

**ORDINANCE 2016-07**

**AN ORDINANCE OF POLK CITY, FLORIDA AMENDING THE UNIFIED LAND DEVELOPMENT CODE OF THE CITY OF POLK CITY, FLORIDA, ARTICLE 5 – RESOURCE PROTECTION STANDARDS, SECTION 5.01.00 DEVELOPMENT IN FLOODPRONE AREAS TO IDENTIFY THE EFFECTIVE DATE OF THE REVISED FLOOD INSURANCE STUDY AND FLOOD INSURANCE RATE MAP, AND TO MAKE OTHER ORDINANCE MODIFICATIONS TO BRING THE REGULATIONS INTO AGREEMENT WITH THE MOST CURRENT MODEL CODE-COMPANION FLOODPLAIN MANAGEMENT ORDINANCE FOR FLORIDA COMMUNITIES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the Legislature of the State of Florida has, in Chapter 166, Florida Statutes, conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the Federal Emergency Management Agency has revised and reissued the Flood Insurance Study for Polk County, Florida and Incorporated Municipalities, with an effective date of December 22, 2016; and

**WHEREAS**, Polk City was accepted for participation in the National Flood Insurance Program on March 22, 2005 and Polk City desires to continue to meet the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60, necessary for such participation; and

**WHEREAS**, the City Commission has determined that it is in the public interest to amend the Polk City Land Development Code, Article 5 Resource Protection Standards, Section 5.01.00 Development in Floodprone Areas to identify the effective date of the revised Flood Insurance Study and Flood Insurance Rate Map, and to make other ordinance modifications to bring the regulations into agreement with the most current Model Code-Companion Floodplain Management Ordinance for Florida communities; and

**WHEREAS**, pursuant to Section 166.041(c) 2, Florida Statutes, the City Commission and the City's Planning Commission have held meetings and hearings to amend the Unified Land Development Code as presented; 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.

**NOW, THEREFORE, BE IT ENACTED** by the City Commission of Polk City of

Polk County, Florida, that:

**SECTION 1. RECITALS.** The provisions set forth in the recitals to this Ordinance (whereas clauses) are hereby adopted by the Commission as the legislative findings and intent pertaining to this Ordinance.

**SECTION 2. AMENDMENTS TO UNIFIED LAND DEVELOPMENT CODE.** The Unified Land Development Code (ULDC), Article 5 – Resource Protection Standards, Section 5.01.00, is hereby amended by the following administrative amendments:

*Text that is underlined is text to be added and text that is shown as ~~strikeout~~ is to be removed.*

### **5.01.00 Development in Flood Prone Areas**

#### **5.01.02 Applicability**

**5.01.02.03 Basis for establishing flood hazard areas.** The Flood Insurance Study for Polk County, Florida and Incorporated Areas dated ~~November 19, 2003~~ December 22, 2016, and all subsequent amendments and revisions, and the accompanying Flood Insurance Rate Maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City Clerk’s Office at the City of Polk City.

#### **5.01.03 Duties and Powers of the Floodplain Administrator**

**5.01.03.04 Determinations for existing buildings and structures Substantial improvement and substantial damage determinations.** For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of

improvements and repairs, if applicable, to the market value of the building or structure;

3. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the *Florida Building Code* and this ordinance is required.

**5.01.03.08 Floodplain management records.** Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this ordinance and the flood resistant construction requirements of the *Florida Building Code*, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the *Florida Building Code* and this ordinance; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this ordinance and the flood resistant construction requirements of the *Florida Building Code*. These records shall be available for public inspection at the City Clerk's Office at the City of Polk City.

#### **5.01.04 Permits**

**5.01.04.03 Application for a permit or approval.** To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the community. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
3. Indicate the use and occupancy for which the proposed development is intended.
4. Be accompanied by a site plan or construction documents as specified in Section 405 5.01.05 of this ordinance.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.

7. Give such other data and information as required by the Floodplain Administrator.

**5.01.04.07 Other permits required.** Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

1. The Southwest Florida Water Management District; section 373.036, F.S.
2. Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; section 161.055, F.S.
4. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
5. Federal permits and approvals.

#### **5.01.05 Site Plans and Construction Documents**

**5.01.05.01 Information for development in flood hazard areas.** The site plan or construction documents for any development subject to the requirements of this ordinance shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries and flood zone(s), base flood elevation(s), and ground elevations if necessary for review of the proposed development.
2. Where ~~flood hazard areas~~, base flood elevations, or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 5.01.05.02(2) or (3) of this ordinance.
3. Where the parcel on which the proposed development will take place will have more than 50 lts or is larger than 5 acres and the base flood elevations are not included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 5.01.05.02(1) or (2) of this ordinance.
4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended

purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.

