

ORDINANCE 2021-07

AN ORDINANCE OF POLK CITY, FLORIDA; AMENDING THE POLK CITY CODE OF ORDINANCES AND THE UNIFIED LAND DEVELOPMENT CODE OF POLK CITY, FLORIDA INCLUDING ARTICLE 7, DEVELOPMENT REVIEW PROCESS AND ARTICLE 8, ADMINISTRATION AND ENFORCEMENT; TO UPDATE THE TYPES OF COMPREHENSIVE PLAN AMENDMENT REVIEW TO INCLUDE EXPEDITED STATE REVIEW, STATE COORDINATED REVIEW, AND SMALL SCALE; 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 procedures and regulations for the review and consideration of conditional use permits within Polk City.

(3) The City Commission has determined that having the ability to issue conditional use permits will provide additional flexibility and enforceability for the City Commission in its review and implementation of its Unified Land Development Code.

(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 Sections 2 and 3 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 7.02.00, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 7.02.00, Unified Land Development Code, is hereby amended to read as follows:

“7.02.00 Comprehensive Plan Amendments

7.02.01 Intent and Purpose

An amendment to the Comprehensive Plan may either be a change to the goals, objectives and policies of the Comprehensive Plan; or, the amendment of a land use classification shown on the Future Land Use Map. A Plan Amendment may be initiated by the City, by a property owner or agent of a property owner, or by citizens or interested parties who have established standing to bring amendments to the City for consideration.

The basis for review of a proposed Plan Amendment is the same as the basis for the adoption of the Comprehensive Plan, which entails a review of data and analysis in support of the Plan Amendment: analysis of the impact of the Amendment on public facility Levels of Service and the Capital Improvements Budget of the City; and an analysis of the need for the proposed Amendment in relation to the existing structure of the City and the future as delineated in the goals, objectives and policies of the Comprehensive Plan.

~~The Comprehensive Plan may only be amended twice each calendar year, however Small Scale Plan Amendments, the criteria for which is detailed in Section 8.07.05 of this Code, do not count against this standard. The City Council transmits approved Plan Amendments to the DCA for review, but may adopt a Small Scale Amendment before transmission.~~

There are three general types of Comprehensive Plan Amendments: Expedited State Review, State Coordinated Review, and Small-Scale. The Expedited State Review Process is utilized for the majority of Comprehensive Plan amendments adopted by local governments. The State Coordinated Review Process is utilized for amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an Evaluation and Appraisal Report. The Small-Scale process is utilized for amendments that qualify as small-scale development amendments.

7.02.02 Contents of the Application for Plan Amendments

There are two general types of Plan Amendments: text amendments; and, amendments effecting land use, development standards, and maps. All requests for Plan Amendments shall be submitted in writing to the Development Director, together with applicable fees, which shall have been established by resolution of the Council Commission.

- (A) *Application Contents for Text Amendments.* The application shall contain the following items, as applicable:
- (1) A description of the proposed Plan Amendment, specifying the goals,

objectives and policies of the Comprehensive Plan that are to be modified.

- (2) Data and analysis that supports the change applied for. Specifically, new data that would alter the assumptions in the Comprehensive Plan and would, therefore, justify the Plan Amendment of a goal, objective or policy.

(B) *Application Contents for Amendments Effecting Land Use, Development Standards, & Maps.* The application shall contain the following items, as applicable:

- (1) A description of the proposed Plan Amendment, specifying the goals, objectives and policies of the Comprehensive Plan that are to be modified.
- (2) Where the Plan Amendment proposed will change the Future Land Use Map, a legal description of the property.
- (3) A concurrency analysis of all public facilities and services for which a Level of Service has been established in the Comprehensive Plan.
- (4) An Evaluation and Appraisal Report (EAR Report), the format of which is outlined in (C) below.

(C) *Plan Amendment Evaluation and Appraisal Report (EAR Report) Required from the Applicant.* Based on the data found in the Comprehensive Plan Data and Analysis sections, the evaluation and appraisal report shall contain the following, as applicable.

(1) Inventory and Analysis of Site Characteristics

- a. A description of the terrain; type of vegetation on the site; statement regarding the existence of surface water or wetlands or both; and existence of any flood plains on the site.
- b. The type of soils present on the site and in the area; an analysis of the limitations for construction for each type of soil; and an analysis of absorption rate for septic fields. Identification of habitats present on the site as indicated by the soil types.
- c. An inventory of endangered plant and animal species on the site; an inventory of plant and animal species (mammals, birds and reptiles) common to this site.

