

ORDINANCE NO. 2004-01

AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES, CONSTRUCTION LICENSING CODE, CHAPTER 8, ARTICLE II, DIVISION 2 BY AMENDING SECTION 8-27, EXEMPTIONS BY PROVIDING EXEMPTIONS TO OWNER BUILDER TESTING; BY AMENDING SECTION 8-28, DEFINITIONS, BY PROVIDING FOR A DEFINITION OF THE BOARD OF CONSTRUCTION AND REGULATION, COMPLETION, ALUMINUM FABRICATING CONTRACTOR, FENCE CONTRACTOR, GLASS AND GLAZING CONTRACTOR, TREE REMOVAL CONTRACTOR, AND BY MODIFYING THE DEFINITION OF EXCAVATION CONTRACTOR, ACCESSORY STRUCTURE CONTRACTOR, SPECIALTY STRUCTURE CONTRACTOR, AND STRUCTURAL CARPENTRY CONTRACTOR; BY AMENDING SECTION 8-35, BUILDING PERMITS, BY MODIFYING THE NUMBER OF DAYS REQUIRED FOR REQUESTING FINAL INSPECTIONS; BY AMENDING SECTION 8-54, CONSUMER REVIEW PANEL, BY MODIFYING THE PROVISIONS OF THE CONSUMER REVIEW PANEL; BY AMENDING SUBDIVISION B., CONSTRUCTION LICENSING BOARD, BY CREATING AND ESTABLISHING PROVISIONS FOR THE BOARD OF CONSTRUCTION AND REGULATION; BY AMENDING SECTION 8-81, GRANDFATHERED CERTIFICATES, BY PROVIDING FOR GRANDFATHERING OF LICENSES FROM OTHER JURISDICTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

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

SECTION 1. AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES, CONSTRUCTION LICENSING CODE, CHAPTER 8, ARTICLE II, DIVISION 2, BY AMENDING SECTION 8-27(7), RELATING TO EXEMPTIONS FOR OWNER/BUILDERS PASSING CERTAIN TESTING; AND DELETING SECTION 8-27(21).

Section 8-27 of the Hernando County Code of Ordinances is hereby amended with respect to subsections (7) and (21) as provided herein, with added provisions underlined and deleted provisions indicated by strike-throughs.

Sec. 8-27. Exemptions.

- (7) Owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors, when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed twenty-five thousand dollars (\$25,000) on such property for the occupancy or use of such owners and not offered for sale or lease. In an action brought under this code, proof of the sale or lease, or offering

for sale or lease, of any such structure by the owner-builder within 1 year after completion of same creates a presumption that the construction was undertaken for purposes of sale or lease. This subsection does not exempt any person who is employed by or has a contract with such owner and who acts in the capacity of a contractor. The owner may not delegate the owner's responsibility to directly supervise all work to any other person unless that person is registered or certified under this code and state law and the work being performed is within the scope of that person's license. For the purposes of this subsection, the term "owners of property" includes the owner of a mobile home situated on a leased lot and a person who is the owner of any legal or equitable interest in the property (lease, agreement for deed, contract for deed etc.). The owner of a mobile home situated on a leased lot or person having legal or equitable interest in the property as described above, must furnish with the permit application: proof of ownership in the form of a copy of a lease, contract for deed or other similar document; and written consent from the owner of record (as determined by county computer records) authorizing the issuance of an owner/builder permit for the construction. To qualify for exemption under this subsection, an owner must both: successfully pass an oral/written exam which demonstrates to the satisfaction of the Building Official or his/her designee that the applicant possesses adequate knowledge and familiarity with applicable codes and laws (effective April 1, 2002), and personally appear and sign the permit application and a disclosure statement. The Building Official or his/her designee shall establish and have final approval as to the type and content of the exam. The exam may be permit type specific and therefore limited to the scope of work the owner is to perform under a permit issued under this exemption. Owners may be exempted from the testing requirements provided one of the following are demonstrated to the satisfaction of the Building Official or his/her designee:

- a. Proof of possession of an active contractor license in the State of Florida.
- b. Proof of possession of an inactive contractor license in the State of Florida. License shall not be inactive for a period more than 1 year.

The work described in the permit application must be included in the scope of work defined for the license type as defined in this code or other state or local regulations. Procedures for administering the exam, and any reexaminations shall be established by policy by the Building Official or his/her designee.

A disclosure statement shall be in substantially the following form:

"Disclosure Statement"

State law requires construction to be done by licensed contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the owner of your property, to act as your own contractor with certain restrictions even though you do not have a license.

1. You must provide direct, on-site supervision of the construction yourself.
2. You may build or improve a one-family or two-family residence or a farm outbuilding. You may also build or improve a commercial building at a cost of twenty-five thousand dollars (\$25,000.00).
3. The building must be for your own use or occupancy. It may not be built or substantially improved for sale or lease. If you sell or lease a building you have built or substantially improved yourself within one year after the construction is complete, the law will presume that you built or substantially improved it for sale or lease, which is a violation of this exemption. Additional permits may not be issued to a violator of this exemption. Penalties will be sought against a violator/unlicensed contractor.
4. You may not hire an unlicensed person to act as your contractor or to supervise people working on your building.
5. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances. Any person working on your building who is not duly licensed must work under your direct supervision and must be employed by you, which means that you must deduct F.I.C.A. and withholding tax and provide worker's compensation for the employee, all as prescribed by law.
6. You may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done.
7. Your construction must comply with all applicable laws, ordinances, building codes, and zoning regulations.
8. You must furnish copies of all contracts concerning the work being permitted, if requested.
9. You must change the permit from your name to a licensed contractor if you hire a contractor to complete the work.

As the owner/contractor on this permit, you understand that you are responsible for all work performed pursuant to this permit. Hernando County will look to you for corrections of any deficiencies in the work. Violating this exemption is grounds for permit revocation. The Building Official shall have the authority to require you to secure a licensed contractor to complete the work authorized under this permit if inspections by the Building Division reveal that you are not competent to accomplish the construction.

"Owner's Signature"

~~(21) The sale, delivery, assembly, or tie-down of prefabricated portable sheds that are not more than 250 square feet in interior size and are not intended for use as a residence or as living quarters. This exemption may not be construed to interfere with local building codes, local licensure requirements, or other local ordinance provisions.~~

SECTION 2. AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES,

**CONSTRUCTION LICENSING CODE, CHAPTER 8, ARTICLE II,
DIVISION 2, BY AMENDING SECTION 8-28, DEFINITIONS,
PROVIDING FOR DEFINITIONS WITH RESPECT TO THE BOARD OF
CONSTRUCTION AND REGULATION, COMPLETION, ALUMINUM
FABRICATING CONTRACTOR, FENCE CONTRACTOR, GLASS AND
GLAZING CONTRACTOR, TREE REMOVAL CONTRACTOR, AND BY
MODIFYING THE DEFINITIONS OF EXCAVATION CONTRACTOR,
ACCESSORY STRUCTURE CONTRACTOR, SPECIALTY STRUCTURE
CONTRACTOR, AND STRUCTURAL CARPENTRY CONTRACTOR.**

Section 8-28, Hernando County Code of Ordinances, as set forth below, is hereby amended to read as follows, with added provisions indicated by underlining and deleted provisions by strike-through.

Sec. 8-28. Definitions.

Words not defined in this code shall have the meaning stated in the Webster's 8th New Collegiate Dictionary as revised.

Alarm system means any electrical device, signaling device, or combination of electrical devices used to signal or detect a burglary, fire, robbery, or medical emergency.

Board means the ~~Hernando County Construction Licensing Board~~; Hernando County Board of Construction and Regulation, authorized and required to preside over informal hearings both involving contractor licensing regulations, decisions and interpretations of the building official, and act as the county-wide compliance review board to hear appeals as to technical amendments of the Hernando County Construction Code. The board is created and its members appointed by the governing body (Hernando County Board of County Commissioners). Upon the effective date of this Ordinance, all references to the Construction Licensing Board or the Construction Board of Adjustments and Appeals, in this and other adopted codes and ordinances, shall be synonymous with the Hernando County Board of Construction and Regulation.

Building official means for the purposes of this code any of those employees of Hernando County government with building construction regulation responsibilities who are charged with the responsibility for the enforcement of the provisions of this code; to include direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, other construction codes as required by state law or county ordinance. This term is synonymous with "building official" as used in the administrative chapter of the Standard Building Code and the South Florida Building Code.

Business organization means any partnership, corporation, business trust, joint venture, or other legal entity which engages or offers to engage in the business of contracting or acts as a contractor as defined in this code.

Certificate means certificate of competency, certificate of authority or registration. Certificates are issued either by an applicable state agency or Hernando County. The principal office shall administer and issue certificates.

Certificate of competency means a license (certificate) issued to a person evidencing that the person is qualified to engage in the business of contracting, sub-contracting or the work of a specific trade.

Certificate of authority means a license (certificate) issued to either a financially responsible officer or business organization/entity. The board shall approve the application form and minimum criteria required for approval and issuance of such a certificate. The principal office shall administer and issue certificates.

Certification means the act or process of obtaining or holding a certificate of competency, certificate of authority or registration issued by the department and/or Principal Office Hernando County or the Department of Business and Professional Regulation Construction Industry Licensing Board.

Certified contractor means any contractor business organization or financially responsible officer who possesses and has obtained a certificate of competency, certificate of authority or registration issued by the department and/or principal office, or the Department of Business and Professional Regulation and who shall be allowed to contract in a jurisdiction subject to any applicable restriction associated therewith.

Completion means, for the purposes of this code and the Hernando County Construction Code, as may be amended, an activity associated with a regulated trade and as may be referenced by a particular contract that has been accomplished and the work terminated. For the purposes of this definition, completion may be presumed upon proof of final payment and/or compensation for said activity, or upon determination by a certified inspector that the product, as a result of the activity, is ready for final inspection.

Consumer representative means any resident of Hernando County appointed to serve on the construction licensing board. A consumer representative may not be a member or practitioner of a profession or trade actively engaged in business regulated by the construction industry licensing board or a member or practitioner of any closely related profession or trade actively engaged in business. A consumer representative may not be the spouse, son, daughter, or adopted son or daughter of: a practitioner of a profession or a trade regulated by the construction industry licensing board, a member of any closely related profession or trade, actively engaged in business.

