

4.1. - Generally

4.1.1. Classifications

- A. For purposes of this Chapter, the classifications for contractor shall be as those listed in F.S. § 489.105(3), and the actual scope and duties shall conform to those classifications in F.S. § 489.113(3) and are meant to include all those certifications contained therein. The provisions of this Chapter do not apply to an authorized representative of the United States government, the State, the county, the City, or any political corporation or subdivision thereof, if the operation of a trade is done by its own salaried employees, nor to anyone exempt pursuant to State or federal law.

4.1.2. Unlawful Acts

- A. It shall be unlawful for any contractor operating within the City, whether licensed individually or as a firm and through its officers, directors or qualified representatives, to commit any one or more of the following acts or omissions:
1. To perform work outside the scope of operations in which a contractor is licensed for;
 2. To depart from approved plans;
 3. To misrepresent any material fact;
 4. To commit any willful or fraudulent act; or
 5. To have negligence, incompetence or misconduct in the practice of contracting within this Chapter.

4.1.3. Responsibilities of Licensed Contractors

- A. **Responsibilities.** Every contractor licensed or registered by the City shall have all of the following responsibilities with respect to any work within the City done by the contractor or under the contractor's direction or by the contractor's employees or subcontractors:
1. To see that all such work shall fully conform to the requirements of the applicable provisions of this Code and other ordinances of the City pertaining or relating to such work, including, but not limited to, the Florida Building Code and all associated technical codes, the National Electrical Code, now or hereafter adopted by the City.
 2. To see that all such work is done in full conformity with the plans and specifications covering the work.
 3. To see that all progressive or other payments made by or for the owner on account of any such work are properly applied in payment of labor and material bills in accordance with the Florida Mechanics' Lien Law, F.S. Ch. 713.
 4. To see that all workers are covered by workers' compensation insurance at all times when and to the extent required by law.

5. To see that no alternate materials are substituted for those called for by the plans or specifications, without the prior written consent of the City Building Official or designee concerned with such work.
- B. **Personal Attendance.** The personal attendance and presence on the job of the contractor or their designated agent is required from time to time, and for such length of time, as to ensure the proper fulfillment of such responsibilities.
- C. **Authority of License.** The fact that the building permit or other permit for a particular job or part of a job is issued to the owner or other third party shall not be deemed to diminish the responsibilities of any contractor as set out in this Chapter where the work is being done by the contractor or the contractor's employees or under the authority of the license.
- D. **Partnership.** Where any contractor does business as a partnership, at least one partner shall be certified as a contractor's employee or under the authority of a contractor's partnership, and at least one general partner shall be certified as a contractor. Where any contractor is incorporated, at least one of the chief executive officers of the corporation shall be certified as a contractor.

(Ord. No. 2022-15, § 3(Exh. C), 7-12-22)

4.2. - Contractor Registration

4.2.1. Required; Eligibility for Permits

- A. Every person desiring to engage in the business of a general contractor, building contractor, residential contractor, electrical contractor, plumbing contractor, mechanical contractor, air conditioning contractor (classes A, B and C), roofing contractor, commercial pool contractor or residential pool contractor, and all specialty contractors within the City, shall, before so doing, obtain a contractor registration from the Building Division.
- B. Before a contractor shall be issued a permit, the contractor shall be required to be registered with the City for the class appropriate to include the structure for which such building permit is sought. It shall be unlawful for any contractor to undertake any work not within the permitted scope of the category or certification the contractor holds. Permits will only be issued to those contractors referred to in Section 4.1.1.

4.2.2. Application; Liability Insurance

- A. Every person required to have a contractor registration by this Chapter shall first make application to the Building Official or their designee on a form to be provided by the official. Every such application shall contain the applicant's full name and current business address and such other information as may reasonably be required to carry out the intent of this Chapter.
- B.

