitions, of the Polk County Land Development Code, Polk County Ordinance No. 00-09, as amended, is hereby amended to add, delete, or modify the following definitions:

…

AUTOMATIC IRRIGATION SYSTEM: An irrigation system designed to operate following a preset program entered into an automatic controller.

AUTOMATIC CONTROLLER: A mechanical or electrical device capable of automated operation of valve stations to set the time, duration and frequency of a water application.

…

DISTRIBUTION EQUIPMENT: The water emitters on irrigation systems, including but not limited to sprinklers, rotors, spray heads and micro-irrigation devices.

…

FLORIDA WATER STAR℠: A certification program for new residential and commercial construction that is intended to include indoor and outdoor water-efficient options and prevent leaks.

…

FLORIDA WATER STAR IRRIGATION AND LANDSCAPE ACCREDITED

PROFESSIONAL (AP): A landscape or irrigation professional who has successfully passed the Florida Water Star AP exam and is in good standing with the program.

…

ENERGY STAR®: A joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy, with the purpose of reducing energy costs and protecting the environment, through energy- and water-efficient products and services.

…

HEAD-TO-HEAD SPACING: Spacing of sprinkler heads so that each sprinkler throws water to the adjacent sprinkler.

…

HIGH-VOLUME IRRIGATION: An irrigation system with a minimum flow rate per emitter of more than 30 gallons per hour (gph) or higher than 0.5 gallons per minute (gpm). High-volume is usually measured as gpm.

…

IRRIGATION DESIGN PROFESSIONAL: An irrigation design professional shall include state-licensed plumbers operating within the limits of the Florida Building Code, professional engineers or landscape architects licensed by the State of Florida, Florida Water Star Irrigation and Landscape Accredit Professionals and irrigation designers certified by the Irrigation Association or the Florida Irrigation Society.

IRRIGATION PROFESSIONAL: Any person installing or maintaining an irrigation system in the unincorporated areas of the County for payment.

IRRIGATION SYSTEM: ~~A permanent, artificial watering system designed to transport and distribute water to plants as a supplement to natural rainfall~~. A set of components that may include the water source, water distribution network, control components, and other general irrigation equipment which has been installed to provide irrigation.

~~**IRRIGATION SYSTEMS:** Automatic system which operates using a preset program entered into an automatic controller.~~

…

LANDSCAPED AREA: The entire parcel less the building footprint, driveways, hardscapes, decks and patios, and nonporous areas.

…

LICENSED IRRIGATION PROFESSIONAL: An irrigation specialty contractor who obtains the irrigation specialty license from The Florida Construction Industry Licensing Board and maintains continuing education requirements.

…

LOW-VOLUME IRRIGATION ~~**(MICROIRRIGATION)**~~: ~~The application of small quantities of water (30 gallons per hour or less) directly on or below the soil surface, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Microirrigation encompasses a number of methods or concepts including drip,~~

~~subsurface, bubbler, and microspray irrigation, previously referred to as trickle irrigation, low volume, or low flow irrigation.~~ Any emitter or sprinkler that applies less than 30 gallons per hour (gph) or 0.5 gallons per minute (gpm).

…

MATCHED PRECIPITATION: Expressed in inches per hour, precipitation rate is the rate at which sprinklers apply water. Matched precipitation usually implies that all the sprinklers in a particular zone apply similar amounts of water to a given area.

…

MICRO-IRRIGATION: ~~The application of small quantities of water as drops, tiny streams, or miniature spray through low-flow-rate emitters or applicators placed along a water delivery line. Micro-irrigation encompasses a number of methods or concepts such as micro- bubbler, drip, trickle, mist or spray, also known as low volume irrigation.~~ The application of small quantities of water directly on or below the soil surface or plant root zone, usually as discrete drops, tiny streams, or miniature sprays through emitters placed along the water delivery pipes (laterals). Micro-irrigation encompasses a number of methods or concepts, including drip, subsurface, micro-bubbler, and micro-spray irrigation, previously known as trickle irrigation, low volume or low-flow irrigation.

…

ROTOR: Sprinkler that rotates and specifically, a gear-driven sprinkler. Often delivers a thin stream of water in a circular pattern over a longer distance with a precipitation rate from 0.1 inches per hour to 1.5 inches per hour.

…

SIDE-STRIP SPRINKLER: Sprinkler nozzle that sprays a long, but narrow pattern.

…

SPRAY HEAD: Sprinkler head with a fixed orifice that does not rotate.

…

SUBSTANTIAL MODIFICATION OF IRRIGATION SYSTEM: Any modification to an existing irrigation system such that 50 percent or more of the irrigation system (by yard or zone) is replaced or altered.

…

TEMPORARY ESTABLISHMENT IRRIGATION: The temporary use of irrigation for the establishment of new vegetation that shall be removed once the plants are established or within two years, which occurs first.

…

WATERSENSE®: A program sponsored by the U.S. Environmental Protection Agency to promote the use of water-efficient products and services.

…

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 December 1, 2024.

ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA this 2nd day of July 2024.