Contracting means, except as exempted in this part, engaging in business as a contractor and includes, but is not limited to, performance of any of the acts as set forth in the definition of "contractor", "specialty contractor," "financially responsible officer," and "qualifying business," all as defined by this code. The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure, agent qualification or other qualification as required by this code, the offering,

negotiation for a bid, or attempted sale of these services requires the corresponding license. However, the term "contracting" shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this code have been or will be retained for the purpose of constructing such residences.

Contractor means the person who is qualified for and shall only be responsible for the project contracted for and means, except as exempted in this part, the person, business organization and/or entity who, for compensation, undertakes to, submits a bid to, or does himself or in conjunction with others, construct, repair, alter, remodel, service, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others and whose job scope is substantially similar to the job scope described in one of the subsequent paragraphs of this definition as follows or the subsections set forth within the definition of "specialty contractor" as defined by this code:

For the purposes of this code, a person, business organization, and/or entity whose job scope is that which is not defined by this code, but is that which when performing work, registration is required for the issuance of permits, is subject to this code and the penalties set forth herein.

(1) *Alarm system contractor* means a contractor whose business includes the execution of contracts requiring the ability, experience, financial means, science, knowledge, and skill to lay out, fabricate, install, maintain, alter, repair, monitor, inspect, replace, or service alarm systems for compensation, including, but not limited to, all types of alarm systems for all purposes.

a. *Alarm system contractor I* means an alarm system contractor whose business includes all types of alarm systems for all purposes.

b. *Alarm system contractor II* means an alarm system contractor whose business includes all types of alarm systems, for all purposes other than fire, except as herein provided.

(2) *Building contractor* means a contractor whose services are limited to construction of commercial buildings and single-dwelling or multiple-dwelling residential buildings, which commercial or residential buildings do not exceed three (3) stories in height, and accessory use structures in connection therewith, or a contractor whose services are limited to remodeling, repair, or improvement of any size building, if the services do not affect the structural members of the building.

(3) *Class A air conditioning contractor* means a contractor whose services are unlimited in the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection herewith; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation

of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air conditioning control wiring; and to install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto. This license shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(4) *Class B air conditioning contractor* means a contractor whose services are limited to twenty-five (25) tons of cooling and five hundred thousand (500,000) Btu of heating in any one system in the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system being installed under this classification; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air conditioning control wiring; and to install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto. This license shall not include any work such as liquefied petroleum or natural gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(5) *Class C air conditioning contractor* means a contractor whose business is limited to the servicing of air conditioning, heating, or refrigeration systems, including duct alterations in connection with those systems being serviced, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. No person not previously registered or certified as a Class C air conditioning contractor as of October 1, 1988, shall be so registered or certified after October 1, 1988. However, the board shall continue to license and regulate those Class C air conditioning contractors who held Class C licenses prior to October 1, 1988.

(6) *Commercial pool/spa contractor* means a contractor whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steel work, installation of light niches, construction of floors, guniting, fibreglassing, installation of tile and coping, installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, construction of equipment rooms or housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system

or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning shall not require licensure unless the usage involves construction modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment. The installation of coatings or surfacing materials such as marcite and other similar materials requires licensure.

(7) *Electrical contractor or unlimited electrical contractor* means a contractor who conducts business in the electrical trade field and who has the experience, financial means, knowledge, and skill to install, repair, alter, add to, or design, in compliance with law, electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form, including the electrical installations and systems within plants and substations, all in compliance with applicable plans, specifications, codes, laws, and regulations. The term means any person, firm, or corporation that engages in the business of electrical contracting under an express or implied contract; or that undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid to engage in the business of electrical contracting; or that does itself or by or through others engage in the business of electrical contracting.

(8) *General contractor* means a contractor whose services are unlimited as to the type of work which he may do, except as provided in this part.

(9) *Mechanical contractor* means a contractor whose services are unlimited in the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, central air conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as is necessary to make complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith; to install, maintain, repair, fabricate, alter, extend, or design, when not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air conditioning control wiring; and to install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquefied petroleum gas fuel lines within buildings, potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(10) *Plumbing contractor* means a contractor whose contracting business consists of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, when not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, when not prohibited by law, design the following without obtaining any additional local regulatory license, certificate, or registration: sanitary drainage or storm drainage facilities; venting systems; public or private water supply systems; septic tanks; drainage and supply wells; swimming pool piping; irrigation systems; or solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas (excluding liquid petroleum gases), and storm and sanitary sewer lines; and water and sewer plants and substations. The scope of work of the plumbing contractor also includes the design, when not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping, and all related medical gas systems; fire line standpipes and fire sprinklers to the extent authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor shall apply to private property and public property, shall include any excavation work incidental thereto, and shall include the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified herein as being the work of a trade other than that of a plumbing contractor. Nothing in this definition shall be construed to limit the scope of work of any certified specialty contractor. Nothing in this definition shall be construed to require certification or registration under this code of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

(11) *Residential contractor* means a contractor whose services are limited to construction, remodeling, repair, or improvement of (1) one-family, (2) two-family, or (3) three-family residences not exceeding two (2) habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith.

(12) *Residential pool/spa contractor* means a contractor whose scope of work involves, but is not limited to, the construction, repair, water treatment, and servicing of any residential swimming pool or hot tub or spa, regardless of use. The scope of such work includes layout, excavation, operation of construction pumps for dewatering purposes, steelwork, installation of housing for pool equipment, and installation of all perimeter and filter piping, installation of all filter equipment and chemical feeders of any type, plastering of the interior, construction of decks, installation of housing for pool equipment, and installation of package pool heaters. However, the scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment

for the purposes of water treatment or cleaning shall not require licensure unless the usage involves construction modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment. The installation of coatings or surfacing materials such as marcite and other similar materials requires licensure.

(13) *Roofing contractor* means a contractor whose services are unlimited in the roofing trade and who has the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or design, when not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair waterproof, stop leaks, or extend the life of the roof.

(14) *Sheet metal contractor* means a contractor whose services are unlimited in the sheet metal trade and who has the experience, financial means, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, when not prohibited by law, of ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same and including the balancing of air-handling systems, and any duct cleaning and equipment sanitizing which requires at least a partial disassembling of the system.

(15) *Solar contractor* means a contractor whose services consist of the installation, alteration, repair, maintenance, relocation, or replacement of solar panels for potable solar water heating systems, swimming pool solar heating systems, and photovoltaic systems and any appurtenances, apparatus, or equipment used in connection therewith, whether public, private, or otherwise, regardless of use. A contractor, certified or registered pursuant to the provisions of Florida Statutes, Chapter 489, is not required to become a certified or registered solar contractor or to contract with a solar contractor in order to provide any services enumerated in this paragraph that are within the scope of the services such contractors may render under this code.

(16) *Swimming pool/spa servicing contractor* means a contractor whose scope of work involved the servicing, repair, water treatment, and maintenance of any swimming pool or hot tub or spa, whether public or private, The scope of such work may include any necessary piping and repairs, replacement and repair of existing equipment, or installation of new additional equipment as necessary. The scope of such work includes the reinstallation of tile and coping, repair and replacement of all piping, filter equipment, and chemical feeders of any type, replastering, maintenance and installation of pool interior finishes including but not limited to fiberglass, marcite, diamond brite, vinyl, and other similar type interior finishes, reconstruction of decks, and reinstallation or addition of pool heaters. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purpose of water

treatment or cleaning shall not require licensure unless the usage involves construction, modification, substantial or complete disassembly, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license shall not be required for the cleaning of the pool or spa in any way that does not affect the structural integrity of the pool or spa or its associated equipment.

(17) *Underground utility and excavation contractor* means a contractor whose services are limited to the construction, installation, and repair, on public or private property, of main sanitary sewer collection systems, main water distribution systems, and storm sewer collection systems and the continuation of utility lines from the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multi-occupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. An underground utility contractor shall not install any piping that is an integral part of a fire protection system as defined in Chapter 633.021(7), Florida Statutes, beginning at the point where the piping is used exclusively for such system.

County means the unincorporated area of Hernando County, Florida.

County-certified contractor means any contractor who possesses a certificate of competency issued by the Hernando County Development Department.

County-registered contractor means a person or entity required to register with the Hernando County Development Department as provided in this code and the building official.

Days means, for the purposes of this code, a regular business day, excluding holidays.

Department means the Hernando County Development Department.

Entity means any firm, person, partnership, association, corporation, company or other organization.

Financially responsible officer (FRO) means a person other than the primary qualifying agent who possesses a certificate of authority issued by the principal office. Applications for financially responsible officers shall be approved by the board and administered by the principal office. A financially responsible officer assumes personal responsibility for all financial aspects of the business organization and is issued the appropriate certificate of authority.

Governing body means the Hernando County Board of County Commissioners.

Hernando County Construction Code means the local ordinance adopting the most current edition of Florida's building and technical codes as approved by the State of Florida.

Journeyman is a person who performs or oversees the manual work of installing systems, devices

and repairs under the supervision of a master and/or contractor. A journeyman may not enter into contracts to perform work pursuant to this division. A journeyman may be either registered or licensed by examination.

License means official or legal permission to do a specific thing. Proof of permission is usually granted in the form of a document, card or certificate, registration, or certificate of authority or certificate of competency issued by the department, principal office or Department of Business and Professional Regulation. An occupational license issued by a tax collector shall not substitute for other required licenses, registrations or certificates and is required in addition to any and all other applicable licenses or registrations. An occupational license shall not authorize a person and/or entity to violate any of the provisions of this code.

Local construction regulation board means the Hernando County Board of Construction and Regulation Licensing Board, created by the governing body and members of such board appointed by the governing body.

Municipality means the incorporated areas of Hernando County.

