

EMERGENCY ORDINANCE 2020-02

AN ORDINANCE OF POLK CITY, FLORIDA, AMENDING THE POLK CITY CODE OF ORDINANCES (THE "CITY CODE"); CREATING CHAPTER 7 IN THE CITY CODE TO PROVIDE FOR CIVIL EMERGENCIES; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, 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; and,

WHEREAS, 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; and,

WHEREAS, 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; and,

WHEREAS, 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; and,

WHEREAS, 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; and,

WHEREAS, in order to mitigate or prevent these impacts, on March 16, 2020, the City Commission of Polk City, Florida, found it necessary to declare a state of emergency within the entire incorporated limits of Polk City, Florida pursuant to the City's Charter, and the City's home rule authority, including that set forth in Article VIII, Section 2(b), Florida Constitution, Chapter 252 and Section 166.021, Florida Statutes; and,

WHEREAS, to implement these powers, the City deems it necessary and warranted to adopt this emergency ordinance to declare and use its home rule powers and other supplemental authority to declare emergencies.

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

SECTION 1. LEGISLATIVE FINDINGS. The above recitals represent the legislative findings of Polk City, Florida, relative to the provisions of this Ordinance and are incorporated herein by reference.

SECTION 2. DECLARATION OF EMERGENCY. Pursuant to state law and based upon the Legislative Findings set forth in the above-stated Recitals, the City Commission of Polk City hereby finds and declares that an emergency exists requiring immediate action by the City Commission. By virtue of the threat to public health and safety by virtue of the threat to the City's financial health and home rule powers, it is necessary for the City to implement this regulation, which can only be accomplished by the adoption of this Emergency Ordinance

SECTION 3. CREATION OF CHAPTER 24, CITY CODE. Chapter 24 of the Code of Ordinances Polk City, Florida, is hereby amended to read as follows:

"Chapter 7 - CIVIL EMERGENCIES.

Sec. 7-1. - Intent.

- (a) It is the intent of this chapter to provide the necessary organization, powers and authority to enable the timely and effective use of all available city resources to prepare for, respond to, and recover from emergencies, natural and manmade, likely to affect the security, safety or health of the city and its residents, whether such events occur within or without the corporate limits of the city.
- (b) Nothing in this chapter shall be intended to relieve city departments of their normally assigned duties, responsibilities and functions.
- (c) Nothing in this chapter shall be construed as a delegation of authority to abridge or diminish the legislative or administrative powers of the city commission.

Sec. 7-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency or state of emergency means a condition which threatens or adversely affects the public health, safety or security and which is or threatens to be beyond the control of those public and private agencies normally responsible for the management of such a condition resulting from an act or threatened act of war, riot, terrorism, mob or other act of violence; from a weather event such as flood, hurricane or tornado; from a disruption of the city's utility system; or from any other cause.

Normal average retail price means the price at retail for merchandise, goods or services at which similar merchandise, goods or services were being sold during the 90 days immediately preceding a declaration of public emergency.

Sec. 7-3. - Applicability of provisions.

All officers, employees, contractors, vendors, boards, commission, authorities and other agencies of the city are subject to the provisions of this chapter.

Sec. 7-4. - Powers, duties and responsibilities.

The city manager shall have the following powers, duties and responsibilities:

- (1) To declare a state of emergency or to recommend the declaration of a state of emergency by the city commission, and to inform the city commission of the reasons for and status of events requiring the declaration;
- (2) To direct the creation, revision and exercise of emergency response plans conforming to state and county emergency plans for the mitigation of, preparation for, response to, and recovery from emergencies;
- (3) To direct the efforts of the various city departments in the preparation for, response to and recovery from emergency conditions; and
- (4) To promulgate emergency regulations necessary for the protection of life and property, establishment of public order and control of adverse conditions affecting public welfare resulting from an emergency.

Sec. 7-5. - Declaration of a state of emergency.

- (a) The city commission, mayor, mayor pro tem, city manager and assistant city manager, in the order named, shall have the authority to declare a state of emergency by proclamation. Upon the absence or unavailability of the mayor, the mayor pro tem may issue such a declaration and, upon the absence or unavailability of the mayor and the mayor pro tem, the city manager or, upon the absence or unavailability of the city manager, the assistant city manager may issue such a declaration.
- (b) Any declaration of a state of emergency and all emergency regulations activated under the provisions of this chapter shall be confirmed by the city commission by resolution within five working days of such declaration or at the next regularly scheduled meeting of the city commission, whichever occurs first, unless the nature of the emergency renders a meeting of the city commission extremely impractical. Confirmation of the emergency declaration shall disclose the reasons for, anticipated impacts of, actions proposed and taken to manage the emergency, and other pertinent data relating to the emergency requiring the declaration.

- (c) Emergency resolutions authorized by this chapter shall include, but are not limited to the following subjects:
- (1) Evacuation.
 - (2) Curfews; declaration of areas off-limits.
 - (3) Suspension or regulation of sale of alcoholic beverages, explosives or combustibles.
 - (4) Prohibiting the sales of merchandise, goods or services at more than the normal average retail price.
 - (5) Water use restrictions.
 - (6) Suspension of local building regulations.
 - (7) Rationing of fuel, ice and other essentials.
 - (8) Emergency procurement procedures.
 - (9) Temporary modification of personnel policies.
 - (10) Temporary suspension or modification of utility rates, fees, charges, billing, termination, and/or service policies set by ordinance or resolution.
- (d) A declaration of a state of emergency shall activate the emergency plans applicable to the city.
- (e) A state of emergency, when declared as provided herein, shall continue in effect from day to day until declared to be terminated.
- (f) Upon the declaration of a state of emergency, the city manager shall post a written notice of such declaration upon the main bulletin board in the city hall, and shall notify by telephone each newspaper of general circulation within the city.