Where application for a contractor registration is made by any person doing business under a trade or fictitious name, the application shall show the name, residence and mailing address of each person owning any interest in the business being conducted under the trade or fictitious name. If the applicant is a corporation doing business under a name different from the corporate name, the application shall contain the name and principal place of business of the corporation applicant.

- C. Every application for a contractor registration shall be accompanied by proof of liability insurance in amounts of no less than \$100,000.00/\$300,000.00 for personal injury and in the amount of no less than \$10,000.00 for property damage.

4.2.3. Examinations

- A. Every applicant for a city contractor registration who is not a state certified contractor pursuant to F.S. Ch. 489 shall submit proof to the building division that he has taken the examination for the applicable classification (see section 90-141) which was prepared, proctored and graded by H. H. Block or an equal agency, and has received a passing grade on such examination, it being the intent of this section that the applicant shall have taken an examination based substantially on the codes and laws which will affect his work. A passing grade shall be deemed to be such a grade as the testing agency may set from time to time as passing for the particular examination involved.

4.2.4. Issuance of Citations for Unlicensed Contracting and/or Unpermitted Work

- A. **Violations of State Law Incorporated by Reference.** Any person(s) who violates F.S. §§ 489.127, 489.132(1), or 489.531, as may be amended from time to time, shall also be in violation of this Section.
- B. **Enforcement Officers.** The City Building Official, City Community Resource Unit officers and any other persons designated by the City Building Official as enforcement officers are authorized to issue citations for violations of this Section when the enforcement officer has reasonable and probable grounds to believe that a violation has occurred.
- C. **Contents of Citations.** A citation issued by an enforcement officer shall state:
 - 1. The time and date of issuance.
 - 2. The name and address of the person to whom the citation is issued.
 - 3. The time and date of the violation.
 - 4. A brief description of the violation and the facts constituting reasonable cause.
 - 5. The name of the enforcement officer.
 - 6. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - 7. The applicable civil penalty if the person elects not to contest the citation.

- D. **Civil Penalties.** The civil penalties for violation of this Section shall be as adopted by resolution of the City Council. A person cited for a violation of this Section is deemed to be charged with a noncriminal infraction and must pay a civil penalty of not less than the amount set forth in the citation but not more than \$2,000.00. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this Section. Monies collected pursuant to this Section shall be retained and set aside in a specific fund to support future enforcement activities against unlicensed contractors.
- E. **Administrative Remedies.** 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 days of receipt of the citation, exclusive of weekends and legal holidays, request an administrative hearing before the Special Magistrate to appeal the issuance of the citation by the enforcement officer.
- F. **Conduct.** Hearings shall be conducted in the following manner:
1. Hearings shall be held before the Special Magistrate and shall be conducted pursuant to the requirements of F.S. §§ 162.07 and 162.08.
 2. Failure of a violator to appeal the citation within the time period set forth above shall constitute a waiver of the violator's rights to 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.
 3. 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 Special Magistrate, the Special Magistrate may dismiss the citation unless the violation is irreparable or irreversible.
 4. If the Special Magistrate finds that a violation exists, the Special Magistrate may order the violator to pay a civil penalty of not less than the amount set forth in the citation, but not more than \$2,500.00 per day for each violation. Monies collected pursuant to this Section shall be retained and set aside in a specific fund to support future enforcement activities against unlicensed contractors. In determining the amount of the penalty, the Special Magistrate shall consider the following factors:
 - a. The gravity of the violation;
 - b. Any actions taken by the violator to correct the violation; and
 - c. Any previous violations committed by the violator.
- G. **Failure to Contest the Citation.** Upon written notification from the enforcement officer that a violator has not contested the citation or paid the civil penalty within the time frame allowed in the citation, the Special Magistrate shall enter an order ordering the violator to pay the civil penalty set forth on the citation. A hearing shall not be necessary for the issuance of such order.

