

ORDINANCE NO. 2023-

**AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS
LIMITING CODE ENFORCEMENT AND/OR BUILDING DIVISION ACTION FOR CERTAIN
UNPERMITTED ADDITIONS, REMODELS, AND SHEDS ON OWNER OCCUPIED,
RESIDENTIAL PROPERTY; PROVIDING FOR INTERPRETATION; PROVIDING FOR
SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, Polk County has an important interest in ensuring that property rights are protected; and

WHEREAS, Polk County, in accordance with the Florida Building Code, requires that an addition(s), remodel(s), and/or shed(s) be permitted and inspected as part of the original construction process; and

WHEREAS, because Polk County has limited resources to review and inspect an addition(s), remodel(s), and/or shed(s) the additional difficulty created by ensuring an unpermitted addition(s), remodel(s), and/or shed(s), which is six (6) years old or greater at the time of review by Polk County complies with all applicable building codes is a substantial issue; and

WHEREAS, Section 553.79(17)(c), Florida Building Code uses six (6) years as benchmark for when the permitting process can no longer be reliably completed.

NOW THEREFORE, in order to efficiently manage Polk County's limited resources, it is the intent of the Polk County Board of County Commissioners, in enacting this ordinance, to limit Code Enforcement and/or Building Division action against property owners of owner occupied, residential property for an unpermitted addition(s), remodel(s), and/or shed(s) when the unpermitted addition(s), remodel(s), and/or shed(s) is six (6) years old or greater, at the time of review, within unincorporated Polk County.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA THAT:

Section 1. DEFINITIONS. The following words and phrases, whenever used in this section or in the affidavit shall have the meanings defined in this section unless the context clearly requires otherwise:

- a. "Addition" means any walled and roofed expansion to the perimeter of a building and in which the addition is connected by a common load bearing wall other than a fire wall.
- b. "Remodel" means any change to the design and/or appearance of a building, part of a building, or a building component, including but not limited to structural, electrical, plumbing, mechanical and/or other changes that would otherwise require a building permit.
- c. "Shed" means any building or structure of an accessory character, which is freestanding and used as a storage space.
- d. "Original construction" means the initial construction process that generates an onsite addition, remodel, and/or shed.
- e. "Unpermitted" means no active permit exists with the Polk County Building Division.
- f. "Property Owner" or "Owner" means one or more individuals who have an ownership interest in property by way of an ownership document including but not limited to, a Warranty Deed, Quit Claim Deed, Agreement for Deed, Deed of Trust (where the trustee or the beneficiary resides on the property), or as otherwise provided by law.

Section 2. INTERPRETATION.

It is the intent of this Ordinance to provide a process for a property owner(s) of owner occupied, residential property to cure violations for building an addition(s), remodel(s) and/or shed(s) without a permit when the addition(s), remodel(s) and/or shed(s) occurred six (6) years or more prior to the Code Enforcement or Building Division action.

Section 3. REVIEW RESTRICTIONS.

The review of an unpermitted addition(s), remodel(s), and/or shed(s) is limited to the minimum necessary to ensure compliance with this Ordinance, within unincorporated Polk County.

Section 4. PROCESS TO CURE BUILDING WITHOUT A PERMIT.

To cure a Code Enforcement and/or Building Division action for building an addition(s), remodel(s), and/or shed(s) without a permit, upon being made aware of an unpermitted addition(s), remodel(s), and/or shed(s), any of which are six (6) years old or greater at the time the Code Enforcement case is opened and which the property owner(s) does not intend to make changes to that would otherwise require a building permit, the property owner(s) of owner occupied, residential property must complete the attached affidavit and must record the attached affidavit in the public records of Polk County. Upon the recording of the affidavit, the Code Enforcement and/or Building Division must close-out any actions as compliant for building without a permit.

The process provided herein shall only cure violations of building without a permit on owner occupied, residential property and the Code Enforcement and/or Building Division may move forward with other violations of county code, regulations, or ordinances.

Section 6. STATUTORY CONSTRUCTION & SEVERABILITY.

If any section, subsection or provision of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections or provisions of this ordinance or its application to any other person or circumstance. The Board of County Commissioners hereby declares that it would have adopted each section, subsection, or provision hereof independently, irrespective of the fact that any one or more other sections, subsections or provisions hereof be declared invalid or unenforceable.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect immediately upon filing with the Office of the Florida Secretary of State.

Affidavit

Unpermitted Construction (Addition(s), Remodel(s), and/or Shed(s))

I, _____, after being placed under oath, do swear, or affirm the following:

1. I am the property owner of the property located at: (address) _____ (hereinafter "Property") and the Property is my primary residence.
2. I understand that an addition(s), remodel(s), and/or shed(s) (hereinafter "Construction") requires a permit as part of the original construction process.
3. To the best of my knowledge, no building permit was obtained for the following Construction: (describe the unpermitted Construction) _____
4. To the best of my knowledge, the unpermitted Construction is six (6) years old or greater.
5. I understand that Polk County's inability to adequately inspect the unpermitted Construction does not mean that the unpermitted Construction is safe or that it complies with all applicable laws, ordinances, building codes, and zoning regulations.
6. I understand that, as the Property owner, I am certifying that the unpermitted Construction has no apparent safety hazards.
7. I understand that I may personally inspect the unpermitted Construction or if I deem it necessary, I may hire a licensed professional to verify that the unpermitted Construction complies with all applicable laws, ordinances, building codes, zoning regulations in effect at the time of the unpermitted Construction before I attest that the unpermitted Construction has no apparent safety hazards.
8. I understand that, as the Property owner, I am the responsible party for any potential risks (physical/financial) associated with the unpermitted Construction on my Property.
9. I understand that falsifying this affidavit may result in in fines up to \$15,000, per occurrence.

After reviewing paragraphs 1-9, I hereby certify that I have personally inspected the unpermitted Construction or, if I deem it necessary, I have hired a licensed professional to verify that the unpermitted Construction complies with all applicable laws, ordinances, building codes, zoning regulations. Based on these activities I hereby certify that no apparent safety hazards exist related to the unpermitted Construction.

Signature: (signature of property owner)

Date: (date)

STATE OF FLORIDA COUNTY OF POLK

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 20__, by _____, who is personally known to me or has produced _____ as identification.

(AFFIX NOTARY SEAL)

Notary Public

My Commission Expires _____

Print Name _____

*To resolve Polk County Code Enforcement and Building Division compliance issues, this Affidavit must be completed, recorded in the Public Records of Polk County, and submitted to the Polk County Code Enforcement Division. *