

**ORDINANCE NO. 2026-\_\_\_\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, ESTABLISHING A PROHIBITION ON UNAUTHORIZED SIGNS IN THE RIGHT-OF-WAY; PROVIDING FOR FINDINGS OF FACT AND LEGISLATIVE INTENT; PROVIDING FOR DEFINITIONS; ESTABLISHING A MECHANISM UTILIZING IMMEDIATE FINES FOR PLACEMENT AND COST RECOVERY FOR REMOVAL; ESTABLISHING A PRESUMPTION OF LIABILITY FOR BENEFICIAL USERS; PROVIDING FOR THE IMPOSITION OF COSTS AND FINES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Polk County (the "Board") finds that the unauthorized placement of signs within the public rights-of-way creates visual blight, distracts motorists, obstructs sight lines, hinders maintenance operations, and constitutes a significant threat to the public health, safety, and welfare; and

**WHEREAS**, the Board finds that the traditional code enforcement process, which requires a "reasonable time to cure" before fines accrue, is ineffective against the transient and pervasive nature of illegal right-of-way signage; and

**WHEREAS**, the Board desires to implement a hybrid enforcement model that penalizes the act of placement immediately while simultaneously providing a procedural mechanism for the removal of the sign and the recovery of costs incurred by the County; and

**WHEREAS**, the Board finds that Polk County has established successful procedures for the abatement of nuisances and the recovery of costs through the imposition of liens; and

**WHEREAS**, the Board finds that evidence that a sign directs attention to a business, commodity, service, event, or person shall constitute a rebuttable presumption that such business, commodity, service, event, or person is the Beneficial User and is responsible for the placement of the sign.

**WHEREAS**, the Board intends to ensure that the persons or entities deriving economic benefit from illegal signage are held accountable for the fines and removal costs associated with said signs.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:**

**SECTION 1: TITLE**

This Ordinance shall be known and may be cited as the "Polk County Right-of-Way Sign Enforcement Ordinance."

**SECTION 2: DEFINITIONS**

For the purposes of this Ordinance, the following terms shall have the meanings set forth below:

**Banner Sign:** A sign having the characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind, with only such material for backing.

**Beneficial User:** Any person, business, entity, or organization whose name, product, service, event, or contact information (including telephone numbers, website addresses, or QR codes) is displayed on a sign, or who derives or is reasonably presumed to derive a commercial, economic, or communicative benefit from the existence of the sign.

**Feather Sign (or Flutter Flag):** A freestanding sign typically constructed of a single shaft driven into the ground or supported by a portable base or stand with an attached pennant that is vertically elongated and shaped like a feather, tear drop, or blade.

**Flag Sign:** Any fabric or flexible material attached to or designed to be flown from a flagpole or similar device.

**Posting:** The physical notice, tag, sticker, or copy of a Notice of Violation that is affixed to an Unauthorized Sign.

**Right-of-Way:** Land in which the County owns the fee or has an easement devoted to or required for use as a transportation facility, including the roadway, shoulders, swales, and sidewalks.

**Sign:** Any display, fixture, placard, structure, or advertising device that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity. This definition explicitly includes, but is not limited to, Banner Signs, Feather Signs, Flag Signs, and signs constructed of rigid or semi-rigid materials, including but not limited to pressure-treated wood, aluminum, heavy-gauge PVC, or composite materials. Such signs are typically anchored to the ground using concrete, post-hole digging, or heavy driven stakes. This definition specifically excludes lightweight "snipe signs" constructed of corrugated plastic, card stock, or paper that are no larger than 9 square feet and are supported by wire H-frames or single wooden stakes less than 0.5 inches in diameter. Nothing in this definition or ordinance shall authorize the placement of the excluded signs (snipe signs) in County right-of-way. The excluded signs may be removed, without regard to the exclusion in this ordinance, through separate County processes.

**Special Magistrate:** The Polk County Code Enforcement Special Magistrate.

**Unauthorized Sign:** Any sign placed within the County right-of-way that has not been issued a valid Right-of-Way Use Permit by Polk County.

### **SECTION 3: PROHIBITIONS**

1. It shall be unlawful for any person to place, erect, or maintain any Unauthorized Sign within a County right-of-way.

2. Any Unauthorized Sign placed in the right-of-way is hereby declared to be a public nuisance and a serious threat to public health, safety, and welfare.
3. Each Unauthorized Sign placed, erected, or maintained in violation of this Ordinance shall constitute a separate and distinct violation.
4. Each day that a violation continues to exist shall constitute a separate offense.

