

## **DIVISION 4.300 ADMINISTRATIVE PROVISIONS**

### **SECTION 4.301 IMPLEMENTATION**

- A. LEGISLATIVE IMPLEMENTATION RESPONSIBILITY: The Board of County Commissioners shall be responsible for implementing the Polk County Comprehensive Plan through legislative processes and procedures.
- B. ADMINISTRATIVE IMPLEMENTATION RESPONSIBILITY: The County Manger, or designee(s), shall be responsible for implementing the Polk County Comprehensive Plan through administrative processes and procedures.
- C. DEVELOPMENT REGULATIONS: Polk County shall implement development regulations adopted in the Land Development Code in accordance with Section 163.3202(1), FS. This code shall implement the policies and requirements of the Polk County Comprehensive Plan, and shall incorporate regulations, procedures, and standards which include:
1. procedures and standards for the review of development;
  2. performance standards or development criteria to implement adopted future land use classifications;
  3. standards for the regulation of the subdividing of land;
  4. Procedures to address existing development and potential development, to include:
    - a. existing non-conformities; and
    - b. vesting determination;
  5. Administrative procedures to address:
    - a. variances,
    - b. appeals,
    - c. development agreements, and
    - d. performance agreements.
- D. CONCURRENCY MANAGEMENT SYSTEM: The County shall ensure that development meets the locally established level-of-service standards, and facilities and services are available concurrently with the impacts of development, or that development orders are specifically conditioned upon the availability of the facilities and services necessary to serve the proposed development; and that facilities that provide utility service to the various land uses are authorized at the same time as the land uses are authorized;

E. WORK PROGRAM IMPLEMENTATION: A compendium of goals, objectives, and policies (GOP) shall be distributed to all County agencies participating in the Comprehensive Plan implementation. County agencies shall incorporate GOP's under their authority into their annual work programs and to request appropriations for operations and capital facilities necessary to implement the GOP's during the annual operating and capital programming process of the Polk County Office of Management and Budget (OMB).

F. LEGAL STATUS OF THE COMPREHENSIVE PLAN:

1. After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act [Chapter 163, FS], all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.
2. The Land Development Code shall be consistent with the adopted comprehensive plan, or element or portion thereof, and any development regulations existing at the time of the adoption which are not consistent with the adopted comprehensive plan, or element or portion thereof, shall be amended so as to be consistent.
3. During the interim period when the provisions of the most recently adopted comprehensive plan, or element or portion thereof, and the Land Development Code are inconsistent, the provisions of the most recently adopted comprehensive plan, or element or portion thereof, shall govern any action taken in regard to an application for a development order.

[Source: Section 163.3194, FS]

G. PRE-APPLICATION REVIEW: Persons seeking amendments to this Plan shall be required to undergo a pre-application review in accordance with the Land Development Code.

#### **SECTION 4.302 RELATIONSHIP OF ELEMENTS**

It is intended that growth-management decisions made by the County use all elements, goals, objectives, and policies of this Plan as an entirety and that the Plan shall be considered as a whole. However, in the application of this Plan to specific issues and situations certain Plan sections and policies may become more significant and apply more directly to that specific case.

#### **SECTION 4.303 ADMINISTRATION AND INTERPRETATION**

A. ADMINISTRATIVE INTERPRETATION: During the course of administering the Plan it may be necessary for County personnel to interpret the objectives, policies, and maps of the Plan as they relate to specific applications for development approval, or as they relate to a proposed activity of the public sector. It shall be the responsibility of the Land Development Director to resolve interpretation of conflicting objectives, policies, and maps and disputes regarding the interpretation of provisions of the Plan with a written "administrative decision", and maintain a permanent record of decisions.

The objective of any such interpretation shall be to obtain a result which maximizes the degree of consistency between the proposed development or public sector activity and this Plan, considered as a whole. Administrative decisions shall be binding only upon the specific case for which the decision is issued. However, interpretive decisions shall be consistent and non-arbitrary. Any such administrative decision shall be subject to "interpretation appeals" as described in Section 4.303-B (below).

- B. INTERPRETATION APPEALS: Any person aggrieved or adversely affected by an administrative decision made by the Land Development Director shall be entitled to a review of the decision by a Land Use Hearing Officer by filing an application for hearing with the Land Development Director within 7 calendar days of the administrative determination. A final decision of the appeal is rendered by the Land Use Hearing Officer. The Land Use Hearing Officer shall have 30 calendar days to respond to appeal requests.

The Land Use Hearing Officer shall have the authority and duty to weigh the relative importance and relevance of various Plan elements, sections, goals, objectives, and policies. Interpretive decisions by the Land Use Hearing Officer shall include findings of fact. A written record of these findings and the final decision shall be made available to the appellant.

- C. DEVELOPMENT ORDERS: Decisions of the Board with respect to any development order shall be presumed to be consistent with the Polk County Comprehensive Plan. Formal, written findings shall not be required with respect as to whether a development order is consistent with the Plan. No decision of the Board shall be overturned on the grounds of consistency with the Plan unless a court of competent jurisdiction determines that it is not at least fairly debatable that such decision is consistent with the Plan.

