

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE II (CONTRACTORS), OF THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA, BY AMENDING SECTION 5-16 (DEFINITIONS) TO DELETE CERTAIN DEFINITIONS AND CREATE CERTAIN DEFINITIONS; AMENDING SECTION 5-17 (VIOLATIONS) TO CLARIFY THE BUSINESS ENTITY SUBJECT TO PENALTIES; AMENDING SECTION 5-18 (EXCEPTIONS) TO CHANGE TITLE AND CLARIFY PARTIES AND ACTIVITIES EXEMPT FROM CHAPTER 5, ARTICLE II; AMENDING SECTION 5-19 (BOARD OF EXAMINERS- MEMBERS; OFFICERS GENERALLY; MEETINGS; RULES) TO CHANGE TITLE AND REFERENCE TO BOARD; AMENDING SECTION 5-32 (CERTIFICATE OF COMPETENCY- MANNER OF OBTAINING) TO CLARIFY MANNER OF OBTAINING CERTIFICATE OF COMPETENCY AND REVISE APPLICATION FEE; AMENDING SECTION 5-33 (INVESTIGATION OF APPLICANTS) TO CLARIFY FINDINGS REQUIRED TO ISSUE CERTIFICATE OF COMPETENCY; AMENDING SECTION 5-35 (EXPIRATION; RENEWAL; CERTIFICATE OF COMPETENCY) TO CLARIFY PROCESS OF RENEWING CERTIFICATE OF COMPETENCY AND PROVIDE FOR EXPIRATION OF INACTIVE COMPETENCY CARDS; AMENDING SECTION 5-36 (FEES) TO REVISE FEE SCHEDULE FOR CERTIFICATES OF COMPETENCY, SERVICE USERS AND LETTERS OF RECIPROCITY; AMENDING SECTION 5-37 (STATE CERTIFIED CONTRACTORS) TO PROVIDE FOR A BUSINESS TAX RECEIPT; AMENDING SECTION 5-48 (RECIPROCITY) TO PROVIDE FOR THE DIRECTOR OF BUILDING AND COMMUNITY RESPONSE TO ISSUE CERTIFICATES OF COMPETENCY BASED ON RECIPROCITY; AMENDING SECTION 5-51 (DISCIPLINARY PROCEDURES) TO CLARIFY CONTRACTORS AGAINST WHOM CHARGES MAY BE FILED; AMENDING SECTION 5-52 (GROUNDS FOR REVOCATION OR SUSPENSION) TO CLARIFY ACTS INVOLVING BUSINESS ENTITY; AMENDING SECTION 5-53 (UNLICENSED CONTRACTORS; PROHIBITIONS; PENALTIES AND ENFORCEMENT) TO CHANGE TITLE, CLARIFY UNLAWFUL ACTS, ADD AN UNLAWFUL ACT, REVISE MAXIMUM CIVIL PENALTY, CLARIFY PROCESS OF APPEALING CITATION, AND REVISE SCHEDULE OF PENALTIES ASSESSED BY ENFORCEMENT OFFICER; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS FLORIDA STATE STATUTE CHAPTER 489 AND CHAPTER 553 HAVE BEEN AMENDED SINCE THE ADOPTION OF THIS ORDINANCE; AND PORTIONS OF THE EXISTING ORDINANCE REQUIRE AMENDMENTS HEREIN FOR CONFORMANCE, CLARITY AND CONSISTENCY WITH FLORIDA STATE STATUTES. **NOW THEREFORE, BE IT ORDAINED** BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 5, Article II, Section 5-16 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-16. Definitions.

As used in this article:

Board of ~~E~~examiners or ~~B~~oard shall mean the ~~B~~oard of ~~E~~examiners of ~~C~~ontractors provided for in this article.

Certificate shall mean a certificate of competency or a competency card.

~~City board shall mean the contractors' examining board appointed by the board of City Commissioners of the City of Fort Pierce, Florida.~~

Contractor and the various classes of contractors shall be defined as provided in F.S. section 489.105.

~~Owner-builder shall be defined as provided in F.S. section 489.103(7)(a) or sole owner is a single natural person who performs and/or supervises work in connection with the construction, repair or alteration of a single family or duplex residential structure for his own private occupancy. However, For the purposes of this chapter, the application for a building permit for the construction of more than one residence, duplex or commercial property or duplex in one year's time shall be construed as engaging in the construction business as an unlicensed contractor, and therefore, comes within the operation of this article.~~

Specialty contractors are contractors who specialize in one or more of the crafts of the building construction and related contracting trades and whose scope of work and responsibility is limited under his certificate of competency to a particular phase of the building construction and related contracting trades as described in Florida Administrative Rule 61G4-15 or in this section. Specific requirements and license type for each classification, incorporated herein by reference, are listed on the City of Fort Pierce Building Department's webpage and are available in the Building Department.

(1) Acoustical/suspended ceiling contractor: A contractor qualified to install, maintain, repair, alter or extend any acoustical/suspended acoustical ceiling system.

(2) Aluminum contractor with concrete: A contractor whose services are limited to fabrication, installation, maintenance, repair, alteration or extension of accessories such as metal siding, soffits, gutters, awnings and prefabricated rooms. These contractors may also form, place reinforcing steel and miscellaneous steel and pour, place and finish concrete incidental to aluminum accessories. An aluminum contractor with concrete may also perform the scope of a canvas and fabric contractor and a hurricane protection contractor.

(3) Aluminum contractor without concrete: A contractor whose services are limited to fabrication, installation, maintenance, repair, alteration or extension of accessories such as metal siding, soffits, gutters, awnings and prefabricated rooms. An aluminum contractor without concrete may also perform the scope of a canvas and fabric contractor and a hurricane protection contractor.