- d. A list of trees with an estimate of canopy that they provide; a list of herbaceous plants and vines; a list of grasses and grass like plants.
- (2) Inventory and Analysis of Land Use: location in the City; former use; existing surrounding land uses; and, analysis of type of buffer needed between proposed project site and existing land uses.
- (3) Inventory of Public Facilities: location of existing sewer service and potable water facilities serving the development site with capacities and the future demand associated with the proposed development; the functional classification of roads serving the area with estimated daily traffic volumes; an analysis detailing the future volumes and their effect on roadway Levels of Service; and an analysis of recreation land and facilities needs generated by the proposed land use classification.

7.02.03 Planning Commission Standards for Evaluation

The Planning Commission shall review every Plan Amendment. In reviewing and formulating recommendations to the City ~~Council~~ Commission on proposed Amendments to the Comprehensive Plan, and particularly, the Future Land Use Element and Future Land Use Map, the Planning Commission shall specifically consider and evaluate the proposed amendments against the following standards.

- (A) The proposed Plan Amendment is consistent with the goals of the City of Polk City Comprehensive Plan. Objectives and policies of the Plan may be proposed for modification by the Amendment.
- (B) The proposed Plan Amendment contains an analysis of the Levels of Service for all public facilities and services; identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.
- (C) In the case of a proposed Plan Amendment to the Future Land Use Map, the proposed Land Use Classification at the proposed location has been analyzed to identify adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibility and the general welfare of the City. Said analysis must address land uses as they now exist, and as they may exist in the future, as a result of the implementation of the goals, objectives and policies of the Comprehensive Plan; and contains objectives and policies to mitigate or eliminate adverse impacts.
- (D) The proposed Plan Amendment contains an analysis of community need

for the development associated with the Amendment. The analysis is based on existing and proposed uses of a similar nature in the City, and an assessment of the need to provide or maintain a proper mix of uses both within the City of Polk City and also in the immediate area in Polk County or another municipality.

- (1) The proposed Plan Amendment shall not result in either a detrimental over concentration of a particular use within the City or within the immediate area.
- (2) The Plan Amendment contains sufficient proof to convince the Planning Commission and the City ~~Council~~ Commission that the proposed Plan Amendment and Land Use Classification supplants the analysis that supported the establishment of the existing Land Use Classification.

7.02.04 Public Hearing

No Plan Amendment may be considered by the Planning Commission until due public notice has been given of a public hearing. All procedures for advertisement and notification of a public hearing shall be as delineated in Article 8, Section 8.06.00 of this Code.

7.02.05 Findings and Recommendation to Approve a Plan Amendment

The Planning Commission may recommend approval of an application for a Plan Amendment only when all of the following conditions are met.

- (A) The proposed Plan Amendment is, or proposes objectives and policies, that will be consistent with the ~~City of~~ Polk City Comprehensive Plan.
- (B) The proposed Plan Amendment will not degrade the Level of Service of one or more public facilities and services, or contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, **and** does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.
- (C) There is a community need for the proposed Plan Amendment. This finding must be based on an analysis of existing and proposed land uses of a similar nature in the City, and an assessment of the need to provide or maintain a proper mix of land uses both within ~~the City of~~ Polk City and also in the immediate area of Polk County.

7.02.06 Findings and Recommendation to Deny a Plan Amendment

The Planning Commission may recommend denial of any application for a Plan Amendment for one or more of the following reasons:

- (A) The proposed Plan Amendment is inconsistent with ~~the City of Polk City Comprehensive Plan~~.
- (B) The proposed Plan Amendment will degrade the Level of Service of one or more public facilities and services, and contains no commitment to undertake improvements to maintain acceptable Levels of Service.
- (C) No community need can be demonstrated for the proposed Plan Amendment at the proposed location.

7.02.07 Decision By City ~~Council-Commission~~

Within 30 days of receipt of the Planning Commission recommendation, the City ~~Council-Commission~~ shall schedule a public hearing, after due public notice, on all recommendations associated with a Plan Amendment from the Planning Commission. It may accept, reject, modify, return or continue and seek additional information on those recommendations. No approval of a Plan Amendment shall be granted unless approved by a majority of the Councilors voting.

Plan Amendments are subject to review by the Florida Department of ~~Community Affairs (DCA)~~ Economic Opportunity (DEO) under Chapter 163, Florida Statutes. The City ~~Council-Commission~~, therefore, does not act to "adopt" a Plan Amendment, but rather to "transmit" the Plan amendment for review. For guidance in the submission of amendments for review by the State, see Article 8, Section 8.07.00.