Owner/builder shall be defined as owners of property when acting as their own contractor, having successfully passed an oral/written competency exam and providing direct, onsite supervision themselves of all work not performed by licensed contractors, when building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed twenty-five thousand dollars (\$25,000.00) on such property for the occupancy or use of such owners and not offered for sale or lease. In an action brought under this code, proof of the sale or lease, or offering for sale or lease, of any such structure by the owner-builder within one year after completion of same creates a presumption that the construction was undertaken for purposes of sale or lease. This subsection does not exempt any person who is employed by or has a contract with such owner and who acts in the capacity of a contractor. The owner may not delegate the owner's responsibility to directly supervise all work to any other person unless that person is duly registered or certified under this code or state law and the work being performed is within the scope of that person's license. For the purposes of this subsection, the term "owners of property" includes the owner of a mobile home situated on a leased lot and a person who is the owner of any legal or equitable interest in the property (lease, agreement for deed, contract for deed etc.).

Primary qualifying agent means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility, to supervise, direct, manage, and control the contracting activities of the business organization with which he is connected; who has the responsibility to supervise, direct, manage, and control construction activities on a job for which he has obtained the building permit; and whose technical and personal qualifications have been determined by investigation and examination as provided in this code, as attested by the department.

Principal office means the Office of Contractor Certification (licensing) within the development department.

Qualified business (QB) means a business organization/entity not regulated by the Department of Business and Professional Regulation that possesses a certificate of authority issued by the principal office. Applications for qualified business certificate of authority shall be approved by the board and administered by the principal office.

A person doing business as an individual or under a fictitious name as a sole proprietorship is not required to obtain a qualified business certificate of authority (QB license).

Registration means the act or process of registering a local certificate of competency with the Department of Business and Professional Regulation (DBPR) or the act or process of registering a state certified license with the principal office or the act or process of registering with the principal office for the purpose of being able to obtain a permit. The latter of the three (3) registrations is done by those persons/entities not required to be certified but otherwise regulated by this code and/or the Florida Building Code or other applicable codes which in relation to the work being performed; a building/zoning/landscaping permit is required.

Secondary qualifying agent means a person who possesses the requisite skill, knowledge, and experience, and has the responsibility to supervise, direct, manage, and control construction activities on a job for which he has obtained a permit, and whose technical and personal qualifications have been determined by investigation and examination as provided in this code, as attested by the department.

Shall and may. The term "shall" is mandatory and "may" is permissive. The word "shall" takes precedence over "may."

Specialty Contractor means a contractor whose scope of work and responsibility is limited to a particular phase of construction described in the categories of ~~the~~ this subsection:

- (1) *Demolition contractor* means the scope of certification includes demolition and removal of structures, such as dwellings, commercial buildings and foundations.
- (2) *Excavation contractor* means the scope of certification includes the excavation or removal of material such as rock, gravel ~~and~~ or sand to construct or excavate canals, lakes, levees, and any type of construction site development preparation, and includes the clearing of any type of land surface debris and vegetation; the grubbing of roots, the removal of debris; and the leveling ~~and~~ or grading of ~~the~~ any surface of the lands. ~~incidental thereto.~~
- (3) *Elevator specialty electrical contractor* means the scope of certification includes and is limited to the electrical portion of the installation, repair, assembly, service and maintenance of elevators, conveyors, electrified dumbwaiters, escalators and moving sidewalks and all automatic and manual controls, signal systems and all other devices and manual controls, and electrical wiring appurtenant to the safe and efficient operation of

such elevators. However, the scope of such certification shall not include work beyond the last disconnecting means or the terminal equipment adjacent to or in the elevator shaft or designated construction area.

- (4) *Gypsum drywall contractor* means the scope of certification includes and is limited to the installation of drywall, all necessary and incidental metal accessories including non-load bearing metal studs, runners, hangers, channels, drywall metal suspension accessories and prefabricated ceiling materials; and the preparation of the surface over which drywall product is to be applied. This includes the application of base and finish coats specifically designed for the gypsum drywall products.
- (5) *Insulation contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, insulation on or in walls and attics, in compliance with the Florida Model Energy Code.
- (6) *Lawn sprinkler systems contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, lawn sprinkler irrigation systems.
- (7) *Lighting maintenance specialty electrical contractor* means the scope of certification includes and is limited to the installation, repair, alteration, or replacement of lighting fixtures in or on buildings, signs, billboards, roadways, streets, parking lots and other similar structures. However, the scope of the certification does not include the provision of, or work beyond, the last electrical supplying source, outlet, or disconnect means.
- (8) *Marine contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, alter, repair, maintain, relocate, and replace, supporting members for piers and docks; i.e., piles or pilings, columns, posts, stanchions. The scope of work of such contractor shall include all construction below, above or beyond, the mean low water line, for the sole purpose of constructing erecting or dismantling of piers, docks and seawall.
- (9) *Masonry contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, any assembly of pre-formed masonry block, glass block, brick, or other masonry products in conjunction with the use of a compatible binder or filler for the purpose of creating a structure of any type, including the forming and pouring of the beams and lintels.
- (10) *Outdoor sign specialty electrical contractor* means the scope of certification includes and is limited to the fabrication, erection, installation, alteration, repair, or service of the wiring of outdoor electrical signs and outside lighting. The scope of certification shall not include the provisions of, or any work beyond, the last disconnect means or terminal

point. However, a contractor certified under this category may provide the electrical entrance requirements for metering and main disconnect of remote billboards or signs which are independent of any structure or building and which require no more than twenty-five (25) Kilowatts at two hundred fifty (250) volts maximum.

- (11) *Natural gas specialty contractor* means the scope of certification includes and is limited to natural gas systems, and such person has the knowledge, experience, and skill to install, alter, extend, or repair natural gas piping, appliances, gas mains, lines, laterals, tanks, and other appurtenances.
- (12) *Residential electrical contractor* means the scope of certification includes and is limited to installation, repair, alteration, addition to, or design of electrical wiring, fixtures, appliances, apparatus, raceways, conduit, or any part thereof, in a one-, two-, three-, or four-family residence not exceeding two (2) stories in height, and accessory use structures in connection with the residence. The electrical service installed or worked upon is limited to single phase, four hundred (400) ampere single service.
- (13) *Residential solar water heating contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to size, install, alter, repair, maintain, relocate, replace, or use residential domestic potable solar water heating systems, to include solar heating panels and all appurtenances, apparatus or equipment used in connections is limited to solar domestic hot water systems for one-family, two-family or three-family residences not exceeding two (2) stories in height, and solar swimming pool heaters for residential swimming pools. The residential solar water heating contractor must subcontract any work for which a local certificate of competency in the respective trade category is required. Nothing in this rule shall be deemed to restrict or limit in any manner the legal authority of certified mechanical contractors, certified Class A and B air conditioning contractors, or certified plumbing contractors, to install residential solar water heating systems.
- (14) *Specialty structure contractor (aluminum contractor)* means the scope of certification includes and is limited to the execution of contracts requiring the experience, financial means, knowledge and skill necessary for the fabrication, assembling, handling, erection, installation, dismantling, adjustment, alteration, repair, servicing and design work when not prohibited by law, in accordance with accepted engineering data and/or according to manufacturers specifications in the aluminum metal, vinyl and fiberglass screening and allied construction materials. The scope of such work shall include and be limited to screened porches, screened enclosures, pool enclosures, pre-formed panel-post and beam roofs, mobile home panel roof-overs, residential glass window and door enclosures, vinyl panel window enclosures and single story self-contained aluminum utility storage structures not exceeding five hundred (500) square feet. The scope of the work shall include wood work incidental to the aluminum and allied materials construction work. It shall be limited to the construction of wood framing for walls of uninhabitable utility

storage structures, raised wood decks for enclosures, and the repair and/or replacement of wood incidental to the installation of glass windows and doors, installation of siding, soffit, fascia, gutters, and preformed panel-post and beam roofs. The scope of such work shall comply with all plans, specifications, codes, laws and regulations applicable. The scope of such work shall include masonry concrete work and be limited to foundations, slabs and block kneewalls incidental to the aluminum and allied materials construction work. The aluminum contractor, whose services are limited, shall not perform any work that alters the structural integrity of the building including but not limited to roof trusses, lintels, load bearing walls and foundations. The aluminum contractor shall subcontract, with a licensed qualified contractor in the field concerned, all other work incidental to that which is defined herein but which is the work of a trade other than that of an aluminum contractor. Nothing in this definition shall be construed to limit or infringe upon the scope of work of any specialty contractor. Persons performing work known as "Aluminum Fabricating" or described as "Non-Structural Aluminum" or otherwise known as work involving: siding, fascia, soffit, gutters and screening, shall obtain certification as either a Specialty Structure Contractor or an Aluminum Fabricating Contractor as set forth and provided herein. Persons providing services involving non-structural aluminum and vinyl products are no longer permitted to conduct such services without proper licensure as provided by this code.

- (15) *Steel erection contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, steel framework, columns, sheathing, beams and fabrication of metal buildings.
- (16) *Structural carpentry contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, all types of structural wood construction, including the installation, repair or replacement of any type of windows and doors.
- (17) *Structural concrete contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, concrete foundations designed to accept any structure when in the design of that structure, a footer is required. The scope of work of such contractor shall include, but not be limited to, the pouring and finishing of concrete driveways, sidewalks, patios and miscellaneous slabs.
- (18) *Tile contractor* means the scope of certification includes and is limited to the execution of contracts requiring the skill, knowledge, ability and experience to install, repair, maintain, and replace, terrazzo, marble floors and all types of hard tile for both interior and exterior waterproofing and cosmetic purposes.

- (19) Accessory structure contractor means the scope of certification includes and is limited to the execution of contracts requiring the experience, financial means, knowledge and skill necessary for the fabrication, assembly, handling, erection, installation, placement, dismantling, adjustment, alteration, repair, service, transporting, positioning, blocking, leveling, supporting, tying down, anchoring and/or sale of either prefabricated structures or structures erected on site not exceeding (500) square feet; and not for human habitation. The term sale includes lease-purchase transactions. The scope of such work shall comply with all plans, specifications, codes, laws and regulations applicable. All certification requirements and/or conditions contained in this code shall apply and include grandfathering provisions as prescribed by this code and adopted board rules.
- (20) Aluminum fabricating contractor means the scope of certification includes and is limited to the execution of contracts requiring the experience, financial means, knowledge and skill necessary for the fabrication, assembly, handling, installation, repair, maintenance and replacement of aluminum and vinyl; soffit, fascia, siding, skirting, gutters and downspouts. The scope of work of such contractor shall not include the construction of screen room enclosures or glass rooms but shall be limited to minor nonstructural vinyl and aluminum related work and products. All certification requirements and/or conditions contained in this code shall apply and include grandfathering provisions as prescribed by this code and adopted board rules.
- (21) Fence contractor means the scope of certification includes and is limited to the execution of contracts requiring the experience, financial means, knowledge and skill necessary for the fabrication, assembling, erection and installation of wire, wood, or precast or prefabricated fences, and the posts and foundations, necessary and incidental thereto and as required by applicable zoning regulations. In order for an applicant to be eligible to be certified as a Fence Erection Contractor he or she shall have at least one (1) year of practical experience. All other certification requirements and/or conditions contained in this code shall apply.
- (22) Glass and glazing contractor means the scope of certification includes and is limited to the installation and attachment of all types of windows and glass, whether fixed or movable; the installation of swinging or sliding glass doors to existing walls, floors, columns or other structural members of the building; the installation of glass holding or supporting mullions or horizontal bars which are attached to existing building walls, floors, columns or other structural members of the building, and the cutting and installation of glass and mirrors. A glass and glazing specialty contractor may also install prefabricated glass, metal or plastic curtain walls or panels, caulking incidental to such work and assembly, and installation of shower and tub enclosures and metal fascias.
- (22) Tree removal contractor means the scope of certification includes and is limited to the

execution of contracts requiring the experience, financial means, knowledge and skill necessary for the removal of trees. In order for an applicant to be eligible to be certified as an Tree Removal Contractor he or she shall have at least one (1) year of practical experience and proof of successfully completing the training course offered by the Division of Agriculture and Extension Education or have completed a substitute training course approved by the Building Official or his/her designee within the State of Florida and have passed the examination offered by the Division of Agriculture and Extension Education. Persons who can demonstrate at least five (5) years of experience may be granted certification without benefit of examination. All other certification requirements and/or conditions contained in this code shall apply.

(23) Plastering/Stucco contractor means the scope of certification includes and is limited to the execution of contracts requiring the experience, financial means, knowledge and skill necessary for the application of mixtures of sand or other aggregate, gypsum, plaster, portland cement, quick lime and water, or any other combination of such materials, so as to create a permanent surface coating which is usually applied with a plasterer's trowel or by pneumatic pressure to any surface which offers a mechanical key for support of such coatings or to which such coatings will adhere by suction; and to provide key or suction basis necessary and incidental to the support of such coatings. A plastering/stucco contractor may apply Marcite/Diamond Brite to pools, but shall not erect wood stud or masonry walls. All certification requirements and/or conditions contained in this code shall apply and include grandfathering provisions as prescribed by this code and adopted board rules.

Special master means an individual selected by the board who is authorized to enforce all of the applicable provisions of this code or other codes as may be deemed necessary, as amended or otherwise authorized by future law. The special master shall be a member in good standing with the Florida Bar. Selection of a special master by the board is governed by rules and policies established by the board. The board should consider criteria that ensures a selected candidate demonstrates an understanding, familiarity and/or knowledge of construction, common construction practices and associated laws, rules and codes.

State-certified contractor is any contractor who possesses a certificate of competency issued by the Department of Business and Professional Regulation and who shall be allowed to contract in any jurisdiction in the state without being required to fulfill the competency requirements of that jurisdiction.

State-registered contractor is any contractor who has registered with the Department of Business and Professional Regulation pursuant to fulfilling the competency requirements in the jurisdiction for which the registration is issued. Registered contractors may contract only in such jurisdictions.

Story means that portion of a building included between the upper surface of a floor or average grade, finished or unfinished, open or enclosed, and the upper surface of the floor or roof next above and having a ceiling height of seven (7) feet (minimum) and eleven (11) feet (maximum).

Structural component means any vertical or horizontal load-bearing member of a structure which supports dead or live loads in addition to its own weight and includes, but is not limited to, a foundation, an exterior or interior load-bearing wall, a column, a column beam, a floor, and a roof structure.

Words not defined herein shall have the meaning stated in Florida Statutes or other nationally recognized codes, manuals or standards adopted elsewhere in this chapter. Words not defined in those documents shall have the meaning in the Webster's New Ninth Collegiate Dictionary, as revised.

In case of a conflict in definitions or codes, the appropriate definition (or code) to be applied shall be one applicable to the trade/subject. In case of a conflict between different parts of this code, conflicts with the same code; or conflicts between the more stringent requirements shall be applicable.

**SECTION 3. AMENDING HERNANDO COUNTY CODE OF ORDINANCES,
SECTION 8-35, BUILDING PERMITS, BY MODIFYING THE
REQUIRED NUMBER OF DAYS TO REQUEST A FINAL INSPECTION.**

Section 8-35, Hernando County Code of Ordinances, is hereby amended as set forth in this section, with additions indicated by underlining and deletions by strike-through, as follows:

Sec. 8-35 Building Permits.

- (1) For the purposes of this code the governing of permits and ancillary issues shall be as provided for in both this code, other applicable county ordinances and the Florida Building Code as amended.
- (2) If any building or structure is being constructed, altered, enlarged, repaired, replaced, demolished or otherwise constructed without a permit or any building permit or applicable permit issued for such building or structure expires or is revoked by the building official, and the owner of the building or structure fails within 30 days of the revocation or expiration to obtain either a certificate of occupancy as provided by the Florida Building Code or other applicable county ordinance or to obtain another building permit or applicable permit; then that building or structure shall be deemed a public nuisance and therefore declared unsafe. Penalties for maintaining a nuisance/unsafe

buildings or structures shall be as provided for by the Standard Unsafe Building and Abatement Code (1985 edition) as amended and adopted by Hernando County Ordinance.

- (3) A permit holder (owner/contractor) is responsible for requesting; a final inspection within (10) ~~calendar~~ days of the completion of permitted work, and if applicable; a reinspection within (7) days of the issuance of a red-tag.
 - (a) A person failing to request an inspection as described in this section is deemed to have violated this code, including but not limited to Section 8-47 & 8-62 (d), (J), (n) & (p), and is subject to applicable disciplinary guidelines/penalties as provided for in this code.
- (4) The Building Official, his/her designee or other persons charged with the enforcement of this code, other county ordinances and the Florida Building Code as they may relate to permitting; are hereby authorized to issue stop-work orders. A stop work order shall order all work and/or acts being performed in violation of a particular ordinance or law be ceased immediately.
 - (a) It shall be unlawful for any person to continue to work or perform acts for which a stop work order was issued. A person failing to comply with a stop work order or otherwise violate a stop work order; shall be deemed to have violated this code and subject to applicable disciplinary guidelines/penalties as provided herein.
- (5) The governing body, or any official of the governing body; may institute any appropriate action or proceedings in a civil action in the circuit court to restrain, correct or abate any violation of this code or the Florida Building Code or to prevent the occupancy of any building or structure that is erected, constructed, reconstructed, altered, repaired or maintained in violation of this code or the Florida Building Code.
- (6) With respect to evaluation of design professionals' documents, if the department, building official or his/her designee finds it necessary, in order to enforce compliance with the Florida Building Code and issue a permit, to reject design documents required by the code three or more times for failure to correct a code violation specifically and continuously noted in each rejection, including, but not limited to, egress, fire protection, structural stability, energy, accessibility, lighting, ventilation, electrical, mechanical, plumbing, and gas systems, or other requirements identified by rule of the Florida Building Commission adopted pursuant to chapter 120, a fine shall be imposed, each time after the third such review the plans are rejected for that code violation, a fee of four times the amount of the proportion of the permit fee attributed to plans review. (Specific Authority s. 553.80[2][b])

- (7) With respect to inspections, if the department, building official or his/her designee finds it necessary, in order to enforce compliance with the Florida Building Code, to conduct any inspection after an initial inspection and one subsequent reinspection of any project or activity for the same code violation specifically and continuously noted in each rejection, including, but not limited to, egress, fire protection, structural stability, energy, accessibility, lighting, ventilation, electrical, mechanical, plumbing, and gas systems, or other requirements identified by rule of the Florida Building Commission adopted pursuant to chapter 120, the local government shall impose a fee of four times the amount of the fee imposed for the initial inspection or first reinspection, whichever is greater, for each such subsequent reinspection. (Specific Authority s. 553.80[2](b))
- (8) Upon a determination that a person licensed, certified or registered under Florida Statute Chapter 455, 471, 481, 489 and/or this code has committed a material violation of the Florida Building Code and failed to correct the violation within a reasonable time, such local jurisdiction shall impose a fine of no less than \$500 and no more than \$5,000 per material violation.

For purposes of this section and the applicable fee schedule; a material code violation is a violation that exists within a building, structure, or facility which may reasonably result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems. Except when the fine is abated as provided by s.553.781, failure to pay the fine within 30 days shall result in a suspension of the licensee's, certificate holder's, or registrant's ability to obtain permits within Hernando County until the fine is paid. (Specific Authority s.553.781)

- (9) A permit shall be deemed void if a change of the primary contractor is made. No work shall proceed on a voided permit. A new permit for remaining work shall be obtained and must meet all applicable codes, laws and ordinances. Notification may be in writing and provided by way of regular mail, facsimile or email.

**SECTION 4. AMENDING HERNANDO COUNTY CODE OF ORDINANCES,
SECTION 8-48, SPECIAL MASTER, HEARINGS, BY PROVIDING FOR
REFERENCE TO THE HERNANDO COUNTY CONSTRUCTION CODE,
AND FOR REFERENCE TO UNLICENSED CONTRACTOR CASES.**

Section 8-48, Hernando County Code of Ordinances, is hereby amended as set forth in this section, with additions indicated by underlining and deletions by strike-through, as follows:

Sec. 8-48. Special Master, hearings.

- (1) There is hereby created, for the purpose of conducting an administrative (formal) hearing pursuant to this code, and the Hernando County Construction Code as adopted by ordinance, the position of Special Master. The Special Master shall be selected by the Board. The Special Master shall be a member in good standing with the Florida Bar engaged in the practice of law, be familiar with and have an understanding of construction practices, laws, rules and codes associated thereto.
 - a. A Special Master serves at the pleasure of the Board. Compensation for the Special Master will be as established by contract. A person appointed as Special Master must be a member of the Florida Bar for five (5) years. A Special Master may not hold any other appointive or elective office while serving as a Special Master.
- (2) ~~Upon receipt of a timely request for an informal hearing, the matter shall be set for hearing before the Board on the next regularly scheduled hearing date or as soon thereafter as possible.~~
- (3) Upon receipt of a timely request for a formal hearing, the matter shall be set for hearing before either the Special Master ~~or Board~~, on the next regularly scheduled hearing date or as soon thereafter as possible.
- (4)(3) Upon receipt of the request for an administrative hearing, the county shall serve a notice of hearing to the alleged violator or person filing an appeal, which notice shall include, but not be limited to, the following:
 - a. Place, date and time of the hearing.
 - b. Right of alleged violator to be represented by an attorney.
 - c. Right of alleged violator to present witnesses and evidence and conduct the cross-examination.
 - d. A conspicuous statement reflecting the requirements of F.S. Ch.286 that a person deciding to appeal any decision of a Special Master ~~or Board~~ will need to ensure that a verbatim record of the proceedings is made.
 - e. In lieu of providing a notice of hearing as provide above, the county may include a hearing date in the citation that will be scheduled if the alleged violator files an "Election of Rights" requesting a hearing, provided that the citation includes the information required by this subsection.
- (5)(4) No hearing shall be scheduled on a date sooner than ten(10) days from the date of service of the citation on the alleged violator unless there is reason to believe that a violation presents a serious threat to the public health, safety or welfare. All hearing shall be administratively scheduled by the ~~Board's~~ Principal Office.
- (6)(5) All hearings shall be open to the public. All testimony shall be under oath, minutes shall be taken, and the proceeding shall be recorded.

(7) (6) The Principal Office shall provide clerical and administrative personnel as may be necessary for each Special Master.

(8)(7) Each case before a Special Master shall be presented by a designated code enforcement officer, field investigator, Building Official or his/her designee or legal counsel assigned by the county attorneys office.

(9)(8) Formal rules of evidence shall not apply, but fundamental principals of due process shall be observed and govern the proceedings. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a state court.

(10)(9) In the case of formal hearings each party shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses on any relevant matter, to submit rebuttal evidence. In the case of formal hearings before a Special Master each party shall also have the right to have subpoenas issued in his behalf by the Special Master. ~~(specific authority s.162)~~

- a. At any time prior to the hearing date the Special Master assigned to hear the case may at the request of the designated code enforcement officer, field investigator, Building Official or his/her designee or legal counsel assigned by the county attorneys office; or at the request of an alleged violator and/or his/her attorney; issue subpoenas directing witnesses to appear and give testimony at the hearing. If on the date set for the hearing the alleged violator or person filing an appeal or his/her attorney fail to appear, the Special Master may find the alleged violator or person filing an appeal in default and shall proceed with the hearing and accept evidence relevant to the existence of a violation of this code and/or applicable codes, laws, rules and associated practices.

(11)(10)

With regard to unlicensed contractor cases: lack of a state certificate, state certification or state registration may be established by confirming with the State Department of Business and Professional Regulation (DBPR) that the named violator does not hold a state certificate/registration. An original or certified copy of a written statement from the custodian of the records of the Principal Office that contact with DBPR was made and confirmation as to non-licensure was achieved regarding any named violator; shall be admissible into evidence and sufficient to establish the presumption that the alleged violator is not a state-certified contractor. The alleged violator has the right to present evidence to overcome this presumption.

(12) (11)

With regard to unlicensed contractor cases: lack of a county certificate or county certification or registration may be established by confirming with the Principal Office, that the named violator does not hold a county certificate/certification/registration. An original or certified copy of a written statement from the custodian of records of the Principal Office that pertinent licensing

records have been reviewed confirming that no record of county certification/registration exists for the alleged violator shall be admissible into evidence and sufficient to establish the presumption that the alleged violator is not a county-certified/registered contractor. The alleged violator has the right to present evidence to overcome this presumption.

~~(13)~~(12) The Special Master shall make findings of fact based on evidence presented. In order to make a finding affirming the issuance of a citation, the Special Master must find by a preponderance of the evidence that the alleged violator was responsible for the violation of the relevant code provision(s) as cited.

~~(14)~~(13) In the case of unlicensed contractor hearings; if the Special Master finds that a violation exists, the Special Master may order the violator to pay a civil penalty of not less than the amount set forth on the citation, but not more than \$1000.00 per day for each violation. In determining the amount of the civil penalty, the Special Master may consider the gravity of the violation, any actions taken by the violator to correct the violation and any previous violations committed by the violator.

~~(15)~~(14) In the case of unlicensed contractor hearings a Special Master shall enter an order directing a violator pay a civil penalty set forth on a citation or notice of violation; upon notice from a designated code enforcement officer, field investigator, Building Official or his/her designee; the violator has not contested the citation or paid the civil penalty within the time frame allowed on the citation; or the violator has not contested the notice of violation and has not corrected the violation within the time frame set forth on a notice of violation.

~~(16)~~(15) With regard to licensed contractor hearings; if an alleged violator is found guilty of violating this code; the Special Master may impose disciplinary penalties including fines. A violator is also liable for the costs associated with prosecution and investigation of the respective case, all at the discretion of the Special Master and/or the Board and in accordance with the adopted county fee schedule and established and adopted board rules. Said costs shall include but not be limited to; investigative time, attorney fees and Special Master fees.

~~(17)~~(16) In the case of formal hearings as to licensed contractors, upon conclusion of and within 10 days, a Special Master shall enter a Final Order of Disciplinary Action if appropriate. Final Orders shall contain findings of fact, conclusions of law, recommended penalty to DBPR (if appropriate), type of disciplinary action (suspension, revocation, or probation), civil penalty amount, costs associated with prosecution and investigation and include any stipulations as applicable or ordered.

- a. Such orders shall be submitted for ratification to the Chairman of the Hernando County Construction Licensing Board.
 1. If the chairman finds material error contained within the order he/she shall remand the order back to the Special Master with written explanation as to any material error with direction as to how the error can be corrected.
 - (a) Such Final Orders shall be remedied by the Special Master and immediately served upon the Respondent without further review of the Chairman.

2. If such an order is consistent with this code and adopted board rules the order shall be ratified by the chairman and immediately served upon the Respondent.
- b. Such orders should be consistent with requirements set forth in section 8-65 of this code titled "Final order; appeal".

SECTION 5. AMENDING HERNANDO COUNTY CODE OF ORDINANCES, SECTION 8-48.5, SPECIAL MASTER, POWERS AND AUTHORITY, BY PROVIDING FOR ADDITIONAL AUTHORITY.

Section 8-48, Hernando County Code of Ordinances, is hereby amended as set forth in this section, with additions indicated by underlining and deletions by strike-through, as follows:

Sec. 8-48.5 Special Master; powers and authority

A Special Master shall have the power to:

1. To conduct ~~disciplinary~~ administrative hearings against state and local certified contractors, registered contractors and business organizations or financially responsible officers issued a certificate of authority; when the report of a designated code enforcement officer, field investigator and the Building Official or his/her designee shows alleged violations of any provision of this code.
2. To issue a Final Order of Disciplinary Action against a contractor and/or a business organization and/or a financially responsible officer for violating any provision(s) of this code. ~~specifically section 8-62.~~
3. Impose fines, liens and to order the foreclosure of liens, as may be granted by statute, ordinance or this code.
4. ~~Impose all penalties and perform any function as set forth in section 8-60 of this code. To suspend, revoke, or place on probation the registration, certificate of authority of a business organization, the certificate of competency of a locally certified contractor, or the permit pulling privileges of any contractor working in Hernando County found by the Special Master to have violated any provision of this code.~~
5. To suspend, place on probation, or revoke a certificate, registration, or certificate of authority for any individual or business organization that associates a person as an officer, director, or partner, or in a managerial or supervisory capacity, after such person has been found under a final order to have violated this section or was an officer, director, partner, trustee, or manager of a business organization disciplined by the Special Master or Board by revocation, suspension, or fine in excess of \$2,500, upon finding reasonable cause that such person knew or reasonably should have known of the conduct leading to the discipline.
6. Impose all penalties and related disciplinary action as set forth in section 8-62 of this code and pursuant to adopted board rules to include disciplinary guidelines adopted thereto.

7. Take testimony under oath.
8. Adopt rules for the conduct of its hearing.
9. Subpoena alleged violators/witnesses/persons having knowledge or having control of books, papers, records or other evidence relevant to a hearing; or, believed to have knowledge of the facts relevant to such hearing; directing such violator/witnesses/persons to appear and provide testimony and/or produce such evidence for examination at a hearing.
 - (a) Subpoenas may be served by the sheriff of the county.
10. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
11. Determine whether cited violations occurred.
12. Determine whether a reasonable time period for compliance was given.
13. Assess and order the payment of civil penalties and administrative costs as provided under this article.
14. ~~Impose liens as provided in this code:~~ To require financial restitution to a consumer, when necessary.
15. To impose an administrative fine not to exceed five thousand dollars (\$5,000).
16. To require continuing education.
17. To assess costs associated with investigation and prosecution of the violation(s) against the contractor, including associated legal fees.
18. To enter into stipulations with accused parties.
19. To conduct formal hearings involving unlicensed contractors.

~~After the effective date of this section and appointment of a Special Master, all enforcement actions initiated hereunder or awaiting a hearing must be heard and decided in accordance with this code. The County Court shall continue to exercise jurisdiction over cases heard by it before the effective date of this section.~~

Additional powers and authority shall be as provided in ~~Sections 8-60 & 8-62~~ of this code and as otherwise provided by County Ordinance and/or law.