(4) Aluminum siding contractor: A contractor whose services are limited to fabrication, installation, maintenance, repair, alteration or extension of aluminum siding, soffit, fascia and gutters. This work includes installation of insulation behind the siding and repair of the substrate incidental to the siding installation.

(5) Aluminum structure contractor: A contractor whose services are limited to fabricating, assembling, handling, erecting, installing, dismantling, adjusting, altering, repairing, servicing and design work when not prohibited by law, in accordance with accepted engineering data and/or according to manufacturer's specifications. The scope of 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, single story self-contained aluminum utility storage structures (not to exceed 500 square feet) siding, soffit, fascia and gutters. It shall be limited to the construction of wood framing for the walls of uninhabitable utility storage structures, raised wood decks for enclosures and the repair and/or replacement of wood incidental to the aluminum construction work. The scope of work shall also include masonry concrete work and be limited to foundations, slabs and block kneewalls incidental to the aluminum construction work. Scope of work excludes any work that alters the structural integrity of the building including, but not limited to, roof trusses, lintels, load bearing walls, and foundations. An aluminum structure contractor may also perform the scope of a canvas and fabric contractor and a hurricane protection contractor.

(6) Apartment Maintenance Technician: A contractor whose services are limited to apartment complexes with at least 100 apartments; Equipment to be repaired is already installed on the property; equipment is commonly installed in similar locations, the equipment is not being modified except to replace components necessary to return the equipment to its original condition and the partial disassembly associated with the replacement. The equipment is repaired with new parts that are functionally identical to the parts being replaced. The individual repair does not involve replacement parts that cost more than \$1,000. The repair may not be so extensive as to be a functional replacement of the electric water heater or the existing electric heating, ventilating, or air-conditioning system being repaired. For purposes of this section, an individual repair may not be part of a larger project that is divided into parts to avoid this restriction.

- (7) Asphalt/concrete maintenance sealing and coating contractor: A contractor qualified to fill pot holes, coat an existing concrete or asphalt surface by squeegee, broom or mechanical applicator; and apply striping. Such contractor is not permitted to cut out existing concrete or asphalt for replacement; scope of work excludes paving.
- (8) Canvas & fabric contractor: A contractor qualified to manufacture, install, repair, maintain alter or extend canvas or other approved cloth/synthetic cover materials over a rigid metal frame or to any building or structure designed to be used as protection against sun and weather. Excludes aluminum and/or awning fabrication, installation and repair.
- (9) Carpentry contractor: A contractor qualified to install products in a building including, but not limited to, rough framing, structural and nonstructural trusses, conventional rafters, metal framing, sheathing, wood decks and work of the finish carpentry contractor.
- (10) Communication and sound system contractor: A contractor qualified to install, maintain, repair, alter or extend wiring, apparatus, circuits and equipment operating at less than 50 volts, raceways, computer wiring, conduit for private telephone, cable television systems, intercom and public address systems. This contractor may connect to an existing power circuit beyond the last over current device, but shall not install burglar and fire alarm systems.
- (11) Concrete forming and finishing contractor: A contractor qualified to batch and mix aggregates, cement and water to agreed specifications, to construct forms and framework for the casting and shaping of concrete and pressure injected footings; to place and erect reinforcing steel and miscellaneous embedded steel; and to place, finish and coat concrete.
- (12) Demolition contractor: A contractor qualified to demolish and remove structures, such as dwellings, commercial buildings and foundations.
- (13) Dredging contractor: A contractor qualified to dredge using mechanical or hydraulic dredging methods and equipment; also provides for sediment disposal.
- (14) Drywall contractor (gypsum drywall): A contractor qualified, and whose scope shall be limited to, the installation of gypsum drywall products to wood and metal studs. The scope also includes the installation of all necessary and incidental metal accessories, including nonloadbearing 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 shall include the application of base and finish coats specifically designed for the gypsum drywall products.
- (15) Excavation contractor: A contractor qualified to excavate, trench, dig or remove materials such as rock, gravel and sand to construct or excavate canals, lakes, levees, including the clearing of land of surface debris and vegetation, the grubbing of roots, the removal of debris; and leveling of related surfaces.
- (16) Exterior surface coating contractor: A contractor qualified to lath and plaster, plaster and stucco or otherwise coat surfaces with a mixture of sand or other aggregate gypsum plaster, Portland cement plaster or quick-lime and water, or any natural or synthetic materials as to create a permanent surface coating. This contractor may also apply and affix metal lath or any other product prepared or manufactured, including the placing of metal studs and runners to which lath is to be applied, to provide key or suction bases for the support of the plaster coating.
- (17) Fence contractor: A contractor qualified to construct, install, maintain, repair, extend or alter fencing, including, but not limited to, metal, wood, precast concrete and prefabricated fences, child safety barriers and automatic gates. Excludes electrical wiring and installation.
- (18) Finish carpentry contractor: A contractor qualified to install finished wood products in a building including, but not limited to, paneling, trim, cabinetry, interior doors, and all hardware incidental thereto.
- (19) Garage door installation contractor: A contractor qualified to install, maintain, repair, alter or extend residential or commercial type garage doors, including all hardware and operating devices. Excludes electrical wiring and installation.
- (20) Glass and glazing contractor: A contractor qualified to select, cut, assemble and install all makes and kinds of glass and glass work; and execute the glazing frames, panels, sash and door, add holding metal frames, ornamental decorations, mirrors, tub and shower enclosures.
- (21) Gunite contractor: A contractor qualified to mix materials and apply gunite or shotcrete.
- (22) Hurricane protection contractor: A contractor qualified to fabricate, install, maintain, repair or replace exterior opening protection assemblies including, but not limited to shutters and awnings that are designed to protect residential and commercial structures from hurricane and storm force winds and wind-borne debris. This contractor may brace existing garage doors to comply with this code, but shall not install new garage doors. Excludes electrical wiring and installation.
- (23) Insulation contractor: A contractor qualified to install, maintain, repair, alter or extend any insulation primarily installed to prevent loss or gain of heat from internal or external sources in pipes, vessels, ducts or built-up refrigerated boxes or rooms, This scope includes acoustical insulation and radiant barriers.
- (24) Irrigation sprinkler contractor: A contractor qualified to install, maintain, repair, alter or extend, all piping, sprinkler heads, control system components, pump, and chemical injectors for irrigation of

