

ORDINANCE 2019-08

AN ORDINANCE OF POLK CITY, FLORIDA; AMENDING THE POLK CITY CODE OF ORDINANCES AND THE UNIFIED LAND DEVELOPMENT CODE OF POLK CITY, FLORIDA; AMENDING SECTION 3.10.00, DEVELOPMENT STANDARDS FOR CONDITIONAL USES; AMENDING ARTICLE 7, DEVELOPMENT APPROVAL PROCESS, TO ADD A NEW SECTION 7.12.00, CONDITIONAL USE PERMIT; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION 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 Commission 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.

(2) The City Commission recognizes the need for regulations specific to Special Events Facilities within Polk City.

(3) The City Commission has determined that the permitting of Special Events Facilities should be required to mitigate potential off-site impacts.

(4) Pursuant to Section 166.041(c)2, Florida Statutes, the Planning Commission and the City Commission 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.

(5) 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 SECTION 3.10.00, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 3.10.00, Unified Land Development Code, is hereby amended to read as follows:

“3.10.00 Development Standards for Conditional Uses

The purpose of this section is to set criteria for approval of Conditional Uses. Conditional Uses are those uses that have some special impact or uniqueness such that their effect on the surrounding environment cannot be determined in advance of the

use being proposed for a particular location. Conditional Use Permits shall be granted in accordance with the provisions of Section ~~7.08.00~~7.12.00. Special standards and requirements presented in this section are conditions for approval of Conditional Uses and shall be binding on all development authorized under the Conditional Use Permit. Where standards provide 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.”

SECTION 3. CREATION OF SECTION 7.12.00, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 7.12.00, Unified Land Development Code, is hereby created to read as follows:

“Section 7.12.00 Conditional Use Permits (CUP)

7.12.01 Purpose and Intent

Conditional Uses are generally considered to be appropriate for any zoning district that permits that particular use by Conditional Use Permit; however such uses by their nature may need to be more closely examined for compatibility at a particular location.

- A) Conditional Use Permits run with the use of the property. Ownership may change, but so long as the character and conditions of the Conditional Use do not change, the Conditional Use Approval remains in effect.
- B) Should the use change to a use permitted in the zoning district that is not the use approved as the Conditional Use Permit, and remain so for six (6) months or more, a new application will be required to reestablish any Conditional Use Permit use.
- C) The expansion or reconfiguration of any use or development that is subject to Conditional Use Permit approval shall require a new or amended Conditional Use Approval prior to the issuance of a building permit.

7.12.01.01. Conditional Use Approval Review.

(A) The applicant shall submit five (5) copies of the Conditional Use Permit application and site plans, and the applicable review fee, as established by resolution by the City Commission, to the City for Development Review Committee (DRC) distribution and review.

(B) The DRC shall review and provide written comments to the applicant.

Section 7.12.01.02. Application.

A) When requesting a Conditional Use Permit, the applicant shall furnish proof that the development site is unified by title, and not spatially divided by ownership.

B) The application shall contain the following items, as applicable:

1. The property owner's name, address, telephone number and email address if available;
2. The designated project applicant or representative if other than the property owner, a contact address, telephone number and email address if available;
3. A notarized authorization of the owner when the applicant is other than the owner, or is an attorney for the owner;
4. The street address of the property;
5. A legal description of the property;
6. A copy of the Polk County Property Appraiser's plat map and the parcel identification number;
7. The Future Land Use classification and zoning designation of the property;
8. A site plan or sketch plan drawn to scale showing the dimensions of the property;
9. The existing and proposed location of structures on the property including signage;
10. Paved surfaces including sidewalks, vehicular accessways and circulation areas, off-street parking and loading areas, and refuse and service areas;
11. The number of required and provided off-street parking and loading spaces;
12. Required yards, and other open spaces, and landscape buffer yard areas;
13. The measurements of existing and proposed adjacent rights-of-way, building setbacks, distances between buildings, widths of accessways and driveways, and sidewalks;

14. A description of the proposed use of the property including conditions of the use, such as hours of operation, numbers of residents, numbers of employees, and other pertinent information;
15. Existing and proposed density;
16. Amount of existing and proposed commercial or industrial space;
17. Location of all public and private streets, existing and proposed utilities, driveways and utility easements, within and adjacent to the site;
18. Provisions for stormwater management and detention related to the proposed development;
19. Where applicable, delineation of all watercourses, wetlands and flood-prone areas as delineated by the National Wetlands Inventory and the flood insurance rate maps (FIRM) published by the Federal Emergency Management Agency (FEMA);
20. Where applicable, the identification of significant stands of mature trees and understory vegetation that may provide wildlife habitats or other environmentally unique areas.

Section 7.12.01.03. Lot and Building Requirements.

Lot and building requirements shall comply with the lot and building requirements for the district in which the Conditional Use is to be located or with such requirements as may be imposed in the Conditional Use Permit.

Section 7.12.01.04. Planning Commission Review, Public Hearing and Recommendation.