**SECTION 6. AMENDING HERNANDO COUNTY CODE OF ORDINANCES,
SECTION 8-54, CONSUMER REVIEW PANEL, BY MODIFYING THE
PROVISIONS OF THE CONSUMER REVIEW PANEL.**

Section 8-54, Hernando County Code of Ordinances, is hereby amended as set forth in this section, with additions indicated by underlining and deletions by strike-through, as follows:

Sec. 8-54. Consumer Review Panel

A Consumer Review Panel is hereby established for the purpose of hearing appeals from persons who have filed with the Principal Office a service request which is subsequently closed without action. A person may file an appeal to be heard before the panel to have their service request reviewed for probable cause as to a violation of this code or applicable state law. Such appeals must be submitted on a form approved by the Board and be accompanied with the applicable fee as established by a current fee schedule as approved by the Board of County Commissioners by resolution.

The Consumer Review Panel shall be comprised of three members appointed by the Construction Regulation Board. Members of the consumer review panel may be comprised of current or past members of the Board of Construction and Regulation, or past members of the Construction Licensing Board or Adjustment and Appeals Board as determined by rule. Past members must possess an active contractor certificate. The Board is hereby granted the authority to adopt and implement rules as to the appointment of members, specific make-up and function of the panel. The panel will meet as necessary but no more than once per month. The Principal Office is responsible to provide administrative support and applicable record keeping for meetings of the panel. Panel members serve as volunteers and shall not be compensated.

The Consumer Review Panel is authorized to hear appeals of a closed service request. Upon full consideration of an appeal the panel should determine if the matter has sufficient probable cause to warrant further investigation by staff be brought before the Board or Special Master as an administrative hearing. If the panel determines the issue to have sufficient probable cause it shall direct the Principal Office to re-open the service request for reinvestigation file an Administrative Complaint against the contractor. If the panel determines an issue lacks probable cause it should make a recommendation to the party bringing the appeal; as to any legal remedies which may be available including but not limited to: criminal proceedings, civil proceedings, referral to other state and local regulatory agencies, arbitration and mediation.

Decisions of the Consumer Review Panel as to probable cause are final. Disputes as to the closure of a service request shall only be heard by the panel. A dispute/service request brought before the Board of County Commissioners shall be directed to the Consumer Review Panel. Issues involving actual building codes and their specific appeal are subject to the Hernando County Construction Code and rules adopted thereto. Complaints involving building codes shall be submitted within four (4) years from the date of completion of the subject work, as defined by this code. The department or Consumer Review Panel shall not investigate complaints submitted beyond that time.

SECTION 7. AMENDING HERNANDO COUNTY CODE OF ORDINANCES, CHAPTER 8, ARTICLE II, DIVISION 2, SUBDIVISION B, SECTIONS 8-55 THROUGH 8-65, INCLUSIVE, AND CREATING A NEW SECTION 8-66 AS PART OF SUBDIVISION B, PERTAINING TO THE CONSTRUCTION LICENSING BOARD, CREATING AND ESTABLISHING A NEW BOARD OF CONSTRUCTION AND

**REGULATION, SETTING FORTH COMPOSITION, POWERS,
AUTHORITY AND PROCEDURES.**

Chapter 8, Article II, Division 2, Subdivision B, is hereby amended with respect to sections 8-55 through 8-65, inclusive, and a new section 8-66 is added to said Subdivision B, with additions indicated by underlining and deletions by strike-through, as follows:

Subdivision B. ~~Construction Licensing Board~~ Board of Construction and Regulation

Sec. 8-55. ~~Creation; number and qualification of members; organization; conflict of interest; secretary and technical advisor.~~

(1) To implement changes in composition, authority and responsibility imposed on the Board of Construction and Regulation created herein, the Hernando County Construction Licensing Board as formerly established and constituted by this subdivision is hereby abolished and its standing membership rescinded. To carry out the provisions of this code, there is created pursuant to the provisions of section 489.131(7), Florida Statutes, the construction licensing board (hereafter referred to as the "board").

(2) The Board of Adjustment and Appeals as referred to in Ordinance 2001-22 and all subsequent amendments thereto with all its powers and duties as prescribed, shall be performed by the Hernando County Board of Construction and Regulation. By adoption of this amendment, the board known as the Board of Adjustment and Appeals as described in Ordinance 2001-22 is hereby abolished and membership rescinded.

(3) To ensure continued enforcement of the provisions of this code, the governing body shall appoint members of the Board upon approval of this Ordinance. For purposes of the initial appointment, the Principal Office shall make recommendation to the governing authority of qualified persons to serve on this Board. Organization: The chairman and vice-chairman shall be elected by the board members in the form of a motion and shall serve for a one-year term to begin and end on the date of the first regularly scheduled meeting of each new year. The chairman and vice-chairman shall have full voting privileges. In the absence of both chairman and vice-chairman when a quorum is present, the attending members shall designate an acting chairman to preside over the proceedings. The acting chairman shall have full voting privileges.

(4) Creation. To carry out the provisions of this code, perform the duties of a board of adjustment and appeals as prescribed by the Hernando County Construction Code and future amendments thereto and to act as a county-wide compliance review board as required by the Hernando County Construction Code there is created pursuant to the provisions of section 489.131(7), Florida Statute, and the Hernando County Construction Code as adopted by Ordinance, the Hernando County Board of Construction and Regulation (hereafter referred to as the "Board"). Members not to vote where personal interest exists. No board member may sit upon the board during the hearing of any matter in which he has a personal interest, in accordance with applicable state laws governing conflicts of interest defined according to Chapter 112, Florida Statutes.

(5) Number and qualifications of members; limitation on power. The board shall consist of ~~nine~~ eleven (11) members, of whom:

- (a) One member shall be a general contractor; one member shall be a building contractor or a residential contractor.
- (b) One member shall be a plumbing contractor; one member shall be an electrical contractor; one member shall be a mechanical contractor; one member shall be a roofing contractor.
- (c) One member shall be an engineer; one member shall be an architect or engineer, and three (3) members shall be consumer representatives as defined by this code.
- (d) Board members shall be duly licensed in their respective trade, with the exception of the consumer representatives.

No board member may sit upon the board during the hearing of any matter in which he has a personal interest, in accordance with applicable state laws governing conflicts of interest defined according to Chapter 112, Florida Statutes.

~~Secretary and technical advisor. The building official shall appoint a secretary to the board. The building official shall serve as technical advisor to the board but shall have no vote. The building official shall receive no additional compensation for these duties.~~

Sec. 8-56. Terms of office.

The ~~nine (9)~~ eleven (11) members shall be appointed by the governing body for a four-year term and shall continue unless sooner removed for malfeasance in office, neglect of duty (which shall include three (3) consecutive unexcused absences), incapacity or other sufficient causes (to include improper interference with ongoing investigations or implying or conveying influence upon a contractor or employee of the principal office or department). ~~No member shall serve more than two (2) consecutive four-year terms, nor serve more than eleven (11) years on the board.~~ To ensure continuity of board policies, the governing body shall initially appoint one member for a one-year term, ~~two (2)~~ three (3) members for two-year terms, three (3) members for three-year terms, and ~~three (3)~~ four (4) members for four-year terms.

~~Members appointed to this board prior to adoption of this ordinance may complete the remainder of his/her term without reappointment.~~

Sec. 8-57. Quorum; affirmative votes of majority required.

~~Five (5)~~ Six (6) members of the board shall constitute a quorum, in the application of any provision of this code or the official duties of this board. Affirmative votes of the majority present shall be required.

Sec. 8-58. Compensation.

No board member shall receive any compensation for the duties stated herein.

Sec. 8-59. Rules and regulations.

The board shall meet as necessary for the performance of its functions. The board shall adopt rules and regulations for the proper and effective discharge of their official duties. The board is authorized to make such rules not inconsistent with law which are necessary to carry out the duties and authority conferred upon it by this code and the Hernando County Construction Code as adopted by ordinance.

Sec. 8-60. Powers and duties authority.

The powers and duties authority of the board ~~and special master~~ shall include the following:

- (a) To conduct informal hearings against state and local certified contractors, registered contractors and business organizations issued a certificate of authority when the report of the department, principal office or its investigators shows alleged violations of any provision of this code.
- (b) To suspend, revoke, or place on probation the registration, certificate of authority of a business organization or the certificate of competency of a locally certified contractor found by the board to have violated any provision of this code.
- (c) To suspend, revoke, place on probation or restrict in any manner deemed necessary, the permit pulling privileges of any contractor working in Hernando County found by the board to have violated any provision of this code.
- (d) To issue letters of reprimand to any contractors or business organization issued a certificate of authority found by the board to have violated any provision of this code.
- (e) To establish specific, non-arbitrary disciplinary guidelines applicable to each specific ground for disciplinary action which may be imposed by the board or a special master.
- (f) To establish and adopt rules for the conduct of administrative hearings and orders involving decisions or interpretations of the Building Official as to the Hernando County Construction Code, and for the application for and issuance of certificates of authority, certificates, inactive certificates, renewal and expiration of certificates of authority and certificates.
- (g) To require financial restitution to a consumer, when applicable necessary.
- (h) To impose an administrative fine not to exceed five thousand dollars (\$5,000.00).
- (I) To require continuing education.
- (j) To assess costs associated with investigation and prosecution of the violation(s) against the contractor, including associated legal fees.
- (k) To enter into stipulations with accused parties.
- (l) To conduct informal hearings involving unlicensed contractors.
- (m) To conduct informal hearings involving certified and registered contractors to include person(s) or entities possessing certificates of authority.
- (n) To terminate informal hearings when a party asserts and/or raises an issue of disputed fact.
- (o) To refer terminated informal hearings to a special master.
- (p) To suspend, revoke, or deny issuance or renewal of a certificate, registration, or certificate of authority for any individual or business organization that associates a person as an officer, director, or partner, or in a managerial or supervisory capacity, after such person has been found under a final order to have violated this section or was an officer, director, partner, trustee, or manager of a business organization disciplined by the board by revocation, suspension, or fine in

excess of two thousand five hundred dollars (\$2,500.00), upon finding reasonable cause that such person knew or reasonably should have known of the conduct leading to the discipline.