lawns and plant materials. Electrical work is limited to 50 volts except for connection of pigtailed equipment or replacement of identical controls and motors.

(25) Land clearing contractor: A contractor qualified to clear the land of vegetation, the grubbing of roots, the removal of surface debris and leveling of the surface lands incidental to the land clearing action.

(26) Lightning protection systems contractor: A contractor qualified to install, maintain, repair or alter any lightning protection system, including all terminals, conductors, ground rods, fittings and all other system fastenings, connections and bonding necessary to complete a system designed to protect structures and open spaces. Excludes electrical wiring and installation.

(27) Marine contractor: A contractor qualified with the experience and skill to construct, maintain, alter, install or repair seawalls, rip rap walls, bulkheads, revetments, docks, piers, wharfs, groins, boat lifts, davits, dune crossovers and other marine structures, including pile driving framing, concrete, masonry, dredge and fill. Excludes electrical wiring and installation.

(28) Masonry contractor: A contractor qualified to select, cut and lay brick, concrete block, horizontal reinforcement incidental to the placement of the units or any other unit masonry products, lay brick and other baked clay products, rough cut and dress stone, artificial stone and precast blocks, structural glass brick or block, but shall not place, pour or finish concrete.

(29) Metal building contractor: A contractor qualified to erect single story metal buildings, including site work, concrete, masonry, siding, roofing, windows and doors. Excludes the scope of electrical, plumbing, gas and HVAC.

(30) Painting and decorating contractor: A contractor qualified to prepare surfaces, apply paints by any method, brush, roller or sprayer; coatings and other finishes; all types of faux finish applications, paper hanging, sandblasting, waterproofing, cleaning and painting of roofs.

(31) Paver brick/paver block system contractor: A contractor qualified with the knowledge, skill and experience to prepare the base, provide for proper drainage, to select, cut and lay paver units. The contractor shall not place or finish concrete, except that which is required for the placing of the paver system. The contractor shall sub-contract any additional concrete work over and above that which is required by the manufacturers' specifications for paver unit installation to a qualified contractor.

(32) Paving contractor: A contractor qualified with asphalt and concrete experience and skill to construct roads, airport runways and aprons, parking lots, driveways, sidewalks, curbs and gutters, property line walls, storm drainage facilities, paver brick/paver brick systems and to perform the excavating, clearing and grading incidental thereto.

(33) Pile driving contractor: A contractor qualified to drive piling, including sheet piling and construction foundations, including the excavating, forming and placing of reinforcing steel and concrete and performing other work incidental thereto.

(34) Pre-stressed, pre-cast concrete erection contractor: A contractor qualified to erect structural precast concrete units such as deck, beams, girders, walls columns and stairs that are or may be used as structural members for buildings and structures, including welding and rigging in connection therewith and to erect precast concrete systems for guard rails and decorative panels above the ground floor, including such minor field fabrication as may be necessary.

(35) Reinforcing steel contractor: A contractor qualified to fabricate, place and tie steel reinforcing bars (rods) of any profile, perimeter, or cross-section that are or may be used to reinforce concrete buildings and structures in such a manner that under all agreed specifications, steel reinforcing bars (rods) for concrete building and structure can be fabricated, placed and tied.

(36) Siding, window and door contractor: A contractor qualified to install siding, windows and doors including vinyl, wood or aluminum siding, and all types of windows and doors. This includes the work necessary to prepare or repair the substrate to accomplish proper installation, but excludes any structural alterations.

(37) Sign contractor- Non-electrical: A contractor qualified to install, paint, repair, add to or change interior or exterior nonelectrical signs according to the building code.

(38) Structural steel erection contractor: A contractor qualified to erect structural steel shapes and plates, including such minor field fabrication as may be necessary of any profile, perimeter or cross-section that are or may be used as structural members for buildings and structures, including riveting, welding and rigging, only in connection therewith.

(39) Tile and marble contractor: A contractor qualified to prepare the base and set tile and marble.

(40) Tile, terrazzo and marble contractor: A contractor qualified to prepare the base, set, repair and refinish tile, terrazzo and marble.

(41) Tree removal contractor: A contractor qualified to trim, prune, plant, and remove trees; includes climbing trees and ladders for the purpose of trimming and related work.

(42) Welding contractor: A contractor qualified with experience in fabrication or sculpturing processes that join materials, usually metals or thermoplastics, by causing fusion.

State certification shall mean certification of a contractor by examination from the Florida Construction Industry Licensing Board as provided in section 489.111 of the Florida Statutes.

SECTION 2. Chapter 5, Article II, Section 5-17 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-17. Violations.