#### **SECTION 4: IMMEDIATE FINE FOR PLACEMENT**

1. Citation/Fine Procedure:
  - a. Upon identifying an Unauthorized Sign, a Code Enforcement Officer shall issue a Notice of Violation/Citation (“Notice”) directly to the Beneficial User via certified mail. For Beneficial Users that are business entities, corporations, or limited liability companies, notice shall be mailed via certified mail to the Registered Agent at the address listed with the Florida Division of Corporations (Sunbiz). The Notice shall state that the Beneficial User has thirty (30) days from the date of the Notice to either pay the fine to the Board of County Commissioners or file a written request for a hearing before the Special Magistrate to contest the citation. Additionally, the Notice shall state:
    - i. Beneficial User has seven (7) days from the date of the Posting to remove the sign, and that failure to do so will result in removal by the County and the imposition of all removal costs against the Beneficial User.
    - ii. Failure to pay the fine or request a hearing within the thirty (30) day period shall constitute a waiver of the Beneficial User's right to contest the citation and an admission of the violation.
  - b. The Fine set forth in the schedule below is imposed immediately upon issuance of the Notice.
  - c. The total Fine imposed shall be calculated by multiplying the number of Unauthorized Signs identified by the applicable Fine Rate set forth in the schedule below.
  - d. The Posting affixed to the sign shall serve as valid secondary notice for the purposes of the Fine. In the event the certified mail required by Subsection (a) is returned as unclaimed, refused, or unsigned, the Posting shall constitute sufficient legal service.
  - e. Fine Schedule: The Fine for placing an Unauthorized Sign in the Right-of-Way shall be \$250.00 per sign.

#### **SECTION 5: REMOVAL AND COST RECOVERY**

In addition to the Fine imposed in Section 4, the County shall pursue removal and cost recovery as follows:

1. Posting and Notice:
  - a. Simultaneously with the issuance of the Citation in Section 4, the Code Enforcement Officer shall affix a physical notice ("Posting") to the Unauthorized Sign. This Posting may be a copy of the Notice of Violation or a separate removal notice.
  - b. For purposes of the Removal and Cost Recovery process, the affixing of the Posting to the sign shall constitute official legal notice. The Beneficial User shall have seven (7) calendar days ("Cure Period") from the date the Posting is affixed to the Unauthorized Sign to remove the sign from the right-of-way. The seven (7) day Cure Period shall commence immediately upon the posting of the Posting, regardless of the delivery status of the Certified Mail required in Section 4.
  - c. The timeline for the Fine (Section 4) and the timeline for Removal (Section 5) run independently. A delay or failure in the delivery of the Certified Mail shall not stay, toll, or invalidate the County's authority to remove the sign after the expiration of the seven (7) day Cure Period initiated by the Posting.
2. If the sign is not removed from the right-of-way within the seven (7) day Cure Period, the County is authorized to enter the right-of-way, remove the sign, and dispose of it. The sign shall be deemed abandoned property and all ownership rights in the materials shall be forfeited to the County for disposal.
3. Assessment of Costs:
  - a. The Beneficial User shall be liable for all costs incurred for the removal of each and every Unauthorized Sign, including labor, equipment usage, disposal fees, and administrative costs.
  - b. Upon removal, the County shall calculate all costs incurred, including labor, equipment, disposal fees, and administrative costs.
  - c. The County shall invoice the Beneficial User for all actual Costs incurred. The invoice shall state that the Beneficial User has thirty (30) days from the date of the invoice to request a hearing before the Special Magistrate to pay or contest the Costs.

#### **SECTION 6: HEARINGS AND APPEALS**

1. The Beneficial User may contest the Fine or Costs by filing a written request for a hearing with the Polk County Code Enforcement office as provided for in the Notice and/or Invoice. This

request must be filed within thirty (30) calendar days of the date of the Notice (for the citation or demand for removal) or Invoice (for the cost of removal).

2. Failure to pay the Fine and/or Costs or file a written request for a hearing within the thirty (30) day period shall constitute a waiver of the Beneficial User's right to contest the violation and an admission of liability.
3. Hearing Procedures and Prosecution Costs:
  - a. If a hearing is requested by the Beneficial User and the Special Magistrate finds that a violation occurred, the Magistrate shall impose the applicable Fine set forth in Section 4, plus the County's costs of prosecuting the violation.
  - b. If the hearing concerns the Costs, the scope of the hearing shall be limited to determining if the Costs submitted by the County are the actual costs incurred. The Special Magistrate shall not have the authority to reduce or waive actual Costs incurred by the County for the removal.
4. An aggrieved party, including the local governing body, may appeal a final administrative order of the Special Magistrate to the Circuit Court, pursuant to Section 162.11, Florida Statutes.

#### **SECTION 7: IMPOSITION OF LIEN**

1. If the Fine or Costs remain unpaid after thirty (30) days, and no hearing has been requested, or if the Special Magistrate affirms the Fine or Costs after a hearing, a certified copy of the Order Imposing Fine or Costs shall be recorded in the Public Records of Polk County.
2. Pursuant to Section 162.09(3), Florida Statutes, the recorded Order shall constitute a lien upon any other real or personal property owned by the Beneficial User. Such lien shall be enforceable in the same manner as a court judgment.

#### **SECTION 8: SEVERABILITY.**

If any provision of this Ordinance or its application is determined to be invalid or unconstitutional by a court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

#### **SECTION 9: EFFECTIVE DATE**

This Ordinance shall become effective upon filing with the Department of State.