

ORDINANCE NO. 2024-_____

AN ORDINANCE OF CITRUS COUNTY, FLORIDA, AMENDING CHAPTER 18, ARTICLE II, SECTION 18-56(a); AMENDING SECTION 18-57(1); AMENDING SECTION 18-58(b) AND (c); AMENDING SECTION 18-59; AMENDING SECTION 18-60; ADDING A SECTION ENTITLED POWERS AND DUTIES OF THE LICENSING COMPLIANCE SPECIAL MASTER AS TO MATTERS CONCERNING STATE CERTIFIED CONTRACTORS; AMENDING SECTION 18-61; ADDING A SECTION ENTITLED ORDERS OF SPECIAL MASTER TO BE RECORDED; AMENDING SECTION 18-62; AMENDING SECTION 18-63; AMENDING SECTION 18-64; PROVIDING FOR SEVERABILITY; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION AND INCLUