

ORDINANCE NO. 14-33

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, ESTABLISHING RULES AND REGULATIONS FOR BUILDING AND CONSTRUCTION TRADES LICENSING AND DISCIPLINE; PROVIDING FOR THE POWERS AND DUTIES OF THE MANATEE COUNTY CONSTRUCTION TRADES BOARD; PROVIDING THE BOARD'S INTENT AND PURPOSE; PROVIDING QUALIFICATIONS, ADOPTION OF RULES, COMPENSATION, AND ORDINANCE REVIEW; PROVIDING FOR VIOLATION AND GROUNDS FOR DISCIPLINARY ACTION, FINES AND PENALTIES AGAINST LICENSED CONTRACTORS; PROVIDING FOR INVESTIGATION, ENFORCEMENT, AND PRE-HEARING PROCEDURES, NOTICE TO PERSONS SUBJECT TO PROCEEDINGS, HEARINGS AND RECOMMENDATIONS AS TO FURTHER STATE ACTION AND REHEARINGS, REINSTATEMENT AND REISSUANCE OF A CERTIFICATE, AND APPEAL OF A FINAL ORDER OF THE BOARD; ADDRESSING CONFLICTS WITH OTHER ORDINANCES; PROVIDING FOR SEVERABILITY; REPEALING PRIOR RELATED RESOLUTIONS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida has recognized in Chapter 94-432, Laws of Florida, as amended, and Chapters 125, 162, and 489, Florida Statutes, that it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry, and, accordingly, has delegated to Manatee County the authority to discipline persons who violate applicable local code provisions pertaining to the activities of licensed and unlicensed contractors, including the authority to suspend and revoke their licenses and to impose monetary fines against such violators; and

WHEREAS, the Board of County Commissioners of Manatee County, Florida, has determined that a single, consolidated construction trades board should be empowered to license contractors and to discipline persons who violate this and other County ordinances pertaining to the activities of licensed contractors to the full extent provided under the aforementioned grant of authority.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Construction Trades Board Created

There is hereby created the Manatee County Construction Trades Board, hereinafter referred to as the “Board”.

Section 2. Intent and Purpose

It is the intent and purpose of the Board to promote, protect, and improve the health, safety, and welfare of the citizens of Manatee County by licensing, imposing administrative fines and other noncriminal penalties, and to provide an equitable, expeditious, effective and inexpensive method of enforcing the codes and ordinances in effect in Manatee County where a pending or repeated violation exists, including, but not limited to, violations of this Ordinance and the building, plumbing, electrical, gas or mechanical codes and violations of provisions pertaining to the activities of licensed contractors. The Construction Trades Board has effectively licensed and regulated licensed contractors since its establishment in 1994 by providing uniform and fair treatment of licensing and disciplinary actions. The adoption of this Ordinance is not intended to affect the validity of the actions by the Board or prior Manatee County Construction Licensing Boards regarding licensing and disciplinary action taken prior to the effective date of this Ordinance. One purpose of this Ordinance is to correct clerical errors and to amend a number of existing provisions to better protect the health, safety and welfare of county citizens. Another purpose is to consolidate these changes with the provisions of Ordinance 14-08 and other prior amendments to provide a single Ordinance which is easier for the Board, staff and the public to reference. It is the further intent of the Board of County

Commissioners of Manatee County that the Construction Trades Board be a local licensing Board and local construction regulation board for the purpose of Chapter 489, Florida Statutes.

Section 3. Definitions

A. “Construction” shall mean building, altering, maintaining, repairing, fabricating, handling, erecting, installing, dismantling, and servicing of structure or buildings or any parts thereof.

B. “Contractor” shall mean the person who is qualified for, and shall only be responsible for, the project contracted for and means, except as exempted in Chapter 489, Florida Statutes, the person who, for compensation, undertakes to, submits a bid to, or does himself or by others construct, repair, alter, remodel, add to, demolish, dismantle, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale and is licensed in accordance with Manatee County Ordinance 14-08 or Chapter 489, Florida Statutes.

C. “Employee” is defined as a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the F.I.C.A. and withholding tax and provides worker’s compensation, all as prescribed by law.