In the case of a Small Scale Plan Amendment, the City ~~Council-Commission~~ adopts the Amendment by Ordinance ~~but does not~~ and transmits it to ~~DCA~~ DEO ~~for notification purposes only~~. Small Scale Amendment criteria is contained in Article 8, Section 8.07.05 of this Code. Rezoning may proceed at the same reading as a small scale amendment, with a companion ordinance. Small scale amendments are:

A proposed Plan Amendment for any area that is ~~ten (10)~~ fifty (50) acres or less, ~~with a density of ten (10) units per acre or less and is not located within the Green Swamp Area of Critical State Concern~~. ~~Small scale amendments must be map amendments only and cannot be text amendments.~~

SECTION 3. AMENDMENT TO SECTION 8.06.00, UNIFIED LAND DEVELOPMENT CODE, CONTAINED IN SECTION 78-1, POLK CITY CODE. Section 8.06.00, Unified Land Development Code, is hereby amended to read as follows:

“8.06.00 Public Notice of Hearings

Due Public Notice. A change in land use classification or designation, zoning classification or designation, variance, comprehensive plan amendment or an amendment to this Code, may not be considered by the Planning and Zoning Board, Zoning Board of Appeals or the City ~~Council~~ Commission until due public notice has been given of a public hearing. All such changes are to be made by a non-emergency ordinance, with the exception of variances, which shall be by a vote of the Zoning Board of Appeals as directed in Section 8.03.02 (C) of this Code. Specific regulations in compliance with Chapter 166.041, FS., are listed below.

(A) *General Requirements.*

(1) *Ordinance Requirements.* All ordinances acted on by the City ~~Council~~ Commission must be read on two separate days and shall, at least 14 days before adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(2) *Land Development Actions.* In the case of land use issues, zoning issues, Plan amendments (less than 10 acres) and amendments to this Code, the first public hearing will be held by the Planning and Zoning Board. The first public hearing before the Planning and Zoning Board shall be held on a weekday at least 7 days after the advertisement is published.

The second public hearing will be held at the second reading by the City ~~Council~~ Commission. Upon the conclusion of the second public hearing, the City ~~Council~~ Commission may immediately adopt the ordinance. Action is to be taken by ordinance, with the exception of the Variance. Variances require one public hearing before the Zoning Board of Appeals, and are determined approved or denied only by a vote of the Board.

(3) *Other Local Government Notification.* When a proposed zoning action or variance lies within 300 feet of the jurisdiction of another local government, the ~~planning board~~ or governing body of that local government shall be notified by mail of a public hearing so that they may have the opportunity to be heard.

- (B) *Variances.* Where an application for a Variance of the Unified Land Development Code has been filed, the City Clerk shall notify by mail each real property owner, whose address is known by reference to the latest ad valorem tax records, within a 300 foot radius of the affected property of the requested variance; provided, however, that failure to receive such notice shall not invalidate any action or proceedings taken at the public hearing. Notice of such public hearing shall be mailed at least 30 days prior to the public hearing. Notice shall be made to the planning board or governing body of an adjacent local government if the affected property is within 300 feet of such jurisdiction. There is to be one public hearing before the Zoning Board of Appeals, after which a decision may be rendered by a vote of the Board.
- (C) *Amendment to the ULDC.* When an amendment to this Code is to be made it shall be by ordinance. It shall be advertised as specified in Section 8.06.00(A) of this Code. There will be two public hearings, first before the Planning and Zoning Board, second at the City ~~Council-Commission~~ at second reading of the ordinance. The only exception to this is when a zoning category is amended to change the list of permitted, prohibited, or conditional uses within that category, then public hearing regulations for a zoning change shall apply.
- (D) *Zoning Changes-Less than 10 acres*
- (1) *Petitioner Initiated cases.* In cases in which the proposed ordinance changes the list of permitted, prohibited or conditional uses within a zoning category or changes the zoning designation of a parcel less than 10 acres, then the public hearings shall be advertised as specified in Section 8.06.00 (A) of this Code. There will be two public hearings, first before the Planning and Zoning Board, second at the City ~~Council-Commission~~ at second reading of the ordinance.
- (2) *City Initiated cases.* In cases where the proposed ordinance changes the list of permitted, prohibited, or conditional uses within a zoning category or changes a zoning designation of a parcel less than 10 acres, then the City ~~Council-Commission~~ shall direct the Clerk to notify by mail the property owners ~~by mail~~ whose land is to be redesignated by enactment of the ordinance and whose address is known by the latest ad valorem tax records. Notice of the public hearings shall be mailed to all property owners at least 30 days prior to the first public hearing. In addition the public hearing notices shall be published as specified in Section 8.06.00 (A) of this Code. There will be two public hearings, first before the Planning and Zoning Board, second at the City ~~Council-Commission~~ at second reading of the ordinance.
- (E) *Zoning Changes-Greater than 10 acres*
- (1) In cases in which the proposed ordinance changes the actual list of