In addition to other penalties, a conviction of ~~the~~ and/or finding of violation of any provision of this article shall revoke the license or certificate of the person so convicted or found to have violated provisions of this chapter, or the ~~firm-business organization~~ of which the person so convicted or found to have violated provisions of this chapter was a member, or the ~~corporation-business organization~~ of which the person so convicted or found to have violated provisions of this chapter was an officer or director.

SECTION 3. Chapter 5, Article II, Section 5-18 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-18. Exemptions. ~~Exceptions.~~

This article shall not apply to exemptions as provided in section 489.103 of the Florida Statutes.

- ~~(1) An authorized representative or employee of the United States of America, the state, the county or the city.~~
- ~~(2) Gas contractors.~~
- ~~(3) Sole owners of property, building structures or making repairs thereon for their own use, and no individual who is not licensed can receive a permit to build a home, duplex, apartment or commercial building unless he certifies under oath that he owns the property and is not building for speculation.~~
- ~~(4) Sale or installation of any finished products, materials or articles of merchandise which are not actually fabricated on the job and which do not become a permanent fixed part of the building or structure.~~
- ~~(5) Any person who furnishes materials or supplies without fabricating them into or consuming them in the performance of the work of a contractor.~~

SECTION 4. Chapter 5, Article II, Section 5-19 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-19. Board of Examiners of Contractors—Members; officers generally; meetings; rules.

- (a) There shall be appointed by a majority vote of the city commission a Board of Examiners of Contractors, consisting of ten (10) members who have been residents of the county for at least two (2) years prior to the date of their appointment, except that this shall not apply as to the director of building and community response. The term of office of each member of the board shall be for four (4) years, but the city commission may remove any member of the board without cause, notice or hearing. Members appointed to fill vacancies caused by death, resignation or removal shall serve during the unexpired terms of their predecessors. The board shall consist of the director of building and community response, three (3) consumer representatives, and six (6) members licensed in the State of Florida from any of the following fields: architect; engineer; swimming pool, roofing, or other specialty contractor; general, residential, or building contractor; electrical contractor; plumbing contractor; or mechanical or air-conditioning contractor.
- (b) The board shall elect a chairman and such other officers as may be necessary from among its members.
- (c) The board shall hold not less than four (4) regular meetings each fiscal year, one in July, one in October, one in January and one in April. The meetings shall be called by the chairman of the board and in his absence by the vice-chairman of the board. Absence from two (2) consecutive meetings of the board shall vacate the seat of that member, unless such absence is excused by the board.
- (d) The board shall have the right, power and authority to make such by-laws, rules and regulations governing its body as it may deem necessary; provided, that the same do not conflict with the charter and ordinances of the city or the constitution and laws of the United States and of the state. Six (6) members of the board shall constitute a quorum and a majority vote of those present shall be required to make any decisions.
- (e) Members of the board, except the director of building and community response, shall each receive compensation in the amount of twenty dollars (\$20.00) per meeting attended, payable on a quarterly basis. Responsibility for reporting attendance to receive compensation shall be placed with the board's staff coordinator.

SECTION 5. Chapter 5, Article II, Section 5-32 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-32. Certificate of competency—Manner of obtaining.

A contractor's certificate of competency shall be obtained in the following manner:

- (1) Any person required or desiring to be qualified as a contractor shall make application on a form provided by the city. A nonrefundable processing application fee as provided in section 5-36 of this article of one hundred twenty-five dollars (\$125.00) shall be paid upon submittal of the application. The application shall be retained by the city together with all supporting papers.
- (2) Should the applicant be a firm business organization, the application shall be executed by the president or one legally qualified to act for the firm business organization, who shall show his authority to so act on the application, and shall name an authorized agent on behalf of the firm business organization showing his authority.
 - a. To act for the firm business organization in all matters in any manner connected with the contracting business.
 - b. To take the qualifying examination for the firm business organization, unless holding a current certificate of competency of the class and type necessary.

The firm business organization shall be qualified only through the qualifications of such agent taking the examination, or through an agent currently qualified and if the agent (qualifier) shall sever his affiliation with such firm business organization, the certificate of competency held by such firm business organization shall be automatically cancelled. The agent (qualifier) shall be restricted to the work of a firm business organization he is currently qualifying.

- (3) No application shall be considered by the board unless the applicant provides all information required by 5:00 p.m. on the ~~Tuesday~~ Wednesday prior to the scheduled board meeting, which shall include:
 - a. A statement of applicant's proposed contracting business.
 - b. The type of certificate being applied for.
 - c. The name, residence and business address of applicant.
 - d. If applicant is a firm business organization, the name and business address of the firm business organization, the name and residence of all directors and officers and their interest therein and the name and address of the applicant's qualified representative and information contained above. If applicant is a firm business organization, the certificate of incorporation.
 - e. A sworn financial statement of the applicant, a credit report submitted directly from the credit reporting agency and an agreement authorizing the secretary of the board to obtain from any source dealing with the applicant, even though confidential, such additional information concerning the applicant's financial condition as the secretary deems necessary. The financial statement and credit report shall not be older than six (6) months at the time of submittal.
 - f. A sworn list of businesses owned and operated or managed by applicant or in which the applicant has had an interest of any kind, or been employed by, during the past five (5) years and the addresses of these businesses.
 - g. Three (3) letters of recommendation from reputable persons in a business or profession, not related by blood or marriage to the applicant, vouching for the applicant's reputation as to honesty, integrity and good character.
 - h. A sworn statement under oath that the applicant has not been convicted of a misdemeanor involving moral turpitude or felony during the past five (5) years and that he is not presently charged with committing a felony or misdemeanor involving moral turpitude; if this is not the case, applicant shall specify the details of the conviction or charge.
 - i. That the applicant has a practical and working knowledge of the statutes of the state and ordinances of the city applicable to the business in which he seeks to engage, including but not limited to the zoning and building codes of the city.
 - j. That the applicant has a practical and working knowledge of the business of contracting or subcontracting in which he seeks to engage.
 - k. An original and complete certificate of insurance issued by an insurance company authorized to do business in the State of Florida, as required in section 5-47.
 - l. Copy of a current business tax receipt ~~occupational license~~ issued by a county or municipality.
 - m. Proof of having obtained a score of seventy (70) per cent or higher on the required contractor competency examinations or the required general specialty examinations. A letter of reciprocity in accordance with section 5-48 shall be accepted.