Section 4. Composition and Qualifications

A. The Board shall consist of a total of seven (7) members who shall be appointed by and shall serve at the pleasure of the Board of County Commissioners of Manatee County, Florida. A minimum of three (3) members shall be consumer representatives. The consumer representative may be any resident of the local jurisdiction who is not, and has never been, a member or practitioner of a profession regulated by the board or a member of any closely related profession. All members who are contractors shall have at least five (5) years experience as a

contractor and shall be licensed building trades contractors actively engaged in such work as provided in Section 4 B below. A quorum exists when four (4) members of the Board are present.

B. Members shall be composed in the manner below:

Seat 1	General Contractor
Seat 2	Commercial Swimming Pool Contractor
Seat 3	Mechanical, Electrical or Plumbing Contractor
Seat 4	State Certified or Locally Licensed Contractor in any field of construction not represented
Seat 5	Consumer Representative
Seat 6	Consumer Representative
Seat 7	Consumer Representative

The initial appointments shall be as follows:

1. Two members appointed for a term of two (2) years each.
2. Three members appointed for a term of three (3) years each.
3. Two members appointed for a term of four (4) years each.

Thereafter, all terms shall be for periods of four (4) years with all terms ending October 1st of the appropriate year. Unless four (4) years has passed since serving of the Board, no persons shall be appointed to more than two (2) four year terms, and no person who has served more than two (2) years on the Board term shall be appointed for more than one (1) additional term.

C. Any member of the Board shall continue to hold office after the expiration of his term until a successor has been appointed and confirmed.

D. Any member of the Board may be removed with or without cause by a majority vote of the Manatee County Board of County Commissioners. If any member of the Board fails to attend three (3) consecutive meetings, without cause, or without prior notice to the Chair of the Board, the Manatee County Board of County Commissioners may declare the office of the

member vacant; and the vacancy shall be filled by the Board of County Commissioners of Manatee County, Florida, for the unexpired term.

E. The Board shall have the power to:

- (1) Issue a Certificate of Competency ("Certificate") in accordance with County ordinance;
- (2) Adopt rules for the conduct of its hearings consistent with this Ordinance and the requirements of due process;
- (3) Take testimony under oath;
- (4) Issue orders having force of law to command whatever steps are necessary to bring a violation into compliance;
- (5) Give notices of hearing and conduct hearings upon charges of a violation of the provisions of this Ordinance;
- (6) Impose disciplinary penalties and revoke and suspend permitting privileges and certificates of competency against persons found by the Board in accordance with this Ordinance;
- (7) Notify the Florida Construction Industry Licensing Board ("CILB") of disciplinary action taken by the Board and make recommendations on penalties to the CILB pursuant to Section 489.131(7)(b), Florida Statutes;
- (8) Notify the Florida Electrician Contractors Licensing Board ("ECLB") of disciplinary action taken by the Board and make recommendations of penalties to the ECLB pursuant to Section 489.531(5) (b), Florida Statutes; and
- (9) Any other duties specifically authorized by ordinance of Manatee County.

F. Board hearings shall be held substantially consistent with the following:

- (1) Conduct of Meetings. All meetings shall be open to the public. The Clerk will administer oaths. The order of business shall be as follows:
 - a. Pledge of Allegiance to the Flag;
 - b. Roll Call and declaration of a quorum;
 - c. Approval of minutes of previous meeting;
 - d. Reports on cases awaiting decisions and other unfinished business;

- e. Hearing new licensing cases;
- f. Hearing new disciplinary cases;
- g. Other new business; and
- h. Reports and requests by the Building Official and staff.

(2) Conduct at Meetings.

a. Generally. The business of the Board shall be taken up in accordance with the agenda prepared for the meeting. The Chair, at the Chair's option, may take business out of order if he determines that such a change in the agenda's schedule will expedite the business of the Board.

All meetings of the Board and its committee shall be public meetings, and no business shall be transacted except in compliance with the Florida Government-In-The-Sunshine Law.

b. Public and Staff Comment. A member of County staff who addresses the Board shall first be identified for the record. Each other person who addresses the Board shall state the speaker's name, address and whether the speaker is representing a group of persons or a third party. The Chair may set reasonable time limitations on presentations to the Board and may restrict irrelevant comments.

c. Licensing Hearings.

1. The Board shall allow staff and other comments in licensing hearings as follows:

(a) Initial Presentation by Staff. County staff shall make the initial presentation to the Board regarding any item under consideration. Staff may present relevant evidence and witness testimony. The Board and the Applicant may make inquiries of staff and staff's witnesses at this time.