The Planning Commission shall hold a public hearing, after due public notice, to review Conditional Use Permit request and make a recommendation to the City Commission to approve, approve with conditions, or disapprove any Conditional Use. The Planning Commission shall review and evaluate the Conditional Use Permit request with specific regard to the following:

- A) Adequate provision is made through setbacks, fences, etc., to protect adjacent properties from possible adverse influences of the proposed use such as noise, dust, vibration, glare, odor, electrical disturbances and similar factors;

- B) Vehicular traffic and pedestrian movement on adjacent streets will not be hindered or endangered;
- C) Off-street parking and loading, and the entrances to and exits from such parking and loading, will be adequate in terms of location, amount, and design to serve the uses;
- D) Public facilities and utilities are capable of adequately serving the proposed use, and;
- E) The proposed use will not adversely affect the level of property values or general character of the area.

Under no circumstances shall a Conditional Use Permit request be approved if it is found to be inconsistent with any term contained in this Code, unless a variance has been granted.

Section 7.12.01.05. City Commission Review and Action.

Following a Planning Commission recommendation, the City Commission shall hold a public hearing, after due public notice is given, on all recommendations associated with a Conditional Use Permit from the Planning Commission.

The City Commission may accept, reject or modify the original request; it may accept, reject or modify the recommendations of the Planning Commission; it may continue and seek additional information concerning the recommendations of the Planning Commission; or it may return the request to the Planning Commission. The City Commission may impose any conditions or safeguards found to be necessary to ensure the compatibility of the Conditional Use with surrounding properties or the community in general.

A Conditional Use Permit shall be adopted by resolution. Any conditions adopted as a part of the approval shall be explicitly stated in the resolution, and shall be the basis for any subsequent development agreement or development order associated with the Conditional Use. In the instance of a denial, the written finding shall state the reason, or reasons, for the denial, in sufficient detail to eliminate misunderstanding on the part of the applicant, any future applicant, and the officials of Polk City.

Section 7.12.01.06. Effect of Conditional Use Approval.

Conditional Use Permits shall remain valid if a building permit or business tax receipt is obtained within one (1) year of City Commission approval. Extensions for approved uses may be granted by the City Manager, or his

or her designee, for a single period up to one (1) year from the date when a Conditional Use Permit would otherwise expire. An extension may be granted if the City Manager, or his or her designee, concludes that the recipient of the Conditional Use Permit has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application. All such requests for extensions must be submitted in writing, not less than thirty (30) days before the expiration of the Conditional Use Approval stating the reason for the time extension request.

Section 7.12.01.07. Non-Compliance.

Failure to comply with a Conditional Use Permit resolution or any of the conditions upon which such approval was granted, including time limits for performance, shall be cause to deny issuance of a building permit or business tax receipt, or where a permit or business tax receipt has been issued, to render such permit or receipt invalid. Any action, construction, development or use of property undertaken in violation of the provisions of this Section shall constitute a violation of this Code and may be subject to a stop-work order.

Section 7.12.01.08. Abandonment of a Conditional Use.

Should an approved Conditional Use be discontinued for a period greater than one hundred eighty (180) days, the approved Conditional Use shall become invalid. Any reestablishment of an abandoned Conditional Use after one hundred eighty (180) days shall require a new application for Conditional Use Approval.

Section 7.12.01.09. Appeal of Conditional Use Approval Decision.

Any person or persons aggrieved by a Conditional Use Approval decision made by the City Commission may, within thirty (30) days after the date of the public hearing at which the decision was rendered but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

SECTION 4. CODIFICATION OF ORDINANCE. This Ordinance shall be codified in the Code of Ordinances of Polk City, Florida, and incorporated into the Unified Land Development Code which is a part thereof. A certified copy of this enacting ordinance shall be located in the Office of the City Clerk of Polk City. The City Clerk shall also make copies available to the public for a reasonable publication charge.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct

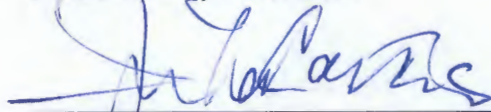
and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 5. CONFLICTING ORDINANCES AND RESOLUTIONS. All existing ordinances and resolutions of 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.

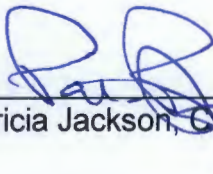
INTRODUCED AND PASSED on FIRST READING, this 2nd day of July, 2019.

POLK CITY, FLORIDA



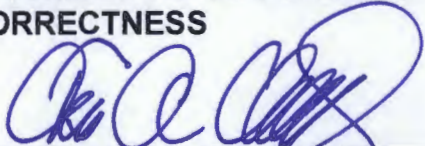
Joe LaCascia, Mayor

ATTEST:




Patricia Jackson, City Manager/Clerk

APPROVED AS TO FORM AND CORRECTNESS



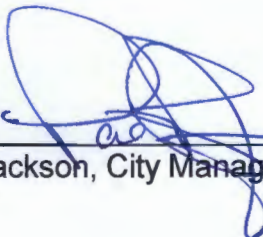
Thomas A. Cloud, City Attorney

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 24th day of July, 2019.



Joe LaCascia, Mayor

ATTEST:



Patricia Jackson, City Manager/City Clerk