- (k) To conduct hearings as to the appeal of a decision or interpretation of the Building Official regarding the Hernando County Construction Code.
- (l) To render final orders/decisions as to hearings involving the appeal of a decision or interpretation of the Building Official regarding the Hernando County Construction Code.
- (m) The Board is authorized to conduct an administrative hearing either involving the appeal of a decision or interpretation of the Building Official or an appeal as to local technical amendments of the Hernando County Construction Code.
- (n) The Board may vary the application of any provision of the Hernando County Construction Code to any particular case upon appeal when so appealed to and after a hearing. With regard to variances of the application of the Hernando County Construction Code, the decision is code to any particular case.

Sec. 8-61. Records.

The board shall ensure that neat and accurate records are kept of all official actions, deliberations, transactions and correspondence, and shall render such reports and information as the governing body may direct. The building official, through his staff, shall prepare and maintain such records subject to the approval of the board.

Sec. 8-62. ~~Disciplinary proceedings (formal/informal hearings)~~ Administrative Hearings, Formal and Informal (Licensed Contractors, Code Appeals).

(1) Authority to revoke, suspend, restrict, etc., contractors, registrations, certificates of authority and unlicensed contractors. The board and special master may revoke or suspend the certificate or registration of a contractor, certificate of authority of a business organization, place a contractor on probation, restrict the permit-pulling privileges of a contractor, require continuing education of a contractor, require financial restitution of a contractor, unlicensed contractor and/or business organization issued a certificate of authority, impose an administrative fine not to exceed five thousand dollars (\$5,000.00) pursuant to section 489.131(7), Florida Statutes, and/or assess costs associated with investigation and prosecution against a contractor, a registration or the person or business organization issued such, an unlicensed contractor and/or a business organization issued a certificate of authority, or reprimand or censure a contractor if the contractor, or the business organization for which the contractor is a primary qualifying agent or a secondary qualifying agent, responsible under section 8-31 of this code; is found guilty of any of the following acts:

- (a) Obtaining a certificate or registration by fraud or misrepresentation.
- (b) Being convicted or found guilty of, or entering a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.
- (c) Violating any provision of Chapter 455, Florida Statutes.
- (d) Violating the applicable building codes or laws of the State of Florida, or of Hernando

County.

(e) 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. It shall be the duty of a contractor to ensure that those he employs or those employing him are duly licensed. The failure to conduct such an inquiry shall be prima facie proof of a violation of this code.

(f) Knowingly combining or conspiring with an uncertified or unregistered person by allowing his certificate or registration to be used by the uncertified or unregistered person with intent to evade the provisions of this code. When a certificate holder or registrant allows his certificate or registration to be used by one or more business organizations without having any active participation in the operations, management or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this code.

(g) Acting in the capacity of a contractor under any certificate or registration issued other than the name of the certificate holder or registrant as set forth on the issued certificate or registration.

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

1. 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.

2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contractor 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 funds within thirty (30) days after the date the job is abandoned; or

3. 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, was the result of circumstances caused by the customer or was otherwise permitted by the terms of the contract between the contractor and the customer.

(I) Being disciplined by any municipality or county for an act or violation of this code.

(j) Failing in any material respect to comply with the provisions of this code or violating a rule or lawful order of the board.

(k) 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 termination, or fails to perform work without just cause for ninety (90) consecutive days.

- (l) 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 results in a financial loss to the owner, purchaser or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.
- (m) Committing fraud or deceit in the practice of contracting.
- (n) Committing incompetency or misconduct in the practice of contracting.
- (o) Committing gross negligence, repeated negligence or negligence resulting in a significant danger to life or property.
- (p) Proceeding on any job without obtaining applicable local building department permits and inspections.
- (q) Intimidating, threatening, coercing or otherwise discouraging the service of a notice to owner under Part I of Chapter 713, Florida Statutes, or a notice to contractor under Chapter 255, Florida Statutes.
- (r) Failing to satisfy within a reasonable time the terms of a civil judgement obtained against the licensee or the business organization qualified by the licensee relating to the practice of the licensee's profession.
- (s) Knowingly and intentionally making or furnishing a statement in the form of an affidavit, whether or not under oath, containing false information about the payment status of subcontractors, sub-subcontractors, or suppliers in connection with the improvement of real property, knowing that the one to whom it was furnished might rely on it, and the one to whom it was furnished will part with draw payments or final payment relying on the truth of such statement as an inducement to do so.
- (t) Making or disseminating, in oral, written, or printed form, misleading advertising (representations that are known or through the exercise of reasonable care or investigation could or might have been ascertained to be untrue or misleading, which are made or were made with the intent or purpose of selling or disposing of real or personal property or services of any kind or which are made or were made to induce the public to enter into any obligation relating to such property or services).
- (u) Violating any of the provisions of section 8-41 of this code.
- (2) If during an informal hearing any party asserts and/or raises an issue of disputed fact, the hearing shall be terminated and a formal hearing before the special master shall be ordered as provided by section ~~8-49~~ 48 of this code.
- (3) The certificate, registration or certificate of authority for any individual or business organization that associates a person as an officer, director, or partner, or in a managerial or supervisory capacity, after such person has been found under a final order to have violated this section or was an officer, director, partner, trustee, or manager of a business organization disciplined by the board by revocation, suspension, or fine in excess of two thousand five hundred dollars (\$2,500.00), upon finding reasonable cause that such person knew or reasonably should have known of the conduct leading to the discipline; may be suspended, revoked, or

denied issuance or renewal.

(4) The Board is authorized to conduct an administrative hearing either involving the appeal of a decision or interpretation of the Building Official or an appeal as to technical amendments of the Hernando County Construction Code, or an appeal of a Notice of Unsafe Building.

(5) With regard to an appeal of either the decision or interpretation of the Building Official, the owner of a building, structure or service system, or his duly authorized agent, may appeal a decision or interpretation of the building official to the board for a hearing whenever any one of the following conditions are claimed to exist:

- a. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure or service system.
- b. The provisions of the Hernando County Construction Code do not apply to this specific case.
- c. That an equally good or more desirable form of installation can be employed in any specific case.
- d. The true intent and meaning of the Hernando County Construction Code or any of the regulations there under have been misconstrued or incorrectly interpreted.

(6) With regard to variances of the application of the Hernando County Construction Code, the Board, when so appealed to and after a hearing, may vary the application of any provision of the Hernando County Construction Code to any particular case when enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of ordinance 2001-22, the Hernando County Construction Code, or public interest, and also finds all of the following:

- a. That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.
- b. That the special conditions and circumstances do not result from the action or inaction of the applicant.
- c. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures or service system.
- d. That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.
- e. That the granting of the variance will be in harmony with the general intent and purpose of this code and will not be detrimental to the public health, safety and general welfare.
- f. The Board shall reach a decision without unreasonable or unnecessary delay. Each decision shall also include reasons for the decision. If a decision reverses or modifies a refusal, order, or disallowance of the Building Official or varies the application of any provision of the Hernando County Construction Code, or

applicable building codes, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A certified copy of the decision shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the Building Official for two weeks after filing. Every decision of the Board shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.

Sec. 8-63. Investigation, authority.

- (1) At any time that it shall come within the knowledge of a field investigator or the building official or his/her designee that any of the foregoing grounds for disciplinary action may exist as to any contractor, or that a person without regard to licensure; may have violated a provision of this code; it shall be the duty of the principal office and/or a designated code enforcement officer, field investigator and the building official or his/her designee to make a full fact-gathering investigation and file a report thereof, together with a statement as to whether or not such grounds do exist. In the event that it shall come within the knowledge of the board that any such violation may exist or have occurred; the board may direct an investigation be conducted.
- (2) A field investigator or the building official or his/her designee may enter and inspect any place of business to which the public is invited or a construction site any reasonable time for the limited purpose of investigating compliance and/or violations of this code. Persons or entities required to be licensed pursuant to this code shall keep, maintain, and provide for inspection upon demand; those licenses and certificates of insurance required by this code.
- (3) A license must be in the possession of the certificate holder and/or be readily accessible for inspection purposes. A person unable to produce proof of licensure in that the license is not on his/her person or readily accessible shall be deemed in violation of this code and subject to a civil citation and the applicable penalty as prescribed in this code and applicable resolutions. The term readily accessible shall be limited to the license being somewhere in the immediate vicinity of the person or persons performing work or acting in the capacity of a contractor. A designated code enforcement officer, field investigator, building official or his/her designee is authorized to determine compliance as to the term "readily accessible".
- (4) A field investigator, the building official or his/her designee performing an investigation, is authorized to compel a certificate holder to cooperate with an ongoing investigation as to violations of this code. Cooperation is achieved when a certificate holder; attends meetings upon the written request of a designated code enforcement officer, field investigator and the building official or his/her designee; or otherwise does not conceal or cause to be concealed, or assist in concealing any material activities or information about the contracting firm to include but not be limited to the exclusion or facilitation of the exclusion of any aspect of the contracting firm's financial or other business activities.
- (5) If the building official or his/her designee finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the building official or his/her designee may take such action by any procedure that is fair under the circumstances.

(a) The building official or his/her designee may order the cessation (hold) of the issuance future permits to a contractor who is under investigation for violation(s) of this code and has either failed or is unable to cooperate with an ongoing investigation which involves violations that could lead to a threat to the health, safety and welfare of the public welfare.

1. Notice must be provided to the subject contractor as to the subject action,

2. Such an order is only valid for a maximum period of thirty (30) days. If after thirty (30) days from the issuance of an order the contractor has not cooperated with an investigation, such failure shall be deemed a violation of this code and subject to the penalties established and set forth in this code and adopted board rules.

(b) A field investigator, building official or his/her designee may initiate an emergency proceeding before either the board or a special master for purpose of obtaining a summary order instituting emergency action that either suspends, restricts or limits a certificate.

Upon conclusion of such a proceeding; the board or special master shall enter a summary order stating the facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances.

