

ORDINANCE NO. 2013-1298

AN ORDINANCE OF THE CITY OF POLK CITY, FLORIDA, AMENDING THE POLK CITY CODE AND THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF POLK CITY, FLORIDA, BY ADDING THE DEFINITION FOR “FAMILY CEMETERIES” TO ARTICLE 9; AMENDING ARTICLE 2, SECTION 2.04.01, TABLE 4 – TABLE OF USES FOR EACH ZONING DISTRICT TO INCLUDE FAMILY CEMETERY AS A USE PERMITTED UPON APPROVAL OF A SITE DEVELOPMENT PLAN IN THE AG1(AGRICULTURE) ZONING DISTRICT AND CHANGING CEMETERY TO A USE PERMITTED UPON APPROVAL OF A SITE DEVELOPMENT PLAN IN THE AG-1, M2 (HEAVY INDUSTRIAL), AND PB (PUBLIC BUILDINGS AND GROUNDS) ZONING DISTRICTS; AMENDING ARTICLE 3, SECTION 3.08.00 – DEVELOPMENT STANDARDS FOR USES REQUIRING A SITE DEVELOPMENT PLAN TO ADD CEMETERIES SPECIFICALLY AS SECTION 3.08.04 AND TO ADD FAMILY CEMETERIES SPECIFICALLY AS SECTION 3.08.05; RENUMBERING SECTION 3.08.04 TO SECTION 3.08.06 – USES REQUIRING A SITE DEVELOPMENT PLAN IN THE GREEN SWAMP ACSC AND ADDING FAMILY CEMETERIES TO THIS SECTION; AMENDING ARTICLE 3, SECTION 3.11.02.09, TABLE 28 – USE TABLE FOR GREEN SWAMP AREA OF CRITICAL STATE CONCERN TO ADD FAMILY CEMETERY AS A USE PERMITTED UPON APPROVAL OF A SITE DEVELOPMENT PLAN TO THE INST-1X (INSTITUTIONAL-1X) AND INST-2X (INSTITUTIONAL-2X) ZONING DISTRICTS IN THE POLK CITY SPECIAL PROTECTION AREA AND ADDING FAMILY CEMETERY AS A USE PERMITTED UPON APPROVAL OF A SITE DEVELOPMENT PLAN IN THE A/RRX (AGRICULTURE/RESIDENTIAL RURAL-X) AND RSX (RESIDENTIAL SUBURBAN-X) ZONING DISTRICTS IN THE RURAL SPECIAL PROTECTION AREA; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, FLORIDA:

SECTION 1. COMMISSION FINDINGS. In adopting this Ordinance and modifying the Polk City Code and the therein-incorporated Unified Land Development Code, the City Council of Polk City, Florida, hereby makes the following findings:

- (1) Section 163.3167(c), Florida Statutes, empowers the City to adopt land development regulations to guide the growth and development of the City.
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(2) The City Council of the City of Polk City has determined it necessary and desirable to amend the regulations to allow for family cemeteries in the AG1 (Agriculture) Zoning District with approval of a site development plan; to change cemeteries to be approved with a site development plan in the AG1 (Agriculture), M2 (Heavy Industrial), and PB (Public Buildings and Grounds) zoning districts, to allow family cemeteries as a use permitted upon approval of a site development plan to the INST-1X (Institutional-1X) and INST-2X (Institutional-2X) zoning districts in the Polk City Special Protection Area and adding family cemetery as a use permitted upon approval of a site development plan in the A/RRX (Agriculture/Residential Rural-X) and RSX (Residential Suburban-X) zoning districts in the Rural Special Protection Area.

(3) Pursuant to Section 166.041(c)2, Florida Statutes, the Planning Commission and the City Council have held meetings and hearings to amend the Unified Land Development Code as presented in the attached exhibit, such exhibit attached as Exhibit "A" and made a part hereof; and, the meetings were advertised and held with due public notice, to obtain public comment; and having considered written and oral comments received during public hearings, find the changes necessary and appropriate to the needs of the City.

