

**ORDINANCE NO.: 2005-17**

**AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO THE BOARD OF CONSTRUCTION AND REGULATION; PROVIDING FOR SPECIFIC INCLUSION OF GRANDFATHERED CERTIFICATE ISSUANCE IN THE BOARD'S POWERS AND AUTHORITY; PROVIDING FOR CHANGING A REFERENCE TO AN OBSOLETE BOARD TO THE NAME OF THE CURRENT BOARD WITH RESPONSIBILITY; PROVIDING SPECIFIC PROCEDURES FOR REVIEW OF AND DECISION UPON APPLICATIONS FOR GRANDFATHERED CERTIFICATES; PROVIDING FOR SEVERABILITY AND INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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

**SECTION 1. SECTION 8-60, HERNANDO COUNTY CODE OF ORDINANCES, IS AMENDED TO INCLUDE SPECIFIC BOARD OF CONSTRUCTION AND REGULATION AUTHORITY TO HEAR AND DECIDE UPON APPLICATIONS FOR GRANDFATHERED CERTIFICATES AND TO DELEGATE DECISIONAL AUTHORITY IN CERTAIN CASES TO THE PRINCIPAL OFFICE, BY ADDING UNDERLINED MATERIAL AND DELETING STRUCK-THROUGH MATERIAL, AS FOLLOWS:**

**Sec. 8-60. Powers and authority.**

The powers and authority of the board 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,

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certificates, inactive certificates, renewal and expiration of certificates of authority and certificates.

- (g) To require financial restitution to a consumer, when applicable.
- (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.
- (q) To conduct hearings as to the appeal of a decision or interpretation of the building official regarding the Hernando County Construction Code.
- (r) 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.
- (s) 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.
- (t) 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.
- (u) The board is authorized to hear and decide applications for issuance of grandfathered certificates pursuant to other provisions of this article and may delegate such functions in defined cases to the Principal Office.

**SECTION 2. SECTION 8-77, HERNANDO COUNTY CODE OF ORDINANCES, IS AMENDED TO DELETE A REFERENCE TO AN OBSOLETE BOARD NAME, BY ADDING UNDERLINED MATERIAL AND DELETING STRUCK-THROUGH MATERIAL, AS FOLLOWS:**

Sec. 8-77. Certificate eligibility requirements.

(1) Certificate eligibility shall be as determined by rules prepared by the principal office and adopted by the ~~construction licensing~~ board and consistent with this code and Florida Statutes.

(2) Any and all persons desiring to obtain a certificate of competency shall score a passing grade on an examination administered by an independent examiner as specified by the principal office, ~~and/or by the Hernando County Construction Licensing Board~~. A passing grade shall be deemed to be seventy-five (75) percent or better. Additionally, the applicant shall demonstrate proof of experience in the field for which he applies. Minimum requirements for proof of experience shall be determined by the principal office. All persons shall be of good moral character and shall be in sound financial standing.

**SECTION 3. SECTION 8-81, HERNANDO COUNTY CODE OF ORDINANCES, IS AMENDED TO CLARIFY THE APPLICATION OF GRANDFATHERED CERTIFICATES AND THE PROCESS BY WHICH APPLICATIONS FOR SUCH ARE REVIEWED AND DECIDED, BY ADDING UNDERLINED MATERIAL AND DELETING STRUCK-THROUGH MATERIAL, AS FOLLOWS:**

Sec. 8-81. Grandfathered certificates.

(A) ~~The board shall be responsible for prescribing grandfather provisions to persons engaging in a construction trade or business organizations which are in existence prior to the enactment of this code or its applicable amendments regulating such trade.~~ Such provisions shall include, but not be limited to, proof of engaging in business of the applicable trade for ~~three (3)~~ four 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.~~

(B) ~~The board shall adopt rules provide procedures 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, including but not limited to the filing of an application for such certificate with the Principal Office.~~

~~To be eligible under this section for grandfathering of a license from another jurisdiction, an 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 county application for the grandfathering of that license.~~

(C) Once a completed application for a grandfathered certificate has been submitted, county department staff will review the application and prepare a recommendation. The board may authorize staff to grant administrative approval of applications for grandfathering and criteria therefor, under which the applicant may will be required to appear before the county board of construction regulation, which will make the for a hearing prior to a final decision at a public meeting. At that meeting, the board shall consider any or all of the following criteria in evaluating the application:

(1) The length of time the applicant has been licensed in the trade for which they are seeking a license and any relevant information relating to prior licensure.

(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.

(8) Financial information developed during any background investigation of the applicant or through the applicant's testimony, including but not limited to credit data, outstanding indebtedness, evidence of financial responsibility, or any other information related to liabilities and assets of the applicant or any wholly owned business entity.

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. The board shall weigh documentation and testimony or lack thereof, and may approve or deny issuance of a certificate based on competent and substantial evidence as to the best interests of the applicant and the contracting services consumers of the county. If the board determines that additional information, documentation, or continuing education credits generally or in a specific area, should be required, but that the applicant otherwise appears qualified for a certificate, the board may grant a conditional certificate for such time period as may be required for the applicant to provide such information or documentation and/or earn such continuing education credits. The board may provide in its decision to grant a conditional certificate that such certificate shall be deemed expired and of no further force and effect if the specified additional information, documentation or proof of continuing education credits is not provided by the end of the specified time period.

**SECTION 4. Severability.**

It is declared to be the intent of the board of county commissioners that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

**SECTION 5. Inclusion in 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, any section or subsection of this Ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section, "article", or other appropriate designation.

**SECTION 6. Effective date.**

This ordinance shall take effect immediately upon receipt of official acknowledgment from the office of the Secretary of State of Florida that this ordinance has been filed with said office.

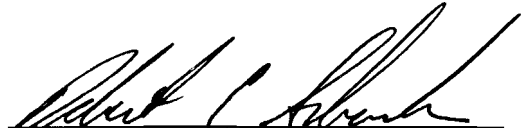
**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY** in Regular Session this 27<sup>th</sup> day of September 2005.

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


Attest:

  
KAREN NICOLAI  
Clerk

By:

  
ROBERT C. SCHENCK  
Chairman

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

BY  9/20/05  
County Attorney's Office