permitted, prohibited or conditional uses within a zoning category or changes the actual zoning map designation for a parcel(s) of land involving 10 contiguous acres or more, then there will be two public hearings required. The Planning and Zoning Board shall hold one advertised public hearing and the City ~~Council~~ Commission shall hold one advertised public hearing on the proposed ordinance at the second reading. Public hearing requirements of Section 8.06.00 (A) shall apply, however the additional time requirements and advertisement requirement below shall also apply.

- (2) *Time requirements.* At least one of the hearings shall be held after 5 p.m. on a weekday, unless the City ~~Council~~ Commission, by a majority plus one vote, elects to conduct that hearing at another time of day. The first hearing shall be held at least 7 days after the date the first advertisement is published. The second public hearing shall be held at least 10 days after the first hearing and shall be advertised at least five days prior to the hearing.

- (3) *Advertisement Requirements.* The required advertisements shall be no less than two columns wide by ten inches long in standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general circulation in the City and of general interest and readership. Except for amendments that change the actual list of permitted prohibited or conditional uses within a zoning category, the advertisement shall contain a geographic location map that clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means for identification of the general area.

Table 1 - Sample of Advertising Notice

<p>TYPE OF (TYPE OF) CHANGE</p> <p>The City of Polk City proposes to adopt Ordinance No. ____ : <u>(Title)</u></p> <p>A public hearing on the ordinance will be held on (date and time) at (meeting place).</p> <p>Ordinance No. ____ (title) may be inspected by the public at the office of the City Clerk, City Hall (address and business hours). Interested parties are invited to appear and be heard.</p>
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- (4) *Mail-out may be done.* In lieu of publishing the advertisement as outlined above, the City may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place and location of both public hearings on the proposed ordinance. The minimal

public hearing notice in a newspaper giving notice of a proposed ordinance would still be required 14 days before the public hearing before the City ~~Council Commission~~ as described in Section 8.06.00 (A) (1) of this Code.

(F) *Annexation.* In the case of consideration of an ordinance regarding voluntary annexation, there will be only one public hearing at the second reading at the City ~~Council Commission~~ Meeting. The Planning and Zoning Board is not required to take any action. In addition to the regulations of Section 8.06.00 (A) (1) of this Code, the following advertisement regulations apply: There shall be published notice of the public hearing regarding the proposed ordinance at least once each week for two consecutive weeks in a newspaper of general circulation in the City. One of advertisements must be published at least 14 days prior to the second reading of the ordinance. The ordinance shall give the ordinance number and a brief description of the area to be annexed. The description shall include a map clearly showing the area to be annexed and a statement that the complete legal description is available at the Office of the City Clerk.

(G) *Comprehensive Plan Amendments.* ~~There are two types of Plan amendments, first, there are text amendments and second, there are land use map designation amendments or development standard changes. Section 8.07.00 clearly defines the differences of the types of Amendments.~~

~~(1) *Small Scale Amendment-Less than 10 acres.* In cases in which the proposed ordinance changes the list of permitted, prohibited or conditional land uses within a land use category or changes the land use designation of a parcel less than 10 acres, then the public hearings shall be advertised as specified in Section 8.06.00 (A) of this Code. There will be two public hearings, first before the Planning and Zoning Board, second at the City ~~Council Commission~~ at second reading of the ordinance. The City Council may adopt the ordinance after the second public hearing.~~

~~*Advertisement Requirements.* The notice of proposed enactment shall state the date, time and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. The minimal public hearing notice in a newspaper giving notice of a proposed ordinance is still required 14 days or more before the public hearing at the City ~~Council Commission~~ Meeting, as described in Section 8.06.00 (A) (1) of this Code. The first public hearing before the Planning and Zoning Board shall be held on a weekday at least 7 days after the advertisement is published. The City must mail a notice to each person owning real property in the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place and location of both public hearings on the proposed ordinance.~~