SECTION 6. Chapter 5, Article II, Section 5-33 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-33. Investigation of applicants.

The Board of Examiners of Contractors ~~contractors' examining board~~ shall not issue a certificate of competency unless, by a majority vote of the board members present, the board finds:

- (1) That the applicant, or if applicant is a firm/business organization then the qualified representative, has made a score of seventy (70) per cent or higher on the contractor competency examinations or general specialty examinations and has the necessary experience for the type of certificate applied for.
- (2) That the credit report and financial statement of the applicant shows that the applicant is financially able to engage in the contracting business for which a license is required so that the public will be protected.
- (3) That the applicant and each officer of the business organization member of the firm ~~member of the firm~~ possesses a reputation of honesty, integrity and good character and has not been convicted of a misdemeanor involving moral turpitude or a felony in the past five (5) years. This shall be determined by the board from the information contained in the letters of recommendation submitted by the applicant and any other statements submitted to or obtained by the Board of Examiners of Contractors ~~contractors' examining board~~ or its investigators. The lack of honesty, integrity or good character may be established by ~~confident~~ competent evidence that:
 - a. Applicant has committed an act within the last three (3) years which, if committed or done by a licensed contractor, would be grounds for suspension or revocation of the contractor's license.
 - b. Applicant has committed an act within the past three (3) years involving dishonesty, fraud, deceit or lack of integrity whereby the applicant has been benefited or whereby some injury has been sustained by another.
 - c. Applicant has in the past five (5) years refused to pay just bills of at least five (5) different persons or has been adjudged bankrupt.
 - d. Applicant has been convicted of a misdemeanor involving moral turpitude or felony during the past five (5) years.

SECTION 7. Chapter 5, Article II, Section 5-35 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-35. Expiration; renewal; certificate of competency.

- (a) All certificates of competency shall expire annually at midnight on September 30. Certificate holders are responsible for annual renewal of their certificates.
- (b) A certificate may be renewed on payment of an annual renewal fee as provided in section 5-36 of this article. ~~in the amount of seventy-five dollars (\$75.00), on or before September 30 (hereinafter referred to as the "renewal due date"). All certificates not renewed on or before the renewal due date shall be considered delinquent and subject to a delinquency penalty as follows: twenty-five (25) per cent of the annual renewal fee if paid within three (3) months of the renewal due date; fifty (50) per cent of the annual renewal fee if paid within four (4) to six (6) months of the renewal due date; seventy-five (75) per cent of the annual renewal fee if paid within seven (7) to nine (9) months of the renewal due date; and double the annual renewal fee if paid within ten (10) to twelve (12) months of the renewal due date.~~ Failure to renew the certificate within twelve (12) months of the renewal due date shall cause the certificate to automatically expire and become null and void, and it shall be unlawful thereafter for any person to engage or offer to engage or hold himself out as engaging in contracting under the expired certificate. Such expired certificate may not be renewed. Individuals holding such expired certificate who desire to engage in the business of contracting shall be considered applicants for an original certificate and must reapply under the provisions of section 5-32.
- (c) A person who holds a valid current certificate may go on inactive status, during which time he shall not engage in contracting. Inactive competency cards shall expire one (1) year from the date of their issuance; they may not be renewed. The holder of the card may, during its term, convert the card to an active competency card upon the payment of the required fees as provided in section 5-36 of this article., but may retain his certificate on an inactive basis upon payment of an annual fee during the inactive period of ten dollars (\$10.00) per year.
- (d) All contractors shall report to the city within seven (7) days any change of address of business.

SECTION 8. Chapter 5, Article II, Section 5-36 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-36. Fees.

- (a) Contractors shall pay the following fees for a certificate of competency:

- (1) Application for a certificate of competency: Non-refundable fee, one hundred twenty five dollars (\$125.00).
 - (2) Initial issuance of a certificate of competency for contractors other than those with current certification issued by the Florida Construction Industry Licensing Board: Fee, fifty dollars (\$50.00).
 - (3) A certificate may be renewed upon payment of an annual renewal: Fee, seventy-five dollars (\$75.00), on or before September 30 (hereinafter referred to as the "renewal due date"). All certificates not renewed on or before the renewal due date shall be considered delinquent and subject to a delinquency penalty as follows: twenty-five (25) per cent of the annual renewal fee if paid within three (3) months of the renewal due date; fifty (50) per cent of the annual renewal fee if paid within four (4) to six (6) months of the renewal due date; seventy-five (75) per cent of the annual renewal fee if paid within seven (7) to nine (9) months of the renewal due date; and double the annual renewal fee if paid within ten (10) to twelve (12) months of the renewal due date.
 - (4) Replacement competency card: Fee, twenty dollars (\$20.00).
- (b) Contractors having a current valid certificate of competency shall pay the following fees for a change to the status of the certificate:
- (1) Placement of certificate of competency into inactive status: Fee, twenty-five dollars (\$25.00).
 - (2) Return inactive status of a certificate of competency to active status: Fee, fifty dollars (\$50.00).
 - (3) Change from business entity to another business entity: Fee, sixty dollars (\$60.00).
 - (4) Amend filed business organization name to another: Fee, fifty dollars (\$50.00).
 - (5) Change from an individual to a qualifying business: Fee, seventy-five dollars (\$75.00).
 - (6) Change from a qualifying business to an individual: Fee, seventy-five dollars (\$75.00).
 - (7) Business name change: Fee, one hundred dollars (\$100.00).
 - (8) Qualify an additional business entity: Fee, one hundred dollars (\$100.00).