(b) Applicant's Presentation. After staff presentation, the Applicant shall be allowed to make a presentation to the Board. The Applicant may present relevant evidence and witness testimony. The Board and staff may make inquiries of the Applicant and the Applicant's witnesses.

(c) Comments by Others. After presentation by the Applicant, the Board may allow others to speak to the application

if such comment would be relevant to the application under consideration. At the conclusion of each person's comments, the Board, staff or the Applicant may make inquiries of the person speaking.

(d) Staff Summary and Response. After the Applicant's presentation and comment by others, if any, the staff shall be allowed an opportunity for response to the presentations by the Applicant and comment by others, if any, and a summary with any changes in position after consideration of relevant comment. Anyone who believes that the staff response includes errors of fact may ask for and may be allowed an opportunity to point out such errors of fact.

(e) Applicant's Rebuttal.

(i) After staff response, the Applicant shall be allowed an opportunity for uninterrupted rebuttal with the time limit therefor to be five (5) minutes unless otherwise set by the Board. Rebuttal shall not raise new issues or facts to the hearing.

(ii) Anyone who believes that the Rebuttal Presentation includes an error of fact may ask for and may be allowed an opportunity to point out such error of fact.

(f) Closing of Comment. The Chair shall close the hearing portion of the meeting on that item upon the conclusion of the last appropriate speaker's comments or the expiration of the allowed speaking times as set forth above. No additional comments shall be allowed, except in specific response to questions by members of the Board or if any extension of time for comments is approved as set forth above.

d. Disciplinary Hearings.

(1) The Board shall allow staff and other comments in disciplinary hearings against a licensee in the following manner:

(a) Initial Presentations by Staff. County staff shall make the initial presentation to the Board regarding any item under consideration. Staff may present relevant evidence and witness testimony. The Board and the licensee may make inquiries of staff and staff's witnesses at this time.

(b) Licensee's Presentation. After staff presentation, the licensee shall be allowed to make a presentation to the Board. The Licensee may present relevant evidence and witness testimony. The Board and staff may make inquiries of the licensee and the licensee's witnesses.

(c) Comment by Others. After presentation by the licensee, the Board may allow others to speak to the complaint if such consent would be relevant to the matter under consideration. At the conclusion of each person's comments, the Board, staff or the licensee may make inquiries of the person speaking.

(d) Staff Summary and Response. After the licensee's presentation and comments by others, if any, the staff shall be allowed an opportunity for response to the presentations by the licensee and comment by others, if any, and a summary with any changes in position after consideration of relevant comments. Anyone who believes that the staff response includes errors of fact may ask for and may be allowed an opportunity to point out such errors of fact.

(e) Licensee's Rebuttal.

(i) After staff response, the licensee shall be allowed an opportunity for uninterrupted rebuttal with the time limit therefor to be five (5) minutes unless otherwise set by the Board. Rebuttal shall not raise new issues or facts to the hearing.

(ii) Anyone who believes that the Rebuttal Presentation includes an error of fact may ask for and may be allowed an opportunity to point out such error of fact.

(f) Closing of Comment. The Chair shall close the hearing portion of the meeting on that item upon the conclusion of the last appropriate speaker's comments or the expiration of the allowed speaking times as set forth above. No additional comments shall be allowed, except in specific response to questions by members of the Board or if an extension of time for comment is approved as set forth above.

e. Other Hearings. After staff presentation, each person speaking before the Board shall be allowed a maximum of five (5) minutes to make comments regarding any matter before the Board only if the Chair allows comments on a matter not part of a public hearing. Extension of time for public

remarks may be extended upon a majority vote of the Board; however, such extension shall be established for a specific time period.

f. Workshops. If appropriate, the Board may establish time limits for persons speaking at workshops, if the Chair allows comments on the matter.

g. Termination of Presentation. At any Board proceeding, the Chair unless overruled by a majority of the Board members present, may restrict or terminate presentations or exclude evidence which, in the Chair's judgment, are frivolous, unduly repetitive or out of order.

h. Written Comments. Anyone interested in any matter under consideration by the Board shall be entitled to submit written comments for consideration by the Board. Written comments submitted shall be considered and entered into the record of the meeting in accordance with the provisions of Section VI.B. herein.

i. Decisions and Vote. Final decisions relating to applications for Certificate of Competency and to disciplinary actions brought against a licensee shall be made at a public meeting and shall be in the form of an order to be signed by the Chair.

The order shall provide findings of fact and conclusions of law, state the determination made, and shall set forth such conditions or stipulations required.

An original of the order shall remain in the file of the case, which shall be a public record. A copy of the order shall be sent to the applicant or licensee, as appropriate, by certified or registered mail, return receipt requested.

j. Voting, Number of Votes. A vote of a simple majority of the Board present shall be required to take action, provided, however that a vote of not less than a simple majority of the entire Board is required to suspend or revoke a Certificate of Competency or otherwise discipline or penalize any licensee. Each member shall vote "aye" or "nay" and silence shall be considered an "aye" vote. When a matter is brought up for a motion to approve it, and said motion fails, the status quo ante shall be maintained and the matter shall be considered denied. Such a vote shall not preclude a subsequent motion at the same meeting. A member shall have the privilege of filing with the Clerk a written explanation of his vote.

G. (1) The Record. The following documents shall automatically be included in the records of the Construction Trades Board:

a. Agenda packet or staff report; and

b. The most recent copies of resumes of County staff and County agents speaking on the matter, previously filed with the Clerk of the Circuit Court; and

c. Letters or other documents previously entered into the record at a prior Board meeting on the particular matter.

(2) Items Which Shall be Placed in the Record. Any documents, exhibits, diagrams, petitions, letters or other materials presented to the Board in support of, or in opposition to, an item to be considered by it shall be entered into the record, unless determined that the items are clearly irrelevant, immaterial, frivolous, or unduly repetitive. The Board may accept wholly or partially inadmissible items into the record, provided that members shall not consider those items or parts thereof which are inadmissible.

(3) Custodian. The Clerk of the Circuit Court shall serve as Clerk to the Construction Trades Board as it serves as Clerk to the Board, and the Clerk shall keep minutes and indexed records of all Construction Trades Board proceedings.

Section 5. Compensation

A. Members shall not be entitled to compensation; however, all members shall receive reimbursement for parking in County garages and for mileage for Board related business, except travel to and from regularly scheduled and specially called Board meeting.

Section 6. Ordinance Review

A. At such times as the Manatee County Building Department (hereinafter the "Department") submits to the Manatee County Board of County Commissioners proposed amendments to this Ordinance, the Department shall forward a copy of the proposed amendments to members of the Board for the purpose of review and comment to the Department.

Section 7. Violations and Grounds for Action Against Licensees

A. It shall be a violation of this Ordinance and grounds for disciplinary action by the Board against a locally licensed contractor to perform any of the following:

(1) Failing to obey a stop-work order of the Building Official.

(2) Knowingly giving false or forged evidence to the Board or misrepresentation of any material fact in the application for a Certificate of Competency, Certificate renewal, planning or other County approval for a permit.

(3) Failing to qualify a firm, or acting in the capacity of a contractor under the name other than the name of the Certificate holder set forth in the issued Certificate or registration.

(4) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project may be presumed abandoned after ninety (90) days if the contractor terminates the project without just cause or without proper notification to the owner, including the reason for the termination, or fails to perform work without just cause for ninety (90) consecutive days.

(5) Committing of mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

(a) Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within seventy-five (75) days after the date of such liens; or

(b) The contract has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess fund within thirty (30) days after the date the job is abandoned; or

(c) The contractor's job has been completed; and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, or was otherwise permitted by the terms of the contract between the contractor and the customer.

(6) Departing from the approved plans accompanying the application for a permit issued to the Certificate holder.

(7) Misrepresenting the requirements of this Ordinance regulating work in order to obtain or increase the scope of the work in any contract or work.

(8) Failing in any material respect to comply with the provisions of Chapter 489, Florida Statutes, or any County ordinance which directly relates to contracting.

(9) Failing to report to the Building Official, or attempting to conceal, a violation of any provision of this Ordinance.

(10) Knowingly combining and conspiring with an unlicensed person by allowing one's Certificate and any permit issued therefrom to be used by the uncertified person with the intent to evade the provisions of this Ordinance, when such person is not working under the supervision or as a regular employee of the Certificate holder. Allowing one's Certificate to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organization constitutes prima facie evidence of intent to evade the provisions of this subsection.

(11) Contracting beyond the scope of a Certificate.

(12) Proceeding and/or completing any contracting work, for which a permit is required, without first obtaining all applicable permits and inspections.