SECTION 2. AMENDMENT TO SEC. 78-1, POLK CITY CODE. Section 78-1 of the Code of Ordinances, City of Polk City, Florida, is hereby amended to read as follows:

“Sec. 78-1. Unified Land Development Code saved from repeal.

The Unified Land Development Code of Polk City, Florida, Ordinance No. 98-1, adopted march 3, 1998, and all amendments thereto, are specifically saved from repeal upon adoption of this Code, and shall continue in full force and effect in the ~~town~~ city as if fully set forth in this section, ~~pending a complete revision of such code.~~ Henceforth, the Unified Land Development Code of Polk City, as amended, is hereby ratified, confirmed, and incorporated into the Polk City Code in its entirety. Amendments thereto shall be made by reference to this Section 78-1 as an amendment thereto, but shall retain the current numbering, section, and paragraph reference system currently used in the Unified Land Development Code. As soon as possible, the City Clerk shall see to it that the entire Unified Land Development Code is incorporated completely into the Polk City Code Book.

SECTION 3. AMENDMENT TO UNIFIED LAND DEVELOPMENT CODE CONTAINED IN SECTION 78-1, POLK CITY CODE. The Unified Land Development Code contained in Section

78-1, Polk City Code, is hereby amended as set forth in Exhibit "A" attached to and incorporated in this Ordinance.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Policy is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. CONFLICTING ORDINANCES AND RESOLUTIONS. All existing ordinances and resolutions of the City of Polk City in conflict with this ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

SECTION 6. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage.

PASSED ON FIRST READING this ____ day of _____, 2013.

PASSED ON SECOND READING this ____ day of _____, 2013.

CITY OF POLK CITY, FLORIDA

Joseph LaCascia, Mayor

ATTEST:

Patricia Jackson, City Clerk

APPROVED AS TO FORM AND
LEGALITY:

Thomas A. Cloud, Esquire
City Attorney

EXHIBIT "A"

AMENDMENTS TO

ARTICLE 9, DEFINITIONS

ARTICLE 2, TABLE 4

– TABLE OF USES FOR EACH ZONING DISTRICT

ARTICLE 3, SECTION 3.08.00

– DEVELOPMENT STANDARDS FOR USES REQUIRING A SITE DEVELOPMENT PLAN

ARTICLE 3, SECTION 3.08.04

–USES REQUIRING A SITE DEVELOPMENT PLAN IN THE GREEN SWAMP ACSC

ARTICLE 3, TABLE 28

–USE TABLE FOR GREEN SWAMP ACSC

OF THE

UNIFIED LAND DEVELOPMENT CODE

ALLOWING FOR FAMILY CEMETERIES IN SPECIFIC ZONING DISTRICTS

The proposed amendments to the Land Development Code (LDC) regarding Family Cemeteries are provided below. Text that is underlined is text to be added and text that is shown as ~~strikeout~~ is to be removed.

Proposed Amendments to:

ARTICLE 9: DEFINITIONS

Cemetery: A plot or parcel of land used or intended for use as a burial place in or above the ground for dead human bodies, whether or not markers or monuments are used.

Family Cemetery: A plot or parcel of land, less than two (2) acres in size, used or intended for use as a burial place in or above the ground for dead human bodies; whether or not markers or monuments are used. Such cemetery is for family use only and burial spaces and/or burial rights may not be sold.