Sec. 7-6. - Termination of a state of emergency.

A state of emergency shall be terminated upon the certification of the officer or agency requesting the declaration of the state of emergency that the conditions leading to or causing the emergency conditions no longer exist and that the city's agencies and departments are able to manage the situation without extraordinary assistance. Notice of such termination shall be made to the public by the city manager by the same means as the notice of the declaration of the state of emergency.

Sec. 7-7. - Weather emergencies.

- (a) A state of emergency may be declared because of weather conditions when the National Weather Service or a state, county or local emergency management agency informs the city or the public that emergency conditions resulting from meteorological conditions are present or are imminent. Meteorological conditions covered by this section include, but are not limited

to, hurricanes, floods, tornadoes or other severe weather conditions and the results therefrom.

- (b) Declaration of a state of emergency because of weather conditions shall authorize the issuance of emergency resolutions provided for in subsections 7-5(c)(1)—(8), as may be required.

Sec. 7-8. - Police emergencies.

- (a) A state of emergency may be declared because of civil unrest when the chief of police certifies to the city manager that an emergency condition arising from hostile actions of others, armed or unarmed, requires extraordinary measures for control, including but not limited to curfew; blockade; proscription of the sale of firearms and other weapons, alcoholic beverages, explosives and combustibles; evacuation and other like actions.
- (b) Declaration of a state of emergency because of civil unrest shall authorize the issuance of emergency resolutions provided for in subsections 7-5(c)(1), (2), (3), (4) and (8), as may be required.

Sec. 7-9. - Utility emergencies.

- (a) A state of emergency may be declared because of utility conditions when the director of the electric and water utilities department certifies to the city manager that:
- (1) A condition exists or is imminent that endangers the safety, potability, quantity, availability, transmission, distribution, treatment, or storage of water through or within the city water utility system; or
 - (2) A condition exists or is imminent that endangers the safety, quality, availability, transmission or distribution of electricity through or within the city's electric utility system; and
 - (3) Extraordinary actions to control and correct the situation are required, including but not limited to emergency purchase, call-in of off-duty personnel, assistance by other communities and agencies, and other like actions.
- (b) Declaration of a state of emergency because of utility conditions shall authorize the issuance of emergency resolutions provided for in subsections 7-5(c)(1), (2), (5) and (8), as may be required.

Sec. 7-10. - Fire emergencies.

- (a) A state of emergency may be declared because of fire when the fire chief certifies to the city manager that an actual or potential condition arising from fire, explosion, chemical spill, building or bridge collapse, or plane, train or other vehicle accident requires extraordinary measures for control, including but not limited to calling out of off-duty and reserve personnel, evacuation, and other like actions.

(b) Declaration of a state of emergency because of fire shall authorize the issuance of emergency resolutions provided for in subsections 7-5(c)(1), (2), (5) and (8), as may be required.

Sec. 7-11. - Suspension of local building regulations.

The city manager may authorize the suspension of local building regulations during and following a declared state of emergency when the chief building official certifies that such action is necessary to the expeditious restoration of property damaged by the emergency event. Such suspension of building regulations may be applied on a case-by-case basis as required to remedy specific conditions and to facilitate the provision of emergency housing to disaster victims. The chief building official shall specify the provisions of the building code to be suspended and the reasons therefore when certifying the necessity of such suspension to the city manager.

Sec. 7-12. - Certification of emergency conditions.

A certification of emergency conditions to the city manager may be verbal, but each verbal certification shall be confirmed in writing within 24 hours following an emergency declaration."

SECTION 4. 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.

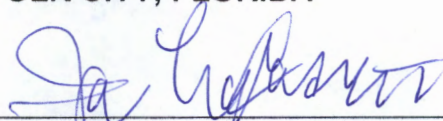
SECTION 5. CONFLICTS. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

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 Emergency Ordinance shall take effect immediately upon its passage, and shall expire on August 31, 2020. Nothing contained in this Ordinance shall give rise to any vested rights, equitable estoppel, or claim for continuing any specific land use.

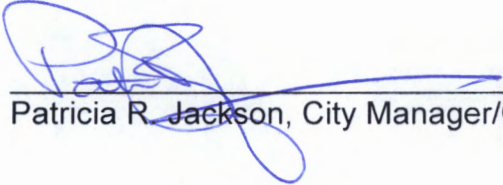
INTRODUCED AND PASSED AS AN EMERGENCY ORDINANCE this 3rd day of April, 2020.

POLK CITY, FLORIDA



Joe LaCascia, Mayor

ATTEST:

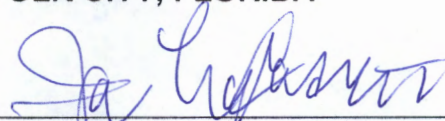


Patricia R. Jackson, City Manager/Clerk

**APPROVED AS TO FORM AND
LEGALITY:**

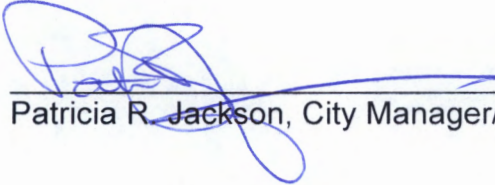
Thomas A. Cloud, Esquire
City Attorney

POLK CITY, FLORIDA




Joe LaCascia, Mayor

ATTEST:



Patricia R. Jackson, City Manager/Clerk

**APPROVED AS TO FORM AND
LEGALITY:**



Thomas A. Cloud, Esquire
City Attorney