

**ORDINANCE NO. 2023-**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, ESTABLISHING A HISTORIC PRESERVATION PROGRAM; RECOGNIZING THE POLK COUNTY HISTORICAL COMMISSION AS THE HISTORICAL RESOURCES ADVISORY BOARD; CREATING A LOCAL DATABASE OF HISTORIC PLACES; ESTABLISHING CRITERIA, STRUCTURES AND DISTRICTS; REGULATING CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION OF HISTORIC SITES; PROVIDING FOR APPLICABILITY; PROVIDING FOR MODIFICATION THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Board of County Commissioners of Polk County, Florida, has recognized the need for the continued use of the Polk County Historical Commission to collect and preserve historical materials relating to the history of Polk County and Florida, as set forth in the Laws of Florida, Chapter 2011-250.; and

**WHEREAS**, the Polk County Historical Commission has maintained its commitment to develop a partnership between Federal, State, and local governments to identify, evaluate, and protect historic properties; and

**WHEREAS**, the Polk County Historical Commission has continued to work towards approval as a Certified Local Government, which would improve the eligibility of Polk County for State historical preservation grants, and

**WHEREAS**, a Historical Preservation Ordinance is desired to assist with the County's eligibility as a Certified Local Government with the State;

**NOW, THEREFORE**, be it resolved by the Board of County Commissioners of Polk County, Florida, that:

**SECTION 1. APPLICABILITY, INTENT AND PURPOSE.**

- A. It is hereby declared a matter of public policy that the protection, enhancement, perpetuation and use of improvements or sites of special character or special architectural, archaeological, or historic interest or value is in the interest and general welfare of the public.
- B. Applicability. This ordinance shall apply to the unincorporated areas of Polk County, Florida.
- C. The purpose of this Ordinance is to:
  - 1. Effect and accomplish the protection, enhancement and preservation of such improvements, sites and districts which represent or reflect elements of the County's cultural, social, economic, political and architectural history;
  - 2. Safeguard the County's historic, prehistoric and cultural heritage, as

embodied and reflected in such historic structures, sites and districts;

3. Protect and enhance the County's attraction to residents, tourists, and visitors, and serve as a support and stimulus to business and industry.

## **SECTION 2. DEFINITIONS.**

**"Advisory Board"** means the Polk County Historical Commission sitting as the Historical Resources Advisory Board.

**"Applicant"** means the property owner of record who makes application for a nomination for a certificate of appropriateness.

**"Certificate of Appropriateness"** means the certificate issued by the Historical Resources Advisory Board approving alteration, rehabilitation, construction, reconstruction or demolition of a Historic Structure, Historic Site, or any Improvement in a Historic District according to the guidelines referenced in Section 7.

**"Certified Local Government"** means designated local government meeting the requirements of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470, which extends some aspects of the federal and state responsibilities for historic preservation to qualified local governments. Under the program, local governments are certified to review and make recommendations to the Florida National Register Review Board concerning nominations to the National Register of Historic Places of properties located within the confines of their local jurisdictions.

**"Board of County Commissioners"** means the Polk County Board of County Commissioners.

**"County"** means Polk County, a political subdivision of the State of Florida.

**"Historic District"** means an area designated by the Board of County Commissioners upon recommendation of the advisory board, which contains two or more historic improvements or sites.

**"Historic Resources"** means any prehistoric or historic district, site, building, structure, object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource,

**"Historic Resources Database"** means the compilation of data gathered on historical and archaeological sites in Polk County, Florida.

**"Historic Site"** means any parcel of land of historic significance due to a substantial value in tracing the history or prehistory of man, or upon which a historic event has occurred and which has been designated as a Historic Site under this section, or an Improvement parcel, or part thereof, on which is situated a Historic Structure and any abutting Improvement parcel, or part thereof, used as and constituting part of the premises on which the Historic Structure is situated.

**"Historic Structure"** means any improvement which has a special character or special historic

interest or value as part of the development, heritage or cultural characteristics of the county, state, or nation and which has been designated as a historic structure pursuant to the provisions of this Ordinance.