(13) Failing to list the Certificate or registration number in any advertisement, in accordance with the provisions of this Ordinance.

(14) Being convicted or found guilty or entering a plea of nolo contendere, regardless of adjudication, or a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(15) Committing fraud, deceit, negligence, incompetency, or misconduct in the practice of contracting, as further described as follows:

(a) Fraud occurs when there is an intentional perversion of the truth in order to induce someone to part with something of value.

(b) Deceit occurs when a person has imposed a false idea or belief on another in order to obscure the truth.

(c) Negligence occurs when a person has not attended to his duties or business with proper care and diligence resulting in a significant danger to life or property.

(d) Incompetency occurs when a person is not qualified, is inadequate, or is unsuitable for a particular purpose, and is unable to function properly in attempting to effectuate that purpose.

(e) Misconduct occurs when a person has intentionally done wrong or has deliberately violated a law or regulation.

(16) Knowingly disregarding or violating applicable state or local building codes or laws.

(17) Failing to mark vehicles in conformity with the provisions of Manatee County Ordinance 14-08 as amended.

(18) Falsely certifying another's qualifications in order to obtain a Certificate of Competency.

(19) Being disciplined by any municipality or county for an act or violation of any regulatory provisions which directly relate to the practice of contracting, which discipline shall be reviewed by the Board before taking any disciplinary action of its own.

(20) Filing of a voluntary petition in bankruptcy with the intention of defrauding a property owner or avoiding payment for materials furnished or labor performed.

(21) Attempting to influence a member of the Board regarding a pending disciplinary matter.

(22) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials, which indication results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers compensation and public liability insurance are provided.

(23) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the Certificate holder or registrant knows or has reasonable grounds to know that the person or entity was uncertified and unregistered.

(24) Entering into an agreement, oral or written, whereby the contractor's license number is used, or to be used, by a person who is not licensed as a contractor or used, or to be used, by a business organization that is not duly qualified by said contractor to engage in the business, or act in the capacity, of a contractor.

(25) Knowingly allowing the contractor's license number to be used by a person who is not licensed as a contractor, or to be used by a business organization that is not qualified by said contractor to engage in the business, or act in the capacity of a contractor.

(26) Applying for or obtaining a building permit for construction work unless the contractor or business duly qualified by said contractor has entered into a contract to make improvements to, or perform the contracting at, the real property specified in the application or permit. This subsection does not prohibit a contractor from applying for or obtaining a permit for the contractor to perform work for another person without compensation or to perform work on property that is owned by said contractor without entering into a contract.

(27) Failing in any material respect to comply with a rule or lawful order of the Board or court of competent jurisdiction.

(28) Intimidating, threatening, coercing, or otherwise discouraging the service of a notice to owner under Part I of Chapter 713 or a notice to contractor under Chapter 255 or Part I of Chapter 713.

(29) Failing to satisfy within a reasonable time, the terms of a civil judgment obtained against the licensee, or the business organization qualified by the licensee, relating to the practice of the licensee's profession.

B. The following shall be grounds to suspend or revoke permitting privileges against state-certified contractors:

(1) Committing fraud.

(2) Committing a willful building code violation in Manatee County.

(3) Having been found guilty in another county or municipality within the last twelve (12) months of fraud or willful building code violations if such fraud or violation would have been fraud or a violation if committed in Manatee County.

Section 8. Investigation, Enforcement, and Pre-Hearing Procedure

A. It shall be the duty of the Building Official to receive and expeditiously investigate complaints and initiate enforcement proceedings against licensed contractors to the extent that there exists probable cause to believe that such persons violated the provisions of this Ordinance relating to licensed and unlicensed contracting activities.

B. If an allegation of a violation of any portion of the Code pertaining to licensed contractors is received, the Building Official shall notify the contractor and give the contractor a reasonable amount of time to respond to the allegations and correct any violations for which probable cause exists; provided however, in the event that the activity of the contractor constitutes an immediate danger to the health, safety or welfare of the public, the Department may stop all work by said contractor. Should any violation continue beyond the time specified

for correction, the Building Official shall complete its investigation and determine whether to initiate enforcement proceeding.