(6) (a) Upon a determination by the building official or his/her designee that a licensee, certificate holder, or registrant licensed under chapter 455, chapter 471, chapter 481, chapter 489 or this code has committed a material violation of the Florida Building Code and failed to correct the violation within a reasonable time, a fine shall be imposed of no less than five hundred dollars (\$500.00) and no more than five thousand dollars (\$5,000.00) per material violation as provided by law and established and approved fee schedule.

(b) If the licensee, certificate holder, or registrant disputes the violation within thirty (30) days following notification by the principal office, the fine is abated and the principal office shall report the dispute to the Department of Business and Professional Regulation (DBPR) or the appropriate professional licensing board for disciplinary investigation and final disposition. Any fine imposed by DBPR or the professional licensing board, pursuant to matters reported by the principal office shall be divided equally with between the DBPR or the appropriate professional licensing board and the principal office.

(c) For purposes of this section, a material code violation is a violation that exists within a completed building, structure, or facility which may reasonably result, or has resulted, in physical harm to a person or significant damage to the performance of a building or its systems. Except when the fine is abated as provided in paragraph (b), failure to pay the fine within thirty (30) days shall result in a suspension of the licensee's, certificate holder's, or registrant's ability to obtain permits within this state until such time as the fine is paid. Such suspension shall be reflected on the automated information system under § 455.2286. (Specific Authority § 553.781.)

Sec. 8-64. Notices.

At any time a report of the building official, his designee, or local governing body indicates the existence of one or more violations of this code or other applicable local codes or laws of the state, and in the absence of a stipulated agreement or civil citation, written notice may be served upon the alleged violator, notifying such alleged violator of the grounds for disciplinary action,

the time, date, and place of a formal hearing before the special master board. The written notice shall be served not less than ten (10) days prior to the hearing. The alleged violator shall have the right to appear at such hearing, be represented by counsel, produce evidence, cross-examine witnesses and call witnesses in his own accord. Any such person receiving a notice to appear before the Special Master may elect to appear before the Board for an informal hearing as to the charges set forth in the notice of hearing wherein informal hearing procedures, rules and guidelines will apply.

Notwithstanding any other provision of law, service by regular mail to a certificate holder's or registrant's address of record shall constitute adequate and sufficient notice to the certificate holder or registrant for any official communication to the certificate holder or registrant, except when other service is required pursuant to the provisions of Florida Statutes, sections 455.224 and 455.225, or this code.

Sec. 8-65. Final order; appeal.

(1) **Disciplinary order.** At the conclusion of a hearing conducted by the board, should the board determine that one or more grounds for disciplinary action exists, it shall enter a written disciplinary order, signed by the chairman, stating the form of disciplinary action and any conditions imposed by the board against the violator. An order of the board shall take effect immediately.

(2) **Issuance of recommended penalty to department; notification of disciplined contractor; informing department of action.** Pursuant to any disciplinary order imposed by the board, a recommended penalty shall be issued to the appropriate state regulatory board(s) indicating no further action; a recommendation for suspension, revocation or restriction of the registration or certificate; a fine to be levied by the state board; or a combination thereof. The board shall inform the disciplined contractor and the complainant of the local license penalty imposed, the board penalty recommended, his rights to appeal, and the consequences should he decide not to appeal. The board shall, upon having reached adjudication or having accepted a plea of nolo contendere, immediately inform the appropriate state regulatory board(s) of its action and the recommended board penalty.

(3) **Challenge of penalty by disciplined contractor.** The disciplined contractor may challenge the board's recommended penalty to the appropriate state regulatory board(s). A challenge shall be filed within sixty (60) days of the issuance of the recommended penalty to the board. If challenged, there is a presumptive finding of probable cause and the case may proceed without the need for a probable cause hearing.

(4) **Failure to challenge constitutes waiver of right to hearing before department; appeal to district court.** Failure of the disciplined contractor to challenge the board's recommended penalty within the time period set forth in this subsection shall constitute a waiver of the right to a hearing before the appropriate state regulatory board(s). A waiver of the right to a hearing before the appropriate state regulatory board(s) shall be deemed an admission of the violation and the penalty recommended shall become a final order according to procedures developed by the appropriate state regulatory board(s) rule without further action. The disciplined contractor may appeal this board action to the district court.

(5) Appeal to circuit court. An aggrieved party, including the local governing body, may appeal a disciplinary order of the board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(6) Orders imposing disciplinary action. Orders imposing disciplinary action against a contractor shall contain, at a minimum, the following:

- (a) A clear statement of the violations charged.
- (b) A clear statement of the factual basis for the charges.
- (c) Evidence that the contractor was given notice of the charges, and of an opportunity to appear and present evidence and testimony regarding the charges.
- (d) Findings of fact made by the board.
- (e) Conclusions of law which demonstrate that the facts alleged constitute violations of chapter 489, Part I and/or II, Florida Statutes, or of the governing local ordinance (this code).
- (f) A statement of the penalty imposed.

(7) Orders involving an appeal of the decision or interpretation of the Building Official or appeal of a technical amendment of the Hernando County Construction Code, or an appeal of a Notice of Unsafe Building shall contain at a minimum, the following:

- (a) A clear statement of the issues being challenged/appealed.
- (b) A clear statement of the facts raised during the hearing.
- (c) Evidence that the appellant was given notice of the hearing and an opportunity to appear and present evidence and testimony.
- (d) Findings of fact.
- (e) Conclusions of law.
- (f) A summary and specific order of the board or special master detailing to the appropriate party what action if any, must be taken.

Orders shall be rendered following a hearing and reflect the facts and conclusions reached by the board or special master.

(8) Appeals of Decisions or Interpretations of the Building Official. Persons filing an appeal to a decision or interpretation of the Building Official shall file such an appeal in writing within 30 days after the decision is rendered by the Building Official. Appeals shall be in a form acceptable to the Building Official. Appeals relating to provisions of the Hernando County Construction Code, other than local amendments, may be appealed to the Florida Building Commission, pursuant to section 120.569 Florida Statutes, regarding the local government's action. Notice of Administrative Rights may be obtained from the Board's Principle Office. The board shall meet within 30 days after notice of appeal has been received.

- (a) In the case of a building, structure or service system which, in the opinion of the

Building Official, is unsafe, unsanitary or dangerous, the Building Official may, in his order, limit the time for such appeals to a shorter period.

Sec. 8-66. Failure to appear.

A person, certificate holder, registrant, or other entity failing to appear before a Special Master as commanded by way of a "Notice of Hearing" or "Citation" is deemed to have committed a criminal violation of this code. Matters regarding a failure to appear may be brought before the county court as a petition for the court to issue an order for the arrest of the individual for violating this ordinance. If arrested, and upon first appearance, the court will order such person to appear at the place, date and time as prescribed by the petition.

SECTION 8. AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES, SECTION 8-81, GRANDFATHERED CERTIFICATES, BY PROVIDING FOR GRANDFATHERING OF CERTIFICATES FROM OTHER JURISDICTIONS.

Section 8-81, Hernando County Code of Ordinances, is hereby amended as set forth in this section, with additions indicated by underlining and deletions by strike-through, as follows:

Sec. 8-81. GRANDFATHERED certificates.

The Board shall be responsible for prescribing grandfather provisions to persons or business organizations which are in existence prior to the enactment of this code or its amendments. Such provisions shall include, but not be limited to, proof of engaging in business of the applicable trade for three (3) consecutive years. Persons or business organizations issued certificates as authorized by this section shall have the same obligations, rights, and privileges as any other holder of a certificate and shall comply with all of the provisions of this code as any other person or business organization.

The Board shall adopt rules for the issuance of certificates to persons or business organizations that are actively in business prior to the enactment of amendments to this code if such amendments would otherwise limit or restrict the person or business organization and cause the person or organization to be deemed unlicensed.

To be eligible under this section for grandfathering of a license from another jurisdiction, and individual must:

1. Currently hold a valid contractors license in another jurisdiction of the State of Florida. For purposes of this section, an occupational license shall not be construed as a

contractor's license unless the only form of license required for the specific trade in the jurisdiction is an occupational license.

2. Complete a Hernando County application for the grandfathering of that license.

Once a completed application has been submitted, County staff will review the application and prepare a recommendation. The applicant will be required to appear before the Hernando County Board of Construction Regulation, which will make the decision at a public meeting. At that meeting, the Board shall consider the following criterion in evaluating the application:

1. The length of time the applicant has been licensed in the trade for which they are seeking a license.
2. The length of time the applicant has worked in the trade for which they are seeking a license.
3. The quantity of work the applicant has produced while in the trade, both as a license holder and as an assistant or apprentice.
4. Complaints registered against the applicant and their license. This includes all entities for which the applicant has acted as qualifier.
5. Any criminal charges brought against the applicant, including any business entity for which the applicant has acted as qualifier.
6. The application submitted to the county, and all accompanying data.
7. Recommendation of county staff based upon the review of the application and accompanying data.

At the hearing, the Board of Construction and Regulation shall discuss the information provided and make inquiry of the applicant. It is the responsibility of the applicant to provide to the Board all relevant documentation in support of their application. This shall be done at least one week in advance of the hearing. The Board, in its discretion, may or may not consider any information or documentation submitted less than one week from the hearing, including documentation submitted at the hearing itself. The Board will weigh the information and testimony, or lack of

such, and make a final decision.

SECTION 8. SEVERANCE OF PARTS

Should any section, paragraph, sentence, phrase, clause or other part or provision of this ordinance be declared by any court to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

SECTION 9. INCLUSION INTO THE CODE

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION 10. VIOLATIONS, REMEDIES, AND PENALTIES

Any person or entity violating any provision of the code as amended herein shall be subject to the penalties provided herein or, if no specific penalty is specified herein, to such applicable penalties as may be provided elsewhere by code, ordinance or law.

SECTION 11. EFFECTIVE DATE

This Ordinance shall be effective upon receipt of the official acknowledgment from the office of the Secretary of the State of Florida that this Ordinance has been filed with said office.

**ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION
THIS 6th DAY OF JANUARY, 2004.**

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA**

Attest: *Karen Nicolai*
KAREN NICOLAI, Clerk

By *Mary E. Whitehouse*
MARY E. WHITEHOUSE, Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY *MW* 1/9/04
County Attorney's Office