**"Improvement"** means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment, including streets, alleys, sidewalks, curbs, lighting fixtures, signs, and the like.

### **SECTION 3. HISTORICAL RESOURCES ADVISORY BOARD.**

**Establishment.** The Polk County Historical Commission ("Historical Commission") is hereby established as the Historical Resources Advisory Board ("Advisory Board"). The Advisory Board is vested with the power, authority, and jurisdiction to review and make recommendations to the Board of County Commissioners on matters related to the designation, regulation, and administration of cultural, architectural, and historical resources in the County, as prescribed by this Ordinance, under the direct jurisdiction and control of the Board of County Commissioners. The Advisory Board will comply with the Bylaws and Policy of the Historical Commission, particularly referencing (1) membership; (2) terms and vacancies of members; (3) officers; (4) chairperson; and (5) vice-chairperson.

**Composition.** The Advisory Board will consist of all nine (9) members of the Historical Commission appointed by the Board of County Commissioners. To the extent available in the community, the Board shall appoint professional members from the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, landscape architecture or related disciplines.

**Vacancies.** Vacancies will be filled within 60 days according to Florida Statute, Chapter 2011-250, Section 2 governing the Polk County Historical Commission and further detailed in the Polk County Historical Commission By-laws.

**Meetings.** Advisory Board meetings will be held according to Florida Statute, Chapter 2011-250, Section 5 governing the Polk County Historical Commission.

**Duties.** The Advisory Board will review and recommend designation of Historic Structures, Historic Sites and Historic Districts within unincorporated Polk County. Each Advisory Board member will attend at least one (1) State Historic Preservation Office training program. The Advisory Board members will also participate in survey and planning activities of Polk County upon the County's recognition as a Certified Local Government. Such recommendations will be made based on the criteria set forth in this Ordinance. Once designated by the Board of County Commissioners, such Historical Structures, Sites, and Districts will be subject to all the provisions of this Ordinance. The Board of County Commissioners will assign staff members and/or outside consultants, as appropriate, to provide assistance with the conduct of these duties.

**SECTION 4. LOCAL DATABASE OF HISTORIC RESOURCES.** A local database of historic resources is hereby created as a means of identifying and classifying various sites, buildings, structures, or districts as historic and/or architecturally significant. The local database will be compatible with the Florida Master Site File to ensure that the data produced can be integrated

into the statewide comprehensive historic preservation planning process and should include at a minimum a completed Florida Master Site File form with an assigned Florida Master Site File number. The local database will be made available to the public through the County's website.

## **SECTION 5. HISTORIC SITE, STRUCTURE AND DISTRICT DESIGNATION CRITERIA**

- A. For purposes of this Ordinance the criteria for designation of historic resources as a historic structure, historic site, or historic district shall be based on and consistent with the criteria for evaluation as listed in the National Historic Preservation Act of 1966, as amended, 16 U.S.C 470 *et seq.* and E.O. 11593.
- B. For purposes of this Ordinance, a Historic Structure, Historic Site or Historic District designation may be placed on any site, natural or improved, including any building, improvement or structure located thereon, or any area of historic, archeological, or cultural significance to the county which:
1. Exemplify or reflect the broad cultural, political, economic, or social history of the nation, state, or community; or
  2. Are identified with historic personages or with important events in national, state, or local history; or
  3. Embody the distinguishing characteristics of an architectural type or specimen inherently valuable for a study of a period, style, method of construction, or of indigenous materials or craftsmanship; or
  4. Are representative of the notable work of a master builder, designer or architect who influenced his age; or
  5. Have yielded, or may be likely to yield, information important to prehistory or history.
- C. Properties Generally Not Considered. Cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years are not considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria of if they fall within the following categories:
1. A religious property deriving primary significance from architectural or artistic distinction or historical importance, or
  2. A building or structure removed from its original location, but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
  3. A birthplace or grave of a historical figure of outstanding importance if there is not appropriate site or building directly associated with his productive life.
  4. A cemetery which derives its primary significance from graves of person of transcendent importance, from age, from distinctive design features, or from association with historic events; or

5. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
  6. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
  7. A property achieving significance within the past 50 year if it is of exceptional importance.
- D. The Advisory Board will recommend, for the approval by the Board of County Commissioners, specific operating guidelines for Historic Structure, Historic Site and Historic District designation providing such are in conformance with the provisions of this Ordinance.
- E. The Advisory Board will review and provide recommendations for any nominations of properties and districts to the National Register of Historic Places.

## **SECTION 6. HISTORIC SITE, STRUCTURE, AND DISTRICT DESIGNATION AND REMOVAL OF DESIGNATION PROCEDURES**

- A. Eligible Applicants. Applications for historic designation will be initiated by only the following:
1. Property owner(s) of the affected property.
  2. The Advisory Board or the Board of County Commissioners, but only upon consent of the property owner.
  3. A majority of property owners within a proposed Historic District under consideration for designation; but only for properties where the property owners have consented.
- B. Completed Application. An application is considered complete when:
1. An applicant or property owner submits a written statement of the historical, cultural, architectural, archaeological, or other significance of the building, structure, or site, with supporting evidence.
- C. Advisory Board Agenda. Following staff determination that an application for designation is complete; the application shall be scheduled for a public hearing by the Advisory Board.
- D. Designation of Historic Structures and Historic Sites
1. Review and Adoption Procedure
    - a. Advisory Board. The Advisory Board may, after notice and public hearing, recommend certain properties be designated as Historic Structures or Historic Sites. At least ten (10) days prior to such hearing, the Advisory Board shall notify the owners of record, as listed in the office of the Property Appraiser, who are owners of property in whole or in part within five hundred (500) feet of the boundaries of the property affected. Following the public hearing, the Advisory Board shall vote to recommend approval or denial of

the proposed designation by the Board of County Commissioners.

- b. Board of County Commissioners. After receiving the recommendation, the Board of County Commissioners shall hold a public hearing, notice to be given as outlined in Florida Statutes, and shall, following the public hearing, approve or deny the designation of the Historic Structure or Historic Site.

#### **E. REMOVAL OF DESIGNATION**

1. The removal of historic designation may be initiated in one of three ways: (a) by written request of the property owner; (b) by majority vote of the Advisory Board; or (c) at the request of the Board of County Commissioners.
2. Removal of designation by owner. The owner must file a written request for removal of designation or change in status. The request must state with specificity the reason for the request and include sufficient information to support investigation of the property in response to the request.
3. Advisory Board Agenda. Following a request for removal of designation, the request shall be scheduled for a public hearing by the Advisory Board.
4. At the conclusion of the public hearing, the Advisory Board shall vote to recommend approval or denial of the request for removal of historic designation to the Board of County Commissioners.
5. Board of County Commissioners. After receiving the recommendation, the Board of County Commissioners shall hold a public hearing, notice to be given as outlined in Florida Statutes, and shall, following the public hearing, approve or deny the removal of the designation of the Historic Structure or Historic Site.
6. Appeal. Any person aggrieved by a decision rendered by the Board of County Commissioners may appeal the decision to Circuit Court within thirty (30) days from the date a written decision by the Board of County Commissioners is rendered.

#### **F. CREATION OF HISTORIC DISTRICT.**

1. Historic Preservation Plan. Along with a complete application supported by a majority of property owners within a proposed Historic District, the property owners shall prepare a historic preservation plan for the proposed District. Each historic preservation plan shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development, a statement of preservation objectives and an exemption for those property owners within the proposed Historic District that are opposed to such designation.
2. Review and Adoption Procedure.
  - a. Historical Resources Advisory Board. The Advisory Board may, after notice and public hearing, recommend select geographically defined areas within the

County be designated as Historic Districts. At least ten (10) days prior to such hearing, the Advisory Board shall notify the owners of record, as listed in the office of the Property Appraiser, who are owners of the property within the proposed Historic District or are situated in whole or in part within five hundred (500) feet of the boundaries of the proposed Historic District. Following the public hearing, the Advisory Board shall vote to recommend approval or denial of the proposed designation by the Board of County Commissioners.