Proposed Amendments to:

ARTICLE 2: REGULATIONS FOR SPECIFIC DISTRICTS

2.04.00 Establishment of Districts

In order to classify, regulate, and restrict the uses of land, water, buildings, and structures; to regulate and restrict the height and bulk of buildings; to regulate the area of yards, courts, and other open spaces between buildings; and to regulate the intensity of land use, all the area of the City of Polk City is classified into one of the following districts:

Table 1 - Zoning Districts

Map Designation	Zoning District Name
AG1	Agriculture
AG2	Single Family Residential Plus Horses
R1	Single Family Residential
R2	Single Family Residential
R3	Single Family and Duplex Residential
R4	Mixed Residential Use
R5	Multi Family Residential
MH	Mobile Home Park
C1	Residential, Business and Professional District
C2	General Commercial
M1	Light Industrial
M2	Heavy Industrial
PB	Public Buildings and Grounds
PR	Public Recreation
CON	Conservation

2.04.01 Zoning District Summary Tables

The tables on the following pages present, in a quick-reference form, information regarding permitted and special exception land uses, and development standards for all zoning districts. These tables must be read in conjunction with the regulations for specific zoning districts in Section 2.04.02. Similar uses are permitted; and the zoning district in which they are permitted is to be determined by the Development Director. The key to the table is as follows:

- P = Permitted Use
- D = Site Development Plan required, use is permitted upon approval of Site Development Plan
- S = Special Exception Use, Planning Commission action required
- C = Conditional Use, Planning Commission **and** City Council action required

Table 4 - Table of Uses for Each Zoning District

Category/Use	Zoning Districts															
	AG 1	A G2	R 1	R 2	R 3	R 4	R 5	M H	C 1	C 2	M1	M2	P B	P R	C N	
Cemetery	<u>PD</u>												<u>PD</u>	<u>P</u>		
<u>Family Cemetery</u>	<u>D</u>															

Proposed Amendments to:

ARTICLE 3: DEVELOPMENT DESIGN AND IMPROVEMENT STANDARDS

3.08.00 Development Standards for Uses Requiring a Site Development Plan

The purpose of this Section is to set the standards and requirements for **Site Development Plan** review. The intent of this Section is to ensure that certain uses are compatible with surrounding properties and are designed to safeguard the public health, safety, and welfare. Where standards provided herein exceed and/or create greater restrictions than those of the underlying zoning district, this Section shall supersede any other provision of this Code. Where no standard is established in this Section, that of the relevant zoning district shall apply.

1.08.04 **Cemeteries**

Cemeteries. In addition to the applicable district regulations, the following standards shall apply:

1. The minimum site area for a cemetery shall be 15 acres, unless accessory to a church, in which case there is no minimum.
2. All burial plots and structures intended to be used for internment (including mausoleums, vaults, and crypts), shall be set back a minimum of 25 feet from all property lines.
3. Burial plots location requirements:
 - a. No burial plot may be located within a 100-year floodplain.
 - b. No burial plot may be located on wetlands as defined by the Florida Department of Environmental Protection, the applicable Water Management District or the US Army Corps of Engineers.
 - c. No burial plot may be located where the land surface is less than six feet above the seasonal high groundwater level.

1.08.05 **Family Cemeteries**

Family Cemeteries. In addition to the applicable district regulations, the following standards shall apply:

1. The site area for a family cemetery shall be less than two (2) acres in size.
2. All burial plots and structures intended to be used for internment (including mausoleums, vaults, and crypts), shall be set back a minimum of 25 feet from the cemetery perimeter.
3. Burial plots and/or structures intended to be used for internment (including mausoleums, vaults, and crypts) location requirements:
 - a. No burial plot and/or structures intended to be used for internment (including mausoleums, vaults, and crypts) may be located within a 100-year floodplain.
 - b. No burial plot and/or structures intended to be used for internment (including mausoleums, vaults, and crypts) may be located on wetlands as defined by the Florida Department of Environmental Protection, the applicable Water Management District or the US Army Corps of Engineers.
 - c. No burial plot may be located where the land surface is less than six feet above the seasonal high groundwater level.
4. Burial spaces and/or burial rights may not be sold.