C. If the Building Official finds that probable cause does not exist, the complaint and alleged violation shall be dismissed with written notice by U.S. Mail to the complainant, if any, and the contractor. If the Building Official finds that probable cause exists, the Building Official shall file a formal complaint against the licensee and shall prosecute that complaint pursuant to the provisions of this Ordinance and the rules of the Board. Notice of the filing of a formal complaint shall be provided in accordance with Section 9.

D. A hearing before the Board shall be held in accordance with Board procedures adopted pursuant to Section 10 of this Ordinance.

E. As to any state-certified contractors:

Notification of and information concerning any action taken against a state-certified contractor shall be submitted to the Florida Department of Business and Professional Regulation within fifteen (15) days after Board action.

F. As to any locally licensed contractors:

The Board shall issue a recommended penalty for CILB action where the Board has taken action against a Certificate holder. Additionally, the Board shall inform the disciplined contractor and the complainant of the penalty imposed by the Board, the Board penalty recommended to the CILB, the rights to appeal and the consequences should the person decide not to appeal. The Board shall immediately inform the CILB of its action and recommended penalty.

Section 9. Notice

A. Any person who is the subject of proceedings before the Board shall be provided with timely notice of such proceedings in the following manner:

(1) All notices shall be provided to the alleged violator by certified mail, return receipt requested, or by hand delivery by an officer of the Manatee County Sheriff's Department, or other law enforcement officer, investigator, or any other person designated by the Board, or by leaving the notice at the violator's usual place of residence

with some person of his family above fifteen (15) years of age, and informing such person of the contents of the notice.

(2) In addition to providing notice as described above, at the option of the Department, notice also may be affected by publication or posting. Such notice must be published once a week for four (4) consecutive weeks in a newspaper of general circulation. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail, as required under subsection A(1) of this Section.

Section 10. Hearing Procedures

A. Hearings before the Board shall be conducted to the Board Rules of Procedure as adopted by the Board, consistent with this Ordinance and the requirements of due process.

Section 11. Disciplinary Penalties or Permitting Restrictions to be Imposed by the Board for Locally Licensed and State Certified Contractors as Applicable; Schedule of Penalties Applicable to Specific Violations

A. Upon finding that an individual has committed one or more violations in one or more cases being considered together, the Board shall issue appropriate civil disciplinary penalties or permitting restrictions.

B. In determining the appropriate action to be taken against a person for any of the violations contained in Section 7 above, the Board shall consider the following factors:

- (1) The gravity of the violation;
- (2) Any actions taken by said contractor to correct the violations; and
- (3) Any previous violations committed by said contractor.

C. After find of violation and review of the factors listed in Section 11B above, the penalties which may be imposed for a specific violation as to a Certificate holder who has obtained a Certificate of Competency from Manatee County are as follows:

- (1) Reprimand the holder of a Certificate, who has obtained a Certificate of Competency from Manatee County.

(2) Suspend any Certificate holder who has obtained a Certificate of Competency from Manatee County from all operations of construction for a period specified by the Board, but not less than thirty (30) days and not more than five (5) years.

(3) Revoke the Certificate of a Certificate holder who has received a Certificate of Competency from Manatee County.

(4) Bar the issuance or renewal of a Certificate held by a Certificate holder who has obtained a Certificate of Competency from Manatee County or bar the renewal of permitting privileges of a Certificate holder who has obtained a Certificate from the State.

(5) Require that restitution be provided to any party aggrieved by a violation of any provision of this Ordinance.

(6) Require that the violator pay a monetary fine not more than Five Thousand Dollars (\$5,000.00) per violation.

D. After review of the factors listed in Section 11C above, the Board may suspend or revoke permitting privileges for a state-certified contractor upon finding that said contractor committed any of the violations listed in subsection B of Section 7 above after holding a formal hearing in accordance with rules of procedure adopted pursuant to Section 10 of this Ordinance. Suspend the permitting privileges of a Certificate holder who has obtained a Certification from the State. Any suspension shall remain in effect for a period specified by the Board, but not less than thirty (30) days and not more than five (5) years.

E. Any person against whom action has been taken by the Board shall be assessed a fee corresponding to the reasonable investigative and legal costs incurred by Manatee County in prosecuting any violation(s) against the person.

Section 12. Rehearing

A. The violator, application or the Department may petition the Board for a rehearing within ten (10) working days of the execution of any such order or decision of the Board. A petition for a rehearing may be requested only if there is any information directly related to the hearing that was not presented at the original hearing. In its order granting or denying a rehearing, the Board shall notify all interested parties that were present and entered official appearances at the original hearing, by U.S. Mail.