7. Existing and proposed alignment of any proposed alteration of a watercourse.

The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this ordinance but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this ordinance.

**5.01.05.02 Information in flood hazard areas without base flood elevations (approximate Zone A).** Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
- ~~4~~2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source; ~~or~~
- ~~2~~3. Where base flood elevation data and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate:
  - a. Require the applicant to ~~develop~~ include base flood elevation data prepared in accordance with currently accepted engineering practices; or
  - b. Specify that the base flood elevation is ~~four (4)~~ two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than ~~four (4)~~ two (2) feet.
- ~~3~~4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

**5.01.05.03 Additional analyses and certifications.** As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site

plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analysis to FEMA as specified in Section 5.01.05.04 of this ordinance and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study or on the FIRM and floodways have *not been designated*, ~~a floodway encroachment analysis which~~ hydrologic and hydraulic analyses that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation more than one (1) foot at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone AO or Zone AH.
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 5.01.05.04 of this ordinance.

## 5.01.06 Inspections

**5.01.06.01 General.** Development for which a floodplain development permit or approval is required shall be subject to inspection.

**5.01.06.01.02.01 Buildings, structures and facilities exempt from the *Florida Building Code*, lowest floor inspection.** Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the *Florida Building Code*, or the owner's authorized agent, shall submit to the Floodplain Administrator:

1. If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or

2. If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 5.01.05.02(23)(b) of this ordinance, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

## 5.01.09 Definitions

### 5.01.09.04 Definitions.

**Appeal.** A request for a review of the Floodplain Administrator's interpretation of any provision of these ordinance ~~or a request for a variance.~~

**Base flood.** A flood having a 1-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section ~~4642.2 202.~~] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

**Base flood elevation.** The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section ~~4642.2 202.~~]

**Basement.** The portion of a building having its floor sub grade (below ground level) on all sides. [Also defined in FBC, B, Section ~~4642.2 202.~~]

**Design flood.** The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section ~~4642.2 202.~~]

1. Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or
2. Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Design flood elevation.** The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to 2 feet. [Also defined in FBC, B, Section ~~4642.2 202.~~]

**Existing building and existing structure.** Any buildings and structures for which the "start of construction" commenced before March 22, 2005. [Also defined in FBC, B, Section ~~4642.2 202.~~]

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section ~~4612.2~~ 202.]

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood damage-resistant materials.** Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.[Also defined in FBC, B, Section ~~4612.2~~ 202.]

**Flood hazard area.** The greater of the following two areas: [Also defined in FBC, B, Section ~~4612.2~~ 202.]

1. The area within a floodplain subject to a 1-percent or greater chance of flooding in any year.
2. The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

**Flood Insurance Rate Map (FIRM).**The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section ~~4612.2~~ 202.]

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency that contains the Flood Insurance Rate Map, the Flood Boundary and Floodway Map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section ~~4612.2~~ 202.]

**Floodway.** The channel of a river or other riverine watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot. [Also defined in FBC, B, Section ~~4612.2~~ 202.]

**Lowest floor.** The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24. [Also defined in FBC, B, Section ~~4612.2~~ 202.]



**Park trailer.** A transportable unit which has a body width not exceeding fourteen (14) feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in ~~15C-1.0101, F.A.C. Section 320.01 F.S.~~]

**Recreational vehicle.** A vehicle, including a park trailer, which is: [Defined in ~~section 320.01(b), F.S. See Section 320.01 F.S.~~]

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Special flood hazard area.** An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V. [Also defined in FBC, B Section ~~4612.2. 202~~]

**Start of construction.** The date of issuance of permits for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Also defined in FBC, B Section ~~4612.2. 202~~]

**Substantial damage.** Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. [Also defined in FBC, B Section ~~4612.2. 202.~~]

**Substantial improvement.** Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: [Also defined in FBC, B, Section ~~4612-2~~ 202]

1. Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.
2. Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

## **5.01.10 Flood Resistant Development**

### **5.01.10.01 Buildings and Structures**

**5.01.10.01.01 Design and construction of buildings, structures and facilities exempt from the *Florida Building Code*.** Pursuant to Section 5.01.04.02.01 of this ordinance, buildings, structures, and facilities that are exempt from the *Florida Building Code*, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the *Florida Building Code* that are not walled and roofed buildings shall comply with the requirements of Section ~~307~~ 5.01.10.07 of this ordinance.

