

ORDINANCE NO. 2024-_____

**AN ORDINANCE OF THE POLK COUNTY BOARD OF COUNTY COMMISSIONERS
LIMITING CODE ENFORCEMENT AND/OR BUILDING DIVISION ACTION FOR
CERTAIN CONSTRUCTION ON PROPERTY IN UNRECORDED SUBDIVISIONS;
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 construction be permitted and inspected as part of the original construction process; and

WHEREAS, Polk County has limited resources to review and inspect construction in unrecorded subdivisions with a history of unpermitted construction; and

WHEREAS, The difficulty created by ensuring construction, completed in these unrecorded subdivisions, comply with all applicable county codes, regulations, and ordinances is a substantial issue;

NOW THEREFORE, 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 owners for unpermitted Construction, completed before June 1, 2024, in unrecorded subdivisions designated by Resolution of the Board of County Commissioners, with a history of unpermitted construction, 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. "Board" means the Polk County Board of County Commissioners
- b. "Construction" means any activity, whether temporary or permanent, that requires a building permit.
- c. "Original construction" means the initial construction process that generate the onsite Construction.
- d. "Owner" means one or more individuals who have an ownership interest in property or structure 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), through the construction of a structure on the property, or as otherwise provided by law,

- e. "Unpermitted" means no active permit exists with the Polk County Building Division.
- f. "Unrecorded subdivision" (a/k/a "Paper Plat") means an area designated by the Board, through resolution, consisting of real property that the Board finds has at least a twenty (20) year history of unpermitted construction; subdivided into fifty or more lots of less than five acres each; not under common ownership; not platted in accordance with Chapter 177; containing unmarked, unsterilized and/or unmaintained lots, roadways, trails, pathways, or easements; and with no material improvements to the property. Roadways, trails, or pathways that are not located within a recorded easement, that have arisen by the passage of time by the use of motorized vehicles without the incorporation of stabilizing materials or the use of grading equipment, shall not be deemed a material improvement for purposes of this part.

Section 2. INTERPRETATION.

It is the intent of this Ordinance to provide a process for owners with unpermitted Construction, completed prior to June 1, 2024, in unrecorded subdivisions designated by Resolution of the Board of County Commissioners, to cure Code Enforcement or Building Division violations for building without a permit.

Section 3. REVIEW RESTRICTIONS.

The review of unpermitted Construction, completed before June 1, 2024, in an unrecorded subdivision 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 unpermitted Construction, completed before June 1, 2024, in an unrecorded subdivision designated by Resolution of the Board of County Commissioners, upon being made aware of the unpermitted Construction, which the owner does not intend to make changes to that would otherwise require a building permit or other approval from Polk County, the owner 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 any actions for building without a permit, as compliant, unless there is evidence the structure was constructed on or after June 1, 2024.

The process provided herein shall only cure violations of County codes or ordinances for the unpermitted Construction, completed before June 1, 2024, in an unrecorded subdivision designated by Resolution of the Board of County Commissioners. Nothing herein shall remedy violations of state or federal laws or regulations.

Section 5. LOCAL, STATE, OR FEDERAL FLOODPLAIN MANAGEMENT REGULATIONS

Nothing herein shall supersede code provisions implementing local, state, or federal floodplain management regulations.

Section 6. NO WARRANTIES OR INSURANCES

An adoption of a resolution establishing an unrecorded subdivision provides no warranties or insurances that the Construction located within the unrecorded subdivision is safe or that the Construction complies with any applicable laws, ordinances, building codes, fire codes, zoning regulations or any safety codes whatsoever.

Section 7. 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 8. EFFECTIVE DATE

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