~~Small Scale Amendments do not require review by DCA. They are sent to DCA for notification purposes only, upon second reading and passage of the ordinance. In addition to these regulations above, the regulations of Section 8.07.05 must be complied with and if or when a conflict shall be determined the more stringent regulation shall apply.~~

- ~~(2) Large Scale Amendment 10 acres or more. In cases in which the proposed ordinance changes the list of permitted, prohibited or conditional land uses within a land use category or changes the land use designation of a parcel 10 acres or more, then there shall be three public hearings. The first hearing will be before the Planning and Zoning Board, second at the City Council Commission at the first reading of the ordinance. The first public hearing shall be held on a weekday at least 7 days after the advertisement is published. Upon first reading the Ordinance shall be transmitted to DCA by Resolution per the requirements of Sections 8.07.00 – 8.07.04 of this Code. Upon receipt of approval from DCA of the proposed amendment in the proposed ordinance, a third public hearing shall be advertised at the second reading before the City Council Commission. The advertisement of the third hearing shall be at least 5 days before the third public hearing. The City Council Commission may adopt the ordinance after the third public hearing and the second reading of the ordinance.~~

~~Advertisement Requirements. In addition to the requirements in Section 8.06.00 (A) (1) the required advertisements shall be no less than two columns wide by ten inches long in standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general circulation in the City and of general interest and readership. Except for amendments that change the actual list of permitted prohibited or conditional uses within a land use category, the advertisement shall contain a geographic location map that clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means for identification of the general area.~~

~~In addition to these regulations above, the regulations of Section 8.07.00 – 8.07.04 must be complied with and if or when a conflict shall be determined regarding public hearing notice requirements, the more stringent regulation shall apply.~~

~~8.07.00 Statutory Requirements for Plan Amendments~~

~~There are two general types of Plan Amendments: (1) text amendments, and (2) amendments effecting land use, development standards, and maps. All requests for Plan~~

~~Amendments shall be submitted in writing to the Development Director, together with applicable fees, which will have been established by resolution of the City Council Commission. Specific regulations for Plan Amendments applications are detailed in Article 7, Section 7.02.00. Plan Amendments may be submitted by the City to DCA no more than twice yearly for review and according to the procedures established in Chapter 163 F.S., except small scale amendments. See Section 8.07.05 for specific regulations regarding Small Scale Amendments. Florida Statutes define Small Scale Amendments as:~~

- ~~• Encompasses the use of 10 or fewer acres of any land use category;~~
- ~~• Residential densities are limited to 10 or fewer units per acre;~~
- ~~• Does not involve the same property more than once per year;~~
- ~~• Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months;~~
- ~~• Does not include any text change to the Plan's goals, objectives, and policies;~~
- ~~• Is not located within an are of critical state concern; and~~
- ~~• The local government can approve the amendment without exceeding its yearly maximum of 80 acres of small scale amendments.~~

~~**8.07.01 Public Hearing for a Plan Amendment**~~

~~As outlined in Chapter 163.3184, F.S., a public hearing is required proposing to adopt an Ordinance to amend the Comprehensive Plan and to transmit to DCA, by Resolution, the proposed Comprehensive Plan amendment and attached Evaluation and Appraisal Report. All procedures for advertisement of a public hearing to adopt an ordinance or resolution must be followed as adopted by the City and set forth in Section 8.06.00 above. According to State Law, the following sections (A) and (B) must be adhered to:~~

~~(A) **7 Day Notice.** This public hearing shall be held on a weekday at least seven days after the day that the first advertisement is published. The intention to hold and advertise a second public hearing when the amendment comments are returned from DCA, shall be announced at the first public hearing.~~

~~(B) **Advertisement Form**~~

~~NOTICE OF (CHANGE OF LAND USE AND AMENDMENT TO THE MAPS OF THE COMPREHENSIVE PLAN or TEXT AMENDMENT TO THE COMPREHENSIVE PLAN)~~

~~The City of Polk City proposes to adopt the following ordinance: (title of the ordinance).~~

~~A public hearing on the (change of land use or text amendment) will be held on (date and time) at (meeting place).~~

~~The ordinance may be inspected by the public at (name of place and business hours). Interested parties can appear and be heard.~~

~~Except for amendments which change the text of the Comprehensive Plan, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area.~~

~~**8.07.02 Transmittal to DCA**~~

~~Immediately following the public hearing, the City shall transmit six copies of the plan amendment and attached Evaluation and Appraisal Report to DCA for written comment. The City shall transmit one copy to each of the following:~~