Section 13. Reinstatement, Renewal, or Reissuance of Certificate and License

A. Suspension

(1) Until proof is demonstrated that all requirements or sanctions imposed in any action by the Board against a contractor have been met, the Certificate shall not be reinstated or renewed, nor shall the contractor receive a new certificate, nor have permitting privileges reinstated where a certificate or privileges have been suspended.

B. Revocation

(1) The Board shall not recertify or re-register a contractor whose Certificate or any privileges have been revoked until all requirements or stipulations imposed in any final order against the contractor have been met. Additionally, the Board shall not issue, renew, reinstate, or otherwise reissue a Certificate or permitting privileges for any person for a minimum period of five (5) years from the date of revocation.

(2) The Board shall not accept reciprocity for the certification of an individual whose Certificate it previously revoked, unless the individual demonstrates that the jurisdiction from which reciprocity is being requested has required the individual to meet all current requirements to demonstrate competency, including examination, and a minimum of five (5) years has passed since the certificate was revoked.

C. Surrendered Certificate

(1) The Board shall not issue, renew, reinstate, or otherwise reissue a Certificate or permitting privileges for a person who has voluntarily surrendered a Certificate of Competency for a period of five (5) years from the date of such surrender.

D. Investigation

(1) The lapse, suspension, or revocation of a Certificate of Competency by operation of law or by order of the Board or a court, or its voluntary surrender by a Certificate holder, does not deprive the Department of jurisdiction to investigate or the board of jurisdiction to act in disciplinary proceedings against the Certificate holder.

Section 14. **Appeal of Order**

A. Any aggrieved party, including Manatee County, may appeal a final order of the Board to the Circuit Court. Any such appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

Section 15. **Conflicting Ordinances**

A. In the event of a conflict between this Ordinance and any other ordinance, the provisions of this Ordinance shall prevail to the extent of any conflict.

Section 16. **Severability**

If any section, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

Section 17. **Repeal**

A. Ordinance 96-20 is hereby repealed, but to the extent that any of the provisions of this Ordinance 14-33 are the same as those of Ordinance 96-20, as amended, such provisions shall be construed as a restatement and continuation thereof, and not a new enactment.

Section 18. **Codification**

The publisher of the County's Code of Laws, the Municipal Code Corporation, is directed to incorporate this article into the Code of Ordinances where indicated and to replace Article III of Chapter 2-6 with this Ordinance.

Section 19. **Effective Date:**

This Ordinance shall take effect immediately upon filing with the Department of State.

PASSED AND DULY ADOPTED, in open session, with a quorum present and voting,

the 2nd day of October, 2014.



BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA

By:

Larry Bustle

Chairperson

ATTEST: K. B. SHORE
CLERK OF THE CIRCUIT COURT

By:

G. Acosta

Deputy Clerk



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 3, 2014

Honorable R. B. "Chips" Shore
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Quantana Acevedo, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Manatee County Ordinance No. 14-33, which was filed in this office on October 3, 2014.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

From: [Ords Admin](#)
To: [Quantana Acevedo](#)
Subject: FW: Manatee County, FL Code of Ordinances - 1981(10428) and Land Development Code - 1990(12202)
Date: Friday, October 03, 2014 10:39:04 AM

We have received your files. Thank you for your submission.

Respectfully,

Ords Administrator
ords@municode.com
1-800-262-2633
(850) 576-3172
Fax No. 850-575-8852
P.O. Box 2235
1700 Capital Circle, S.W.
Tallahassee, FL 32317-2235

When available, please send all documents in WORD format to Ords@municode.com. However, if WORD format is not available, we welcome any document format including PDF.

sha

-----Original Message-----

From: Quantana Acevedo [mailto:quantana.acevedo@ManateeClerk.com]
Sent: Friday, October 03, 2014 10:14 AM
To: Ords Admin
Subject: Ordinance 14-033

The attached ordinance was adopted by the Board of County Commissioners on October 2, 2014.

Thank you,
Quantana Acevedo, Deputy Clerk
for R.B. "Chips" Shore
Manatee County Clerk of the Circuit Court and Comptroller www.manateeclerk.com
quantana.acevedo@manateeclerk.com
941-741-4018
"Pride in Service with a Vision to the Future"

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