

ORDINANCE 2020-07

AN ORDINANCE OF POLK CITY, FLORIDA, RATIFYING ALL ORDINANCES ADOPTED FROM APRIL 3, 2020, UNTIL JUNE 4, 2020, INCLUDING ORDINANCE NUMBERS 2020-02, 2020-03, 2020-04, & 2020-05; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; 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) Novel Coronavirus Disease 2019 (COVID-19) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza.

(2) On March 1, 2020, Ron DeSantis, Governor of the State of Florida, issued Executive Order No. 20-51, directing the Florida Department of Health to issue a Public Health Emergency.

(3) Governor DeSantis issued Executive Order No. 20-52, attached hereto as Exhibit "A" and incorporated herein by reference declaring that a State of Emergency exists in every county in the State of Florida as a consequence of Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza.

(4) On March 1, 2020, the State Surgeon General and State Health Officer declared that a Public Health Emergency exists in the State of Florida as a result of COVID-19.

(5) On March 9, 2020, Governor DeSantis declared that a state of emergency exists in the State of Florida as a result of the continued spread of COVID-19.

(6) The World Health Organization declared COVID-19 a Public Health Emergency of International Concern.

(7) On March 13, the President of the United States issued a national emergency declaration regarding COVID-19.

(8) COVID-19 has created or imminently threatens to create conditions that may severely affect the public health, safety, welfare and security of the citizens, residents and visitors of Polk City, Florida.

(9) Florida law, including §§ 286.011 and 166.041, Florida Statutes, requires that meetings of elected and appointed officials ("Bodies"), for the conduct of public business, must be held following procedures (notice, access of meetings, opportunity to be heard, the taking of minutes, etc.) that ensure that the public is able to participate in and be aware of the decision making process (the "Sunshine Law").

(10) Previously, when asked whether a public body complies with the Sunshine Law when one or more members of the Body wish to participate in a meeting electronically from a remote location, the Florida Attorney General ("AG") has opined that a quorum of the Body must be physically present in order to allow a member, who due to "extraordinary circumstances" is unable to physically attend the meeting, to appear and participate electronically.

(11) On March 19, 2020, the AG issued an AGO 2020-03 which provides that "unless and until legislatively or judicially determined otherwise, if a quorum is required to conduct official business, local government bodies may only conduct meetings by teleconferencing or other technological means if either a statute permits a quorum to be present *by means other than in-person, or the in-person requirement for constituting a quorum is lawfully suspended by the Governor during the state of emergency.*"

(12) On March 20, 2020, Governor DeSantis issued Executive Order Number 20-69 which suspends any Florida Statute that requires a quorum to be present in person or requires a local government body to meet at a specific public place and permits local government bodies to utilize communications media technology such as telephonic and video conferencing, as provided in section 120.54(5)(b)2., Florida Statutes.

(13) The current outbreak of Coronavirus (COVID-19) has made the City Commission acutely aware that provisions must be made to ensure that the business of municipal governance can occur without unnecessarily exposing either City personnel or members of the public to a risk of infection while ensuring public access and open government.

(14) The City Commission found that there was a clear and present danger in holding a public "in person" meeting for those attending and those who come in contact with those attending, both now and if there are future similar pandemic events.

(15) The technology exists to conduct public meetings using technology in which the City can comply with the provisions of the Sunshine Law while preserving human life.

(16) Section 252.38, Florida Statutes, provides for emergency management powers of political subdivisions of the State of Florida, including, without limitation, counties such as Polk County, and municipalities such as Wauchula (the "City").

(17) Pursuant to Section 252.38(3)(a), Florida Statutes, the Legislature has empowered municipalities to declare a state of local emergency.

(18) In order to mitigate or prevent these impacts, on March 16, 2020, the City Commission then found that it is necessary to declare a state of emergency within the entire incorporated limits of the Polk City pursuant to the City's Charter, Chapter 252, Florida Statutes, through the adoption of Resolution No. 2020-02 (the "March 16 Resolution").

(19) The City Commission also possesses broad home rule powers that authorize it to protect the public health, safety, and welfare, declare emergencies, and protect its citizens, and has by those powers adopted emergency ordinance nos. 2020-02 and 2020-03 on April 3, 2020, to enable it to declare civil emergencies and to hold commission meetings using communications media technology.

(20) To amend, extend, and update its March 16 Resolution to invoke its home rule powers for the purpose of better protecting the lives of its citizens, residents, employees, and visitors in order to mitigate or prevent these impacts, on April 3, 2020, the City Commission then found that it is necessary to approve Resolution No. 2020-03 pursuant to the City's Charter, Chapter 252, Florida Statutes, and the City's home rule authority, including that set forth in Article VIII, Section 2(b), Florida Constitution, and Section 166.021, Florida Statutes.

(21) Beginning on June 15, 2020, the City Commission has reinstated in person, live meetings of the City Commission.

(22) In an abundance of caution, the City now wishes to adopt an ordinance ratifying all ordinances adopted by the City Commission while it was compelled by its obligation to protect the public health, safety, welfare, and human life to hold virtual meetings.

(23) The City has once again held the necessary public hearing, conducted two public readings of the title to this ordinance, and has made all necessary findings required by law to ratify and confirm the ordinances referred to below.

SECTION 2. RATIFICATION OF ORDINANCE NUMBERS 2020-02, 2020-03, 2020-04, & 2020-05. The City hereby ratifies and readopts and confirms the adoption of Ordinance No. 2020-02, Ordinance No. 2020-03, Ordinance No. 2020-04, and Ordinance No. 2020-05.

SECTION 3. SEVERABILITY. If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision and such holding shall not affect the validity of any other provision, and to that end, the provisions of this ordinance are hereby declared severable.

SECTION 4. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed, replaced, and superseded to the extent of such conflict, including but not limited to Ordinance nos. 2020-02 and 2020-03.

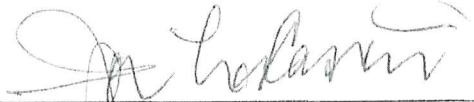
SECTION 6. INCLUSION INTO CITY CODE. It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City.

SECTION 7. EFFECTIVE DATE. This ordinance shall take effect in accordance with and as provided by general law.

PASSED ON FIRST READING this 15th day of June, 2020.

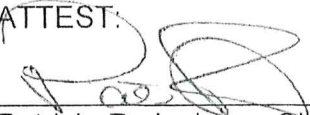
PASSED ON SECOND READING this 20th day of July, 2020.

POLK CITY, FLORIDA



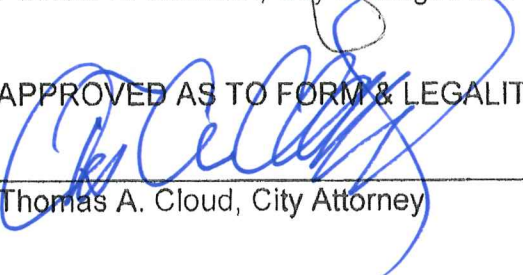
Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk

APPROVED AS TO FORM & LEGALITY



Thomas A. Cloud, City Attorney