5. Ingress and egress must be demonstrated to allow for family members to visit the burial spaces.

3.08.04-6 Uses Requiring a Site Development Plan in the Green Swamp ACSC

- (A) **Purpose and Intent.** Uses requiring a Site Development Plan in the Green Swamp have unique characteristics that require the imposition of development criteria in order to ensure that they are not harmful to the health, safety, and welfare of residents, surrounding uses and surrounding properties. These criteria may be applied in relation to use, occupancy, location, construction, design, character, scale, manner of operation, or the necessity for making complex or unusual determinations. The uses are listed in this Section together with the specific criteria that apply to each use. They are listed in alphabetical order according to the use as it appears in the use table in Article 3, Section 3.11, Table 28. These criteria shall be met in addition to all other standards of this Code, unless specifically exempted, and all applicable regulations of other governmental agencies.
- (B) **Review of Site Development Plans.** Four types of uses are identified in the use table in Article 3, Section 3.11.02, Table 28. They are denoted by D1, D2, D3, or C4, which indicates the level of review necessary to insure the conditions are appropriately applied. Refer to Article 3, Section 3.11.02 (C) for definitions of D1, D2, D3 and C4 and a description of the review process.
- (C) **Additional Criteria.** The Planning and Zoning Board and/or City Council may impose additional criteria or conditions if warranted to further the intent and purpose of this Code. Such criteria shall be based upon and consistent with the conditions applicable to similar uses and shall be supported by stated reasons in the records.
- (D) **Failure to Comply.** Failure to comply with conditions and safeguards, when attached to a grant of special use permit, shall be deemed a violation of this Code.
- (E) **Conditions and Safeguards Binding.** The conditions and safeguards shall be binding on the original applicant as well as all successors, assigns and heirs.
- (F) **Conditions and Safeguards Duration.** The conditions and safeguards shall run with the land, unless a specific time frame is applied by Polk City.
- (G) **Criteria for Uses Requiring A Site Development Plan.** General rules that apply to all D1, D2, and D3 uses are as follows:
- (1) Setbacks for structures between Residential Uses and all other uses shall be a minimum of 25 feet from all property boundaries.
 - (2) Landscape buffers are required between Residential uses and all other uses but, in general, no buffering is required adjacent to an A/RR district. See Section 3.07.00 for the landscape buffer regulations.

- (3) No outdoor storage of equipment or materials shall be located within a front yard setback.
 - (4) All references to zoning districts have an "X" after them when in the Green Swamp ACSC.
 - (5) For all uses other than residential uses: there shall be at a minimum 50 feet of road frontage and all access points shall be on a collector road or better.
- (H) The following land uses require a site development plan, are listed as D1, D2 or D3 in Table 28, and are **arranged in alphabetical order** for presentation purposes.

Cemeteries. In addition to the applicable district regulations, the following standards shall apply:

1. The minimum site area for a cemetery shall be 15 acres, unless accessory to a church, in which case there is no minimum.
2. All burial plots and structures intended to be used for internment (including mausoleums, vaults, and crypts), shall be set back a minimum of 25 feet from all property lines.
3. Burial plots location requirements:
 - a. No burial plot may be located within a 100-year floodplain.
 - b. No burial plot may be located on wetlands as defined by the Florida Department of Environmental Protection, the applicable Water Management District or the US Army Corps of Engineers.
 - c. No burial plot may be located where the land surface is less than six feet above the seasonal high groundwater level.

Family Cemeteries. In addition to the applicable district regulations, the following standards shall apply:

1. The site area for a family cemetery shall be less than two (2) acres in size.
2. All burial plots and structures intended to be used for internment (including mausoleums, vaults, and crypts), shall be set back a minimum of 25 feet from the cemetery perimeter.
3. Burial plots and/or structures intended to be used for internment (including mausoleums, vaults, and crypts) location requirements:
 - c. No burial plot and/or structures intended to be used for internment (including mausoleums, vaults, and crypts) may be located within a 100-year floodplain.
 - d. No burial plot and/or structures intended to be used for internment (including mausoleums, vaults, and crypts) may be located on wetlands as defined by the Florida Department of Environmental

Protection, the applicable Water Management District or the US Army Corps of Engineers.

c. No burial plot may be located where the land surface is less than six feet above the seasonal high groundwater level.