#### **SECTION 4.304 MONITORING**

The Comprehensive Plan shall be monitored on a continuous basis, and shall include:

- A. continuous monitoring, by the Land Development Division, of the data and analysis on which the goals, objectives, and policies (GOPs) and maps are based; with recommendations being presented to the Board of County Commissioners, no less frequently than once every two years, to amend and/or add new GOP's and maps to reflect needed modifications due to changing County conditions;
- B. continuous monitoring of all Elements and Comprehensive Plan Map Series to ensure that they are consistent with every other Plan component C specifically the Capital Improvements Element (CIE) and Program (CIP);
- C. continuous coordination of Plan objectives, policies, and maps, with other affected local governments; and
- D. preparation and submittal Planning Commission (PC) and the Board of County Commissioners, of an "Evaluation and Appraisal Report" (EAR) for submittal by the County to the Department of Economic Opportunity (DEO) as required by Florida Statutes. Such EAR preparation shall

include, over the course of the five years prior to the actual submittal of an EAR to DEO, the following:

1. incorporation of the above monitoring procedures specified in items 4.304.A-C into the EAR-preparation process;
2. the inclusion of citizen participation into the EAR-preparation process to review and comment on:
  - a. accomplishments of the Plan within the first five years period of the Plan, and the degree to which goals, objectives, and policies (GOPs) were reached;
  - b. obstacles and problems which resulted in the under achievement of GOPs; and
  - c. recommendations of how the County might add or amend the Plan's GOPs to correct any shortcomings or problems.
3. Polk County shall maintain a Comprehensive Plan data base to be used in updating the Plan and the preparation of the Evaluation and Appraisal Report. This data base shall be used to monitor the implementation of the Plan.

#### **SECTION 4.305 PLAN AMENDMENTS**

The Polk County Comprehensive Plan may be amended in accordance with Section 163, F.S., with the process detailed in the Polk County Land Development Code. The County shall not be limited as to the scope of Plan amendments, and such amendments may affect any adopted portion of the Plan including the goals, objectives, and policies of each element and the Comprehensive Plan Map Series. In addition, other amendments may be processed as follows:

- A. The Plan may undergo "emergency amendments" in accordance to the provisions of Section 163.3187(1)(a), FS. Emergency amendments may be made more than twice a year if the additional Plan amendment receives the approval of all of the members of the Board of County Commissioners. "Emergency" means, as defined by Section 163.3187(1)(a), FS, any occurrence or threat thereof, whether accidental, natural, or caused by man, in war or peace, which results, or may result, in substantial injury or harm to the population, or substantial damage to, or loss of property or public funds.
- B. The County may process amendments per Chapter 163 of the Florida Statutes, as amended, and this Plan.
- C. The County shall also process Plan amendments directly related to a proposed "Development of Regional Impact (DRI), including changes which have been determined to be substantial deviations, and including "Florida Quality Developments" pursuant to Florida Statutes

#### **SECTION 4.306 VARIANCES**

In circumstances where a property owner considers implementation or application of this Plan will deny him or her of all beneficial use of the subject property, the property owner may apply to the

County for a variance from such provision(s) in order to preserve valid existing property rights. All petitions for a variance shall be submitted in writing by the property owner, and shall include the following information:

- A. the property owners name, address, and telephone number;
- B. the parcel number;
- C. the year the property was purchased or acquired;
- D. a specific and complete description of the valid existing right involved, including the date when such right was acquired and any action of the County creating such right; and
- E. the specific Plan policy or policies from which a variance is sought, and the minimum variance necessary to preserve such valid existing right.

The Board shall schedule and hold a public hearing to consider such request, and make a final determination within 30 days of receipt of a written request for variance. This section shall not operate to enlarge any time period which may be established by the County within which vested property rights may be perfected.

**SECTION 4.307 ADMINISTRATIVE FEES**

The County may adopt by resolution application fees for the processing of Plan administrative procedures, including, but not limited to: Comprehensive Plan Amendments (CPA), Selected-Area Studies (SAS), Plan administrative decision appeals, and variance requests.

**SECTION 4.308 ENFORCEMENT**

This Plan shall be enforced in accordance to the provisions of Section 163.3215, FS.

<b>Revision History Division 4.300 Administrative Provisions</b>	
SECTION 4.301	<b>CPA 10B-04</b> (Ord. 10-043) 8/4/10; <b>CPA 05B-07</b> (Ord. 05-087) 12/7/06; <b>CPA 02A-01</b> (Ord. 02-38) 7/10/02; <b>CPA 00B-27</b> (Ord. 00-91) 12/12/00
SECTION 4.304	<b>CPA 11B-06</b> (Ord. 11-038) 12/06/11;
SECTION 4.305	<b>CPA 12E-02 (Ord 12-038)</b> ; <b>CPA 11B-06</b> (Ord. 11-038) 12/06/11; <b>CPA 00B-29</b> (Ord. 00-92) 12/12/00; <b>CPA 00A-33</b> (Ord. 00-55) 6/20/22;
SECTION 4.301; 4.303; 4.304; 4.305	<b>CPA 12E-02 (Ord. 12-038) 12/18/2013</b>

**Revision History Division 4.300 Administrative Provisions**

Section 4.303, 4.305

**LDCPAL 2018-14 (Ord. 19-007); 01/23/2019; CPA 14B-01 (Ord. 14-022)  
05/06/2014**