- H. **Order Imposing Fine.** A certified copy of an order imposing a civil penalty pursuant to this Section may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator in the county of recordation. 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. A civil penalty imposed hereunder shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on such lien, whichever occurs first. After three months from the filing of any such lien which remains unpaid, the City attorney is authorized to foreclose on the lien. No such lien may be foreclosed on real property which is a homestead under Section 4, article X of the state Constitution.
- I. **Appeal.** An aggrieved party, including the City, may appeal a final administrative order of the Special Magistrate to the circuit court pursuant to F.S. Ch. 162. Such an appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.
- J. **Notice Procedures.** All notices required by this Section shall be provided to the alleged violator in the same manner as provided for in F.S. Ch. 162.
- K. **Refusal to Sign Citation.** Pursuant to F.S. §§ 489.127(4)(m) and 489.531(4)(n), 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 in F.S. §§ 775.082 or 775.083.

4.2.5. Certificate Required Prior to Issuance of Occupational License

- A. No occupational license shall be issued to any contractor unless the contractor holds a current contractor registration issued by the building Chapter.

4.2.6. Appeals

- A. Any applicant for a contractor registration under this Chapter who is denied such registration by the Building Official may appeal the decision to the Special Magistrate; provided, however, that such appeal shall be filed in writing with the building division within 15 days of receipt of notification in writing of the denial of the contractor registration.

B. Appeal procedure.

1. The special magistrate shall hold a public hearing after proper notice. Notice of the hearing shall be given, in writing, by the building division, to the contractor not less than ten days prior to the date set for the hearing. The notice shall specifically set forth the grounds for the proposed action and the time and place for the hearing. When proper notice of the hearing has been provided to the contractor, a hearing may proceed even in the absence of the contractor.

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At the hearing, the burden of proof shall be upon the contractor to show by the greater weight of the evidence that the contractor registration should be issued.

3. All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply, but fundamental due process should be observed and govern the proceedings. Upon determination of the special magistrate, immaterial or unduly repetitious evidence may be excluded. The special magistrate may consider testimony presented by the contractor, the city or any other witnesses.
4. The special magistrate shall render a decision based upon the evidence entered into the record.
5. The special magistrate's decision shall be entered in writing, including findings of fact and conclusions of law, and be sent by certified mail to the contractor.
6. Any aggrieved party, including the city, may appeal an order of the special magistrate entered pursuant to this section to the circuit court of the county. Such appeal shall not be a hearing de novo but shall be a petition for a writ of certiorari, and the court shall be limited to appellate review of the record created before the special magistrate. Any appeal shall be considered timely if it was filed within 30 days after the written order filed with the city clerk. The city may assess a reasonable charge for the preparation of the record, to be paid by the appellant in accordance with F.S. § 119.07.
7. All notices required by this section shall be by certified mail, return receipt requested, or, when mail is not effective, by hand delivery by a sheriff's deputy or other authorized person pursuant to rule 1.410(c), Florida Rules of Civil Procedure, or by public notice in an appropriate newspaper.

4.2.7. Use of Certificate by Persons Employed By City

- A. It shall be unlawful for the holder of a certificate of registration pursuant to this Chapter to use or allow the use of any such certificate during the period of time that such holder is an employee of the City with the Building Division on a full-time basis as an inspector or otherwise employed by the City in a capacity using the skills for which the holder is certified or registered.

4.2.8. Reciprocity

- A. Any general contractor, electrical contractor, plumbing contractor or mechanical contractor who has been examined and is licensed by any incorporated municipality or county of the state, where such municipality or county has adopted and is administering building, plumbing, electrical and mechanical codes which are equal to the standards set forth in the codes adopted by the City, as now exist or may hereafter be amended, and where such municipality or county enters into an

interlocal agreement with the City as to general, electrical, plumbing or mechanical contractors duly licensed by that jurisdiction, shall be eligible to apply to the Building Division for a contractor registration.

(Ord. No. 2022-15, § 3(Exh. C), 7-12-22)