- b. Board of County Commissioners. After receiving the recommendation, the Board of County Commissioners shall hold a public hearing, notice to be given as noted in subparagraph a. above and shall, following the public hearing, designate or reject the Historic District. Designation of the Historic District shall constitute adoption of the plan prepared for the District and direct the implementation of said plan.
3. Appeal. Any person aggrieved by a decision rendered by the Board of County Commissioners may appeal the decision of Circuit Court within thirty (30) days from the date a written decision by the Board of County Commissioners is rendered.

#### **G. NOMINATIONS TO THE NATIONAL REGISTER OF HISTORIC PLACES.**

1. The general public, owners of record, and applicants shall be given a minimum of thirty (30) calendar days and not more than seventy-five (75) calendar days prior notice to Advisory Board meetings in which to comment on or object to the listing of a property in the National Register of Historic Places.
2. Objections to being listed in the National Register of Historic Places by property owners must be notarized and filed with the State Historic Preservation Officer. Within thirty (30) days after its meeting, the Advisory Board shall forward to the State Historic Preservation Officer its recommendation on the nomination. The owner and the applicant shall be notified of the Advisory Board's action.

**SECTION 7. REGULATION OF CONSTRUCTION, RECONSTRUCTION, ALTERATION AND DEMOLITION OF HISTORIC SITES OR STRUCTURES.** The Advisory Board will use and which are hereby adopted by reference, the U.S. Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67 (1983), as such standards may be amended, renumbered or replaced, for the issuance of a Certificate of Appropriateness.

- A. No owner or person in charge of a Historic Structure, Historic Site of structure within a Historic District shall reconstruct, alter or demolish all or any part of the exterior of such property or construct any improvement upon such designated property or properties or cause or permit any such work to be performed upon such property or demolish such property unless a Certificate of Appropriateness has been granted by the Advisory Board.
  1. The Advisory Board may, after notice and public hearing, review applications

for a Certificate of Appropriateness. At least ten (10) days prior to such hearing, the Advisory Board shall notify the owners of record, as listed in the office of the Property Appraiser, who are owners of the property.

B. Upon filing of any application for a Certificate of Appropriateness with the Advisory Board, the Advisory Board will approve the application unless:

1. In the case of a designated Historic Structure or Historic Site, the proposed work would detrimentally change, destroy or adversely affect any exterior feature of the Improvement or site upon which said work is to be done;
2. In the case of the construction of a new Improvement upon a Historic Site, or within a Historic District, the exterior of such Improvement will adversely affect or not harmonize with the external appearance of other neighboring Improvements on such site or within the district.
3. In the case of any property located in a Historic District, the proposed construction, reconstruction, exterior alteration or demolition does not conform to the purpose and intent of this section and to the objectives and design criteria of the historic preservation plan for said district;
4. The building or structure is of such architectural or historical significance that its demolition would be detrimental to the public interest and contrary to the general welfare of the people of the county and state; or
5. In the case of a request for the demolition of a deteriorated building or structure, any economic hardship or difficulty claimed by the owner is self-created or is the result of any failure to maintain the property in good repair. The Advisory Board may issue a Certificate of Appropriateness for demolition which may contain a delayed effective date, determined by the Advisory Board, to allow time required to arrange a possible alternative to demolition for up to three (3) months. During this delay period, the Advisory Board may take such steps as it deems necessary to preserve the resource, including, but not limited to, consultation with community groups, public agencies and interested citizens or an exploration of the possibility of moving the building or structure.

C. If the Advisory Board determines that the application for a Certificate of Appropriateness and the proposed changes are consistent with the character and features of the property or district, it shall issue the Certificate of Appropriateness. The Advisory Board will make this decision within forty-five (45) days of the filing of the application.