~~Central Florida Regional Planning Council;
Florida Department of Environmental Protection;
Florida Department of Transportation; and
Southwest Florida Water Management District.~~

- ~~(A) DCA will notify the local government and other agencies, and any other person who has requested notice of an affirmative decision by DCA to review the amendment, within 30 days of receipt of complete amendment.~~
- ~~(B) Upon receipt of state agency comments, DCA shall have 45 days to provide its own written comments to the City, stating its objections to the Plan Amendment, if any, and recommendations for modification.~~

~~**8.07.03 Public Hearing After Receipt of DCA Comments, and Adoption**~~

~~Upon receipt of DCA comments, the City shall have 60 days to adopt the Ordinance to amend the Comprehensive Plan as proposed or with changes. According to State Law, the following sections (A), (B) and (C) must be adhered~~

to:

~~(A) 5 Day Advance Notice. A public hearing shall be held for adoption Ordinance to amend the Comprehensive Plan, and shall take place on a weekday approximately 5 days after the advertisement is published.~~

~~(B) Contents of Advertisement and Advertisement Form. It shall be the same as described in 8.07.01 (B).~~

~~(C) Vote to Transmit. At this Public Hearing, the City Council Commission shall vote to transmit the adopted ordinance to DCA for final compliance review.~~

~~8.07.04 Transmittal of Adopted Amendment to DCA~~

~~The City Council Commission shall transmit the adopted Ordinance to DCA within ten days of adoption. Upon receipt of the adopted Ordinance, DCA shall have 45 days to review and determine whether or not the plan amendment is in compliance with Chapter 163, F.S. During this period, DCA shall issue a Notice of Intent (NOI) indicating a finding of compliance or noncompliance.~~

~~If DCA finds the amendment not in compliance, the NOI is forwarded to the Division of Administrative Hearings for a hearing pursuant to Chapter 120.57 F.S. The hearing officer assigned by the division shall submit a recommended order to the Administration Council Commission for final agency action.~~

~~If the Administration Council (Governor and Cabinet) finds that the plan amendment is not in compliance with this act, the Council shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance.~~

~~8.07.05 Small Scale Plan Amendments Exempt from DCA Review~~

~~Plan amendments that are defined as Small Scale Amendments are exempt from the annual quota allowed by DCA and do not have to be submitted to DCA for review. The amendment is adopted by ordinance and sent to DCA and the Regional Planning Council. DCA will not issue a Notice of Intent for the small scale amendment.~~

- ~~(A) Definition. Small Scale Plan Amendments are defined by Florida Statue as:~~
- ~~* Encompassing the use of 10 or fewer acres of any land use category; and~~
 - ~~* Residential densities are limited to 10 or fewer units per acre; and~~
 - ~~* Does not involve the same property more than once per year; and~~
 - ~~* Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months; and~~
 - ~~* Does not include any text change to the Plan's goals, objectives, and~~

policies;

- Is not located within an area of critical state concern; and
- The local government can approve the amendment without exceeding its yearly maximum of 80 acres of small scale amendments.

(B) *Reviewing Board.* Proposed Small Scale Plan Amendments are heard by the Planning Commission and are recommended to the City Council by the Board. Then the amendments are heard at two Public Hearings and are adopted by Ordinance. The amendments become law after the waiting period for the ordinance has expired, which is 31 days after adoption.

(C) *Public Notice Requirements.* The public notice required for the amendment is:

A newspaper notice as for ordinary, non-rezoning ordinances; and
The City must mail the owners of the property notice; and
There is no size requirements for the newspaper advertisement; and
Notice must be given of: the date, place and time of the meeting; the title of the proposed ordinance; the location where the proposed ordinance can be inspected by the public; and that interested parties can appear and be heard.

(D) *Challenges.* Challenges will be heard by the Division of Administrative Hearings. In any action brought under this section, the DCA may intervene and become a party if granted that right by the hearing officer. If the hearing officer recommends that the amendment be found "in compliance," and DCA agrees, the DCA will enter the final order. If DCA does not agree, the recommended order will be forwarded to the Administration Commission (Governor and Cabinet) for rendering the final order.

There are three general types of Comprehensive Plan Amendments: Expedited State Review, State Coordinated Review, and Small Scale. The Expedited State Review Process is utilized for the majority of Comprehensive Plan amendments adopted by local governments. The State Coordinated Review Process is utilized for amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an Evaluation and Appraisal Report. The Small-Scale process is utilized for amendments that qualify as small-scale development amendments.