4. Burial spaces and/or burial rights may not be sold.

5. Ingress and egress must be demonstrated to allow for family members to visit the burial spaces. Sections 3.08.06(G)(1) through (5) do not apply to family cemeteries.

Green Swamp Uses

3.11.02.03 Site Development Plans and Conditional Uses.

Uses listed as “D1, D2 or D3” in the Table of Uses in this Chapter require a Site Development Plan review and may be established only after compliance with the specific conditions and procedures outlined in Article 7, Site Development Plan; and Section 3.08.04 “Uses Requiring a Site Development Plan in the Green Swamp”; and all applicable codes of Polk City and other governmental agencies. Uses listed as “C4” in the Table of Uses in this chapter require a Conditional Use review and may be established only after compliance with the specific conditions and procedures outlined in Article 7, Conditional Uses, and all applicable codes of Polk City and other governmental agencies. D1, D2, D3, and C4 are defined below and their level of review explained:

- 1. D1: A Site Development Plan is required for this use and is reviewed at the staff level. The review process is below.

Level 1 Review

- A. **Purpose.** A Level 1 Review is a technical review of development plans and applications for development activities that do not require a multi disciplinary review. The review is to ensure the development meets minimum standards as stated in this Code and other Polk City regulations.

- B. **Performed By.** A Level 1 Review is performed by various Polk City staff.

- C. **Results.** A successful Level 1 Review will result in an issuance of an authorization to proceed with development, such as a building permit.

- D. **Review Process for Level 1 Review.** The applicant shall file a completed application and plans for Level 1 Review with the Development Services Director. Pre-application conferences are optional.

- 1. A copy of the application for Level 1 development review and documentation shall be delivered to the relevant staff members. The staff shall review the proposal and submit written comments to the Director within 10 working days from the date of receipt of an application.

2. The Development Services Director or designee shall review the staff comments and determine whether the application complies with the requirements of this Code.
 3. Within five working days of the receipt of the comments, the Director shall:
 - a. Issue Level 1 approval; or
 - b. Deny the application based on the failure of the development to comply with the standards of this Code.
2. D2: A Site Development Plan is required for this use and is reviewed by the staff but may involve multiple issues or departments. Level 1 process is used. See D1. above.
 3. D3: A Site Development Plan is required for this use and is reviewed by the staff but involve multiple issues and potential off-site impacts. The review process is the same as prescribed for Level 1 Reviews, and, in addition, includes a public hearing before the Planning and Zoning Board.
 4. C4: A Conditional Use review is required for this use because it may involve multiple issues and potential significant off-site impacts. The review process is the same as prescribed for Level 1 Reviews, and includes: a site plan submittal for review by staff; and a public hearing before the Planning and Zoning Board; and public hearing review before the City Council.

3.11.02.09 Performance Standards for Uses Listed in Table of Uses 28.

The performance standards for the uses listed in Table of Uses 28 as D1, D2, D3 or C4 are set forth in this Code in Article 3, Section 3.08.04, "Uses Requiring a Site Development Plan in the Green Swamp ACSC".

Table 28 - Use Table for Green Swamp Area of Critical State Concern

Category/Use	Polk City Special Protection Area (PC-SPA)													Rural Special Protection Area (Rural-SPA)								
	CEX	L/R X	RL- 1X	RL- 2X	RL- 3X	RSX	RO SX	INS T- 1X	INS T 2-X	BPC -1X	BPC -2X	CCX	OC X	INS T- 1X	INS T- 2X	PRE SV X	L/R X	A/R RX	CEX	RSX		
Cemetery								D2	D2											D3		D3
<u>Family Cemetery</u>																				<u>D2</u>		<u>D2</u>