### **5.01.10.02 Subdivisions**

**5.01.10.02.02 Subdivision plats.** Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

1. Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats ~~and final plats~~;
2. Where the subdivision has more than 50 lots or is larger than 5 acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 5.01.05.02(1) ~~or (2)~~ of this ordinance;
3. Compliance with the site improvement and utilities requirements of Section 5.01.10.03 of this ordinance; and

### **5.01.10.04 Manufactured Homes**

**5.01.10.04.02 Foundations.** All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the *Florida Building Code Residential* Section R322.2 and this ordinance. Foundations for manufactured homes subject to Section 5.01.10.04.04.02 of this ordinance are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

**5.01.10.04.04 Elevation.** Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 5.01.10.04.04.01 or 5.01.10.04.04.02 of this ordinance, as applicable.

**5.01.10.04.04.01 General elevation requirement.** Unless subject to the requirements of Section ~~304.4.2~~ 5.01.10.04.04.02 of this ordinance, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the *Florida Building Code, Residential* Section R322.2 (Zone A).

**5.01.10.04.05 Enclosures.** Fully enclosed areas below elevated manufactured homes shall comply with the requirements of the *Florida Building Code, Residential* Section R322.2 for such enclosed areas.

## **5.01.10.07 Other Development**

**5.01.10.07.01 General requirements for other development.** All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this ordinance or the *Florida Building Code*, shall:

1. Be located and constructed to minimize flood damage;
2. Meet the limitations of Section 5.01.10.03.04 of this ordinance if located in a regulated floodway;
3. Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

4. Be constructed of flood damage-resistant materials; and
5. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

**SECTION 3. APPLICABILITY.** For the purposes of jurisdictional applicability, this ordinance shall apply in City of Polk City. This ordinance shall apply to all applications for development, including building permit applications and subdivision proposals, submitted on or after the effective date of this ordinance.

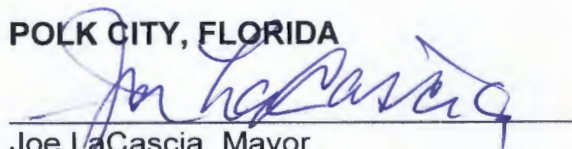
**SECTION 4. REPEALER.** Any and all ordinances and regulations in conflict herewith are hereby repealed to the extent of any conflict.

**SECTION 5. SEVERABILITY.** If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.


**SECTION 6. EFFECTIVE DATE.** This ordinance shall be effective immediately after passage upon Second Reading.

INTRODUCED, PASSED on FIRST READING, this 2<sup>nd</sup> day of November, 2016.

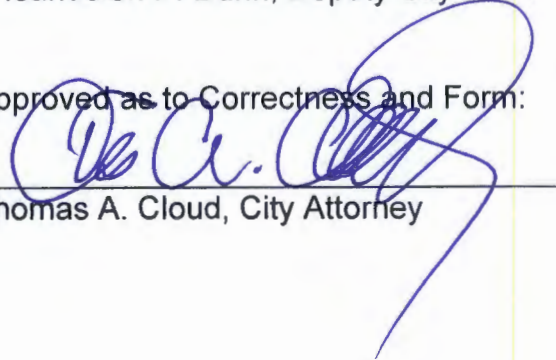
POLK CITY, FLORIDA

  
\_\_\_\_\_  
Joe LaCascia, Mayor

Attest with Seal:

  
\_\_\_\_\_  
Sheandolen P. Dunn, Deputy City Clerk

Approved as to Correctness and Form:

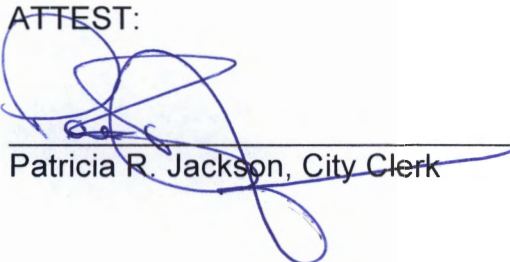
  
\_\_\_\_\_  
Thomas A. Cloud, City Attorney



**PASSED AND DULY ADOPTED ON SECOND READING**, with a quorum present and voting by the City Commission of Polk City, Florida, meeting in Regular Session this 19<sup>th</sup> day of December, 2016.

  
\_\_\_\_\_  
Joe LaCascia, Mayor

ATTEST:

  
\_\_\_\_\_  
Patricia R. Jackson, City Clerk