All requests for Comprehensive Plan Amendments shall be submitted in writing to the Administrative Official, together with applicable fees, which will have been established by the City Commission. Comprehensive Plan Amendments may be

submitted by the City to the Florida Department of Economic Opportunity (DEO) for review according to the procedures established in Chapter 163 F.S. The following sections outline the public notice requirements for each type of Comprehensive Plan Amendment.

8.07.00 Statutory Requirements for Plan Amendments - Expedited State Review Process (consistent with F.S. 163.3184)

The Expedited State Review Process is utilized for all Comprehensive Plan amendments except amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, amendments that update a comprehensive plan based on an Evaluation and Appraisal Report, or amendments that qualify as small-scale development amendments.

(A) *Public Notice Requirements:* All procedures for advertisement of a public hearing to adopt an ordinance must be followed as adopted by the City and set forth in Section 11.07.03 above and in keeping with Florida Statutes Chapter 166. According to State Law, the following section (1) must be adhered to:

(1) The local governing body shall hold at least two advertised public hearings, on the proposed comprehensive plan or plan amendment as follows:

a. The first public hearing shall be held at the transmittal stage. It shall be held on a weekday at least seven (7) calendar days after the day that the first advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.

b. The second public hearing shall be held at the adoption stage. It shall be held on a weekday at least five (5) calendar days after the day that the second advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.

(B) *First Public Hearing:* After the initial public hearing, the local government shall transmit the amendment and all supporting data and analysis within ten (10) days to the review agencies and any local governments that have filed a written request.

(C) *Comments:* Comments from agencies and local governments reviewing the proposed amendment must be received by Polk City no later than 30 days from the date on which the agency or government received the amendment from Polk City.

- (D) *Second Public Hearing:* The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments. If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to the DEO and any affected person that provided comments on the amendment. The 180-day limitation does not apply to DRI amendments.
- (E) *Adoption Transmittal:* All adopted Comprehensive Plan amendments, along with the supporting data and analysis, shall be transmitted within ten (10) working days after the second public hearing to DEO and any other agency or local government that provided timely comments. DEO shall notify the local government of any deficiencies within five (5) working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with strike-thru/underline changes; in the case of a Future Land Use Map amendment, a color copy of the Future Land Use Map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.
- (F) *Effective Date:* An amendment adopted under the Expedited State Review Process does not become effective until thirty-one (31) days after DEO notifies the local government that the plan amendment package is complete. If timely challenged, an amendment does not become effective until DEO or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

8.07.01 State Coordinated Review Process (consistent with F.S. 163.3184)

The State Coordinated Review Process is utilized for Comprehensive Plan amendments that are in an area of critical state concern, amendments that propose a rural land stewardship area, amendments that propose a sector plan, or amendments that update a comprehensive plan based on an evaluation and appraisal report.

- (A) *Public Notice Requirements:* All procedures for advertisement of a public hearing to adopt an ordinance must be followed as adopted by the City and in keeping with Florida Statutes Chapter 166. According to State Law, the following section (1) must be adhered to:

- (1) The local governing body shall hold at least two advertised public hearings, advertised per the requirements of Section 11.07.03, on the proposed comprehensive plan or plan amendment as follows:
 - a. The first public hearing shall be held at the transmittal stage. It shall be held on a weekday at least seven (7) calendar days after the day that the first advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.
 - b. The second public hearing shall be held at the adoption stage. It shall be held on a weekday at least five (5) calendar days after the day that the second advertisement is published pursuant to the requirements of Florida Statutes Chapter 166.
- (B) *First Public Hearing:* After the initial public hearing, the local government shall transmit the amendment and all supporting data and analysis within ten (10) days to the review agencies and any local governments that has filed a written request. The transmitted document shall clearly indicate on the cover sheet that this plan amendment is subject to the state coordinated review process.
- (C) *Comments:* Comments from agencies and local governments reviewing the proposed amendment must be received by DEO not later than thirty (30) days from the date on which the DEO received the amendment.
- (D) *DEO Review:* If DEO elects to review an amendment, DEO shall issue a report giving its objections, recommendations, and comments regarding the proposed plan or plan amendment within 60 days after receipt of the amendment. DEO may make objections, recommendations, and comments in its report regarding whether the amendment is in compliance and whether the amendment will adversely impact important state resources and facilities.
- (E) *Second Public Hearing:* The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments. If the local government fails, within 180 days after receipt of agency comments, to hold the second public hearing, the amendments shall be deemed withdrawn unless extended by agreement with notice to DEO and any affected person that provided comments on the amendment. The 180-day limitation does not apply to DRI amendments.
- (F) *Adoption Transmittal:* All adopted Comprehensive Plan amendments, along with the supporting data and analysis, shall be transmitted within ten (10) days after the second public hearing to

the DEO and any other agency or local government that provided timely comments. DEO shall notify the local government of any deficiencies within five (5) working days after receipt of an amendment package. For purposes of completeness, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with strike-thru/underline changes; in the case of a Future Land Use Map amendment, a color copy of the Future Land Use Map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