(c) Miscellaneous fees:

- (1) Service user fee: Fee, twenty-five dollars (\$25.00).
- (2) Letters of reciprocity: Fee, thirty-five dollars (\$35.00).

~~Any contractor who desires to secure a competency card from the city shall pay a fee upon application for a competency card as follows:~~

- ~~(1) General; building; residential; electrical; plumbing; mechanical; and air-conditioning contractors: Thirty-five dollars (\$35.00).~~
- ~~(2) Specialty contractors: Thirty-five dollars (\$35.00).~~
- ~~(3) Plumbing and electrical journeyman: Fifteen dollars (\$15.00).~~

SECTION 9. Chapter 5, Article II, Section 5-37 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-37. State certified contractors.

- (a) A state certified contractor who possesses a certificate of competency issued by the Florida Department of Professional Regulation may contract in any jurisdiction in the State of Florida without being required to fulfill the competency requirements of that jurisdiction.
- (b) A state certified contractor shall present to the building official at the time of each application for a building permit or related permit evidence of current state certification, proof of a current business tax receipt ~~occupational license~~ for a primary place of business, and an original certificate of insurance as required in section 5-47.
- (c) Voluntary application for a competency card may be made by a state certified contractor who desires the city to maintain his records on file. He shall complete the appropriate application form, attach a copy of his state certification, a copy of his current ~~occupational license~~ business tax receipt for a primary place of business, and provide an original certificate of insurance required in section 5-47; and pay a service user fee as provided in section 5-36 of this article; ~~to have such documents stored and kept on file to avoid the requirement of presenting such documents for every permit sought. of twenty-five dollars (\$25.00) as provided in section 5-36 of this article.~~

SECTION 10. Chapter 5, Article II, Section 5-48 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-48. Reciprocity.

- (a) The board may, by reciprocity, grant a certificate of competency to any person applicant who has obtained a certificate of competency in any other county or municipality of the state having codes licensing requirements and conducting examinations which are, in the reasonable opinion of the board, substantially equal similar to those of the city, upon payment of the application fee for his the applicant's classification as herein set out and furnishing all information to the board in writing as required by section 5-32-, and providing proof that the applicant has met all other criteria pursuant to this chapter. Certificate issued through reciprocity shall be subject to each of the other provisions of this article
- (b) Notwithstanding section 5-48(a), the director of building and community response, or his designee, is authorized, by such reciprocity, at his reasonable discretion, to grant a certificate of competency to an applicant who has obtained a certificate of competency in any other county or municipality of the state having code licensing requirements and conducting examinations which are, in the reasonable opinion of the director of building and community response, or his designee, substantially similar to those of the city, upon payment of the application fee for the applicant's classification as herein set out, furnishing all information in writing as required by section 5-32, and providing proof that the applicant has met all other criteria pursuant to this chapter.
- (c) The burden of showing the substantial similarity of the code licensing requirements, demonstrating compliance with the requirements of section 5-32, and proving that the applicant has met all other criteria pursuant to this chapter shall be on the applicant.
- (d) A certificate issued through reciprocity shall be subject to each of the other provisions of this article.

SECTION 11. Chapter 5, Article II, Section 5-51 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-51. Disciplinary procedures.

- (a) Any person including, but not limited to the director of building and community response of the city, may prefer charges against the holder of a contractor's certificate of competency issued pursuant to the provisions of this subchapter- or a contractor certified by the State of Florida. Such charges shall be made in writing and sworn to by the complainant or complaining witness and submitted to the building official of the city who shall immediately notify the chairman of the receipt thereof. The building official shall mail a copy of such charges to the respondent within fifteen (15) days from the receipt thereof.
- (b) The director of building and community response and the chairman of the board shall review the complaint for probable cause. If no probable cause is found, the complaint shall be denied and not referred to the board. A copy of the complaint and the findings of the director of building and community response and the chairman shall be placed in the respondent's file. The complainant or complaining witness shall have no right of appeal. Where a probable cause is found, the complaint shall be referred to the board for a hearing on the complaint.
- (c) The proceedings of the board may be informal in nature and the board shall not be bound by the rules of evidence. The board shall be entitled to rely on such evidence as is regularly relied upon in the ordinary course of the conduct of business.
- (d) The proceedings shall not be delayed, deferred or suspended without the approval of the board even though the respondent is made a party of civil litigation, or is a defendant or is acquitted in a criminal action, notwithstanding that either of such proceedings involves the subject matter of the investigation.
- (e) At the hearing the respondent shall be allowed to testify and to produce evidence and other witnesses in his behalf. The respondent may be accompanied by counsel. The respondent shall be given an opportunity to make a statement personally or by counsel, verbally or in writing, sworn or unsworn, explaining, refuting or admitting the alleged charges. The respondent shall be granted the right to be present at any hearing when evidence is to be presented to the Board of Examiners of Contractors ~~contractors examining board~~ and to call witnesses or present evidence and to cross-examine, subject to reasonable limitation.
- (f) If the respondent admits to the alleged charges the board may immediately make a finding of guilt violation without further testimony. If the respondent fails to appear, the board may make its determination based upon the sworn complaint.
- (g) The complainant or complaining witness is not a party to the disciplinary proceeding. Unless found to be impractical by the chairman of the board due to unreasonable delay or other good cause, the complainant or complaining witness shall be granted the right to be present at any board hearing when evidence is to be presented, subject to reasonable limitations. The complainant or complaining witness shall have no right of appeal from the decision of the board.
- (h) Upon conclusion of the formal hearing, the board shall make a determination. If the respondent is found to be guilty of misconduct by the board, the board shall thereupon enter its findings, an order of guilt and determine the proper disciplinary action to be imposed upon the respondent.
- (i) If a complaint is brought against a respondent whose competency card is in a state of expiration, or expires prior to the hearing, the proceedings on the complaint shall be stayed. Provided, however,