D. The issuance of a Certificate of Appropriateness shall not relieve the applicant from obtaining other permits and approvals required by the County and/or the State of Florida.

E. Ordinary maintenance and repairs may be undertaken without a Certificate of



Appropriateness provided that the work involves repairs to existing features of a Historic Structure or Historic Site with pieces identical in appearance and provided that the work does not change the exterior appearance (including color) of the structure or site.

- F. Should the Advisory Board deny the issuance of a Certificate of Appropriateness due to the failure of the proposal to conform to the guidelines of the U.S. Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67 (1983), as such standards may be amended, renumbered or replaced—the applicant may appeal such decision to the County Commission within thirty (30) days. In addition, if the Advisory Board fails to issue a Certificate of Appropriateness, the Advisory Board will, with the cooperation of the applicant, work with the applicant to obtain a Certificate of Appropriateness within the guidelines of this Ordinance.
- G. When a historic structure, site or district has been properly designated, the applicant may cause to be prepared and erected on such property a suitable plaque declaring that such property is a historic structure, site, or district.

## **SECTION 8. STATE HISTORIC PRESERVATION OFFICER**

The State Historic Preservation Officer will be provided within thirty (30) calendar days prior notice of all meetings of the Advisory Board. Copies of minutes, a record of attendance, and public attendance figures for each Advisory Board meeting will be provided to the State Historic Preservation Officer within thirty (30) calendar days after each meeting. The State Historic Preservation Officer will be provided with a notice of any change in Advisory Board membership or any amendment to this ordinance within thirty (30) calendar days of action. All new historic designations or alterations to existing designations will also be provided to the State Historic Preservation Officer.

Upon recognition as a Certified Local Government, an annual report will be provided by November 1<sup>st</sup> of each year covering the activities of the Advisory Board for the previous October 1<sup>st</sup> through September 30<sup>th</sup> to include:

1. Copy of the rules of Procedure
2. Copy of historic preservation ordinance
3. Resume of commission members
4. Changes to the commission
5. New local designations
6. New National Register listings
7. Review of survey and inventory activity with a description of the system used
8. Program report on each grant-assisted activity
9. Number of projects reviewed

**SECTION 9. PENALTIES FOR VIOLATION.** A County's code enforcement officer or any other person authorized to enforce county ordinances may enforce the provisions of this Ordinance.

When enforced by a code enforcement officer, the enforcement provision and procedures

contained in the Polk County Code Enforcement Special Magistrate Ordinance, as may be amended, are incorporated herein by reference and will apply. The Polk County Code Enforcement Special Magistrates are hereby authorized to impose a fine up to \$1,000 per day per violation for a first violation of this Ordinance, up to \$5,000 per day per violation for a repeat violation of this Ordinance and up to \$15,000 per violation if the Special Magistrate finds a violation of this Ordinance to be irreparable or irreversible in nature. In determining the amount of the fines for violation for this Ordinance, the Polk County Code Enforcement Special Magistrate shall consider: 1) the gravity of the violation; 2) any actions taken by the violator; and 3) any previous violations committed by the violator. Nothing contained herein shall prevent the County from taking such other lawful action in law and equity as may be necessary to remedy any violation of any part of this Ordinance, including but not limited to:

1. Pursuit of injunctive and/or declaratory relief in court of competent jurisdiction;  
or
2. Utilizing any other action or enforcement method permitted by law.

**SECTION 10. CODIFICATION IN THE CODE OF ORDINANCES.** It is the intention of the Polk County Board of County Commissioners, and it is hereby ordained that the provisions of this Ordinance shall become and be made part of the Polk County Code of Ordinances and that the sections of this Ordinance may be renumbered to accomplish such intent.

**SECTION 11. SEVERABILITY.** Should any section or provision of this Ordinance, or any portion thereof; or any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

**SECTION 12. EFFECTIVE DATE.** A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after its enactment by the Polk County Board of Commissioners and shall be effective upon filing with the Department of State

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