(G) *Notice of Intent:* After DEO makes a determination of completeness regarding the adopted plan or plan amendment, DEO shall have 45 days to determine if the plan or plan amendment is in compliance. Unless the amendment is substantially changed from the one commented on, DEO's compliance determination shall be limited to objections raised in the objections, recommendations, and comments report. During the 45 days, DEO shall issue, through a senior administrator or the secretary, a notice of intent to find that the amendment is in compliance or not in compliance. DEO shall post a copy of the notice of intent on the agency's Internet website. Publication by DEO of the notice of intent on DEO's Internet site shall be prima facie evidence of compliance with the publication requirements of Florida Statutes.

(H) *Effective Date:* An amendment adopted under the State Coordinated Review Process shall go into effect pursuant to DEO's notice of intent. If timely challenged, an amendment does not become effective until DEO or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

8.07.03 Small-Scale Plan Amendments Exempt from DEO Review (consistent with F.S. 163.3184 and 163.3187)

Plan amendments that are defined as Small Scale Amendments (outside of the Green Swamp Area of Critical State Concern) do not have to be submitted to DEO for review. The amendment is adopted by ordinance and sent to DEO, state review partners, and the Central Florida Regional Planning Council. DEO will not issue a Notice of Intent for the small-scale amendment.

(A) *Definition.* Small Scale Plan Amendments are defined by Florida Statute as:

(1) Encompassing the use of 50 or fewer acres of any land use category; and

(2) Does not include any text change to the Comprehensive Plan's goals, objectives, and policies;

(3) Is not located within an area of critical state concern; and

(B) Reviewing Board. Proposed Small-Scale Plan Amendments are heard by the Planning Commission and are recommended to the City Commission by the Planning Commission. Then the amendments are heard at one Public Hearing before the City Commission and adopted by Ordinance. The amendments become law after the waiting period for the ordinance has expired, which is 31 days after adoption.

(C) Public Notice Requirements. The public notice required for the amendment is:

(1) A newspaper notice; and

(2) The City must mail the owners of the property notice; and

(3) There are no size requirements for the newspaper advertisement; and

(4) Notice must be given of: the date, place, and time of the meeting; the title of the proposed ordinance; the location where the proposed ordinance can be inspected by the public; and that interested parties can appear and be heard.

(D) Challenges. Challenges will be heard by the Division of Administrative Hearings. Any affected person may file a petition with the Division of Administrative Hearings to challenge the small-scale development amendment within 30 days following the local government's adoption of the amendment per Florida Statute Section 163.3184(5). An administrative law judge shall hold a hearing in the affected jurisdiction not less than 30 days nor more than 60 days following the filing of a petition and the assignment of an administrative law judge. The parties to a hearing held pursuant to this subsection shall be the petitioner, the local government, and any intervener. In the proceeding, the plan amendment shall be determined to be in compliance if the local government's determination that the small-scale development amendment is in compliance is fairly debatable. DEO may not intervene in any proceeding initiated pursuant to this section.

If the administrative law judge recommends that the small-scale development amendment be found not in compliance, the administrative

law judge shall submit the recommended order to the Administration Commission for final agency action. If the administrative law judge recommends that the small-scale development amendment be found in compliance, the administrative law judge shall submit the recommended order to DEO.

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 5. 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 6. 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 7. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage.

INTRODUCED AND PASSED on FIRST READING, this 15th **day of** November, 2021.

POLK CITY, FLORIDA



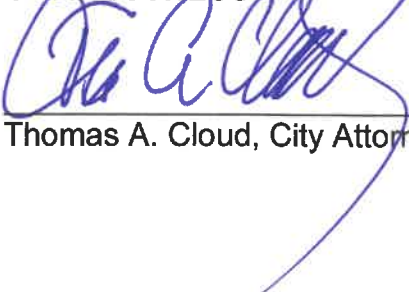
Joe LaCascia, Mayor

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 20th day of December, 2021.



Joe LaCascia, Mayor

ATTEST: 

Patricia Jackson, City Manager/City Clerk