that the competency card may not be renewed, re-issued or activated until the board has disposed of the complaint.

- (j) Quorum/vote. No fewer than six (6) members shall constitute a quorum. All findings of guilt and recommendations of discipline shall be by affirmative vote of a majority of the committee members present, which majority must number at least four (4) members.
- (k) Appeal. Any decision of the board imposing disciplinary action on a respondent may be appealed by the respondent to the city commission within fifteen (15) days of the date of the board's decision; provided, however, a written notice of such appeal shall be filed with the city clerk within such a period of time. The city clerk shall notify all interested parties of the date fixed for hearing the appeal, which date shall be not less than thirty (30) days after the date of the filing of the notice of appeal. The hearing on appeal shall be, to the extent possible, upon the record and shall not be a hearing de novo. The city commission shall review the transcript of the hearing before the contractors examining board together with any tangible evidence considered by the board that determined its decision. The city commission may also entertain any additional testimony or evidence offered by the respondent or other interested party that was not brought out at the board hearing.
- (l) Stay on appeal. Any decision of the board imposing disciplinary action upon a respondent, other than revocation, which has been appealed by the respondent shall be automatically stayed upon receipt of the written notice of appeal by the city clerk.

SECTION 12. Chapter 5, Article II, Section 5-52 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-52. Grounds for revocation or suspension.

The board shall have the power, in addition to all other powers provided for in this division, to revoke or suspend the certificate of any contractor approved hereunder, who shall be ~~guilty of~~ found to have violated any one or more of the following acts or omissions:

- (1) Obtaining a certificate by fraud or misrepresentation;
- (2) Committing fraud or deceit in the practice of contracting;
- (3) Committing incompetency or misconduct in the practice of contracting; and
- (4) Committing gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property.
- (5) 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 days.
- (6) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:
 - a. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within seventy-five (75) days after the date of such liens;
 - b. The contractor has abandoned a customer's job and the ~~percentageper centage~~ of completion is less than the ~~percentageper centage~~ of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within thirty (30) days after the date the job is abandoned; or
 - c. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contractor and the customer.
- (7) Substantial departure from, or disregard, of, plans or specifications without consent the owner or his duly authorized representative;
- (8) Knowingly or deliberately disregarding or violating any applicable building codes or laws of the state, county or the city;
- (9) Willfully and deliberately engaging in a type or class of contracting for which the contractor is not licensed or registered;
- (10) Being disciplined by any other municipality or county;
- (11) Failing to actively supervise construction projects for which the contractor has applied for and obtained a building permit; or for projects for which the contractor is, by contract, responsible;
- (12) Contracting with persons or ~~firms~~ business organizations not having a certificate of competency issued by the city for work or services to be performed within the city when said persons or

~~firms~~business organizations are required by this chapter to possess such a certificate of competency in order to perform the contracted work or services; and

- (13) Proceeding on any job without obtaining the applicable building department permits and inspections.
- (14) Being convicted or found guilty, by judge or jury in court of competent jurisdiction, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.
- (15) 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.

SECTION 13. Chapter 5, Article II, Section 5-53 is hereby amended so that the same shall read hereafter as follows:

Sec. 5-53. - ~~Unlicensed contractors;~~ Prohibitions; penalties and enforcement.

- (a) It shall be unlawful for any person to:
 - (1) Falsely hold himself or a business organization out as a licensee, certificate holder, registrant or holder of a certificate of competency ~~occupancy~~ issued by the board;
 - (2) Falsely impersonate a certificate holder or registrant or the holder of a certificate of competency issued by the board;
 - (3) Present as his own the certificate, registration, or certificate of competency of another;
 - (4) Knowingly ~~Give~~ false or forged evidence to the board or member thereof for the purpose of obtaining a certificate of competency;
 - (5) Use or attempt to use a certificate, registration or certificate of competency which has been suspended or revoked;
 - (6) Engage in the business or act in the capacity of a contractor or advertise himself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly registered, certified or the holder of a certificate of competency;
 - (7) Operate a business organization engaged in contracting after sixty (60) days following the termination of its only qualifying agent without designating another primary qualifying agent;
 - (8) Commence or perform work for which a building permit is required pursuant to this chapter without such building permits being in effect;
 - (9) Willfully or deliberately disregard or violate any city or county ordinance relating to uncertified or unregistered contractor;
 - (10) Act in the capacity of a contractor different from the scope of work for which the contractor is certified to perform; or
 - (11) Fail to secure required inspections.
 - (12) Willfully and deliberately obtain or attempt to obtain a permit for an entity unregistered or unlicensed.
- (b) The director of building and community response, the building official, the deputy building official, building inspectors, and licensing investigators of the city are hereby designated, authorized and charged with enforcement responsibilities to enforce the provisions of F.S. §§ 489.127(1) and 489.132(1) and Chapter 5, Article II, of this Code, against persons who engage in activities for which a city certificate of competency is required.
 - (1) The enforcement authorities designated herein may issue a citation, as provided herein, for any violation of F.S. §§ 489.127(1) and 489.132(1) and Chapter 5, Article II, of this Code, whenever, based upon personal investigation, the enforcement officer has reasonable and probable grounds to believe that such a violation has occurred.
 - (2) The citation issued by an enforcement officer pursuant to this section shall be in the form prescribed by the city commission, which form shall state:
 - a. The time and date of issuance.
 - b. The name and address of the person to whom the citation is issued.
 - c. The time and date of the violation.
 - d. A brief description of the violation and the facts constituting reasonable cause.
 - e. The name of the enforcement officer.

- f. The procedure for the person to follow in order to pay a civil penalty or to contest the citation.
 - g. The applicable civil penalty if the person elects not to contest the citation.
- (c) The maximum civil penalty which may be levied pursuant to any citation shall not exceed two thousand five hundred dollars (\$2,500.00) ~~one thousand dollars (\$1,000.00)~~. The monies collected pursuant to this section shall be retained by the city and shall be set aside in a specific fund to support future enforcement activities against unlicensed contractors.
- (d) (1) The act for which a citation is issued shall be ceased upon the receipt of the citation.
- (2) The person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within ten (10) days of receipt of the citation, exclusive of week-ends and legal holidays, request in writing an administrative hearing before the Board of Examiners of Contractors ~~city contractor's examining board~~ to appeal the issuance of the citation by the enforcement officer- and specify in such written request the grounds for such appeal.
- (3) Failure of the violator to appeal the decision of the enforcement officer within the time period set forth herein shall constitute a waiver of the violator's right of an administrative hearing. A waiver of the right to an administrative hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.
- (4) If the person issued the citation or his designated representative shows that the citation is invalid or that the violation has been corrected prior to appearing before the Board of Examiners of Contractors ~~city contractor's examining board~~, the board may dismiss the citation unless the violation is irreparable or irreversible.
- (5) Each day a willful ~~willful~~, knowing violation continues shall constitute a separate offense under the provisions of this section.
- (6) If the Board of Examiners of Contractors ~~contractor's examining board~~ finds that a violation exists the board may order the violator to pay a civil penalty of not less than the amount set forth on the citation but not more than two thousand five hundred dollars (\$2,500.00) ~~one thousand dollars (\$1,000.00)~~ per day for each violation. In determining the amount of the penalty the contractor's examining board shall consider the following factors.
- a. The gravity of the violation.
 - b. Any action taken by the violator to correct the violation.
 - c. Any previous violations created by the violator.
- (7) Upon written notification by the enforcement officer that a violator has not contested the citation or paid the civil penalty within the time frame allowed on the citation the Board of Examiners of Contractors ~~city contractor's examining board~~ shall enter an order ordering the violator to pay the civil penalty set forth on the citation and a hearing shall not be necessary for the issuance of such order.
- (8) A certified copy of an order imposing a civil penalty against an unlicensed contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. After three (3) months from the filing of any such lien which remains unpaid, the Board of Examiners of Contractors ~~city contractor's examining board~~ may authorize the foreclosure on the lien. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Section 4, Article X of the State Constitution.
- (9) An aggrieved party, including the city, may appeal a final administrative order of the Board of Examiners of Contractors ~~city contractor's examining 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 contractor's examining board. An appeal shall be filed within thirty (30) days of the execution of the order appealed.
- (10) All notices required by this section shall be provided to the alleged violator by certified mail, return receipt requested; by hand-delivery by the sheriff or other law enforcement officer or enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his family above fifteen (15) years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.
- (11) Any person who willfully refuses to sign and accept a citation issued by an enforcement officer commits a misdemeanor of the second degree punishable as provided by F.S. §§ 775.082 or 775.083.
- (e) Nothing contained herein shall prohibit the city from enforcing its codes or ordinances by any other means.
- (f) (1) The schedule of penalties to be assessed by the enforcement officer when issuing a citation shall be as follows:

<u>Number of Violations</u>	<u>Licensed Contractor Penalty</u>	<u>Unlicensed Contractor Penalty</u>
<u>First Offense</u>	<u>\$500.00</u>	<u>\$500.00</u>
<u>Second Offense</u>	<u>\$1,000.00</u>	<u>\$1,250.00</u>
<u>Third and Subsequent Offenses</u>	<u>\$1,500.00</u>	<u>\$2,500.00</u>

(1) ~~The civil penalty provided for the disposition of a citation issued pursuant to this section shall be as follows:~~

<u>Number of Violations Within Any 12-Month Period</u>	<u>Amount of Fine</u>
<u>First</u>	<u>\$ 100.00</u>
<u>Second</u>	<u>200.00</u>
<u>Third</u>	<u>400.00</u>

(2) ~~The city contractor's examining board may, in an administrative proceeding on a citation issued hereunder, order a civil penalty as it determines appropriate, notwithstanding the provisions of subsection (f)(1) above, provided however that such a civil penalty shall not exceed the sum of one thousand dollars (\$1,000.00) for each violation.~~

SECTION 14. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 15. All ordinances or parts thereof in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

SECTION 16. This Ordinance is and the same shall become effective immediately upon final passage hereof.

CITY OF FORT PIERCE, FLORIDA

Linda Hudson, Mayor

ATTEST:

Linda Cox, City Clerk

APPROVED AS TO FORM AND CORRECTNESS

James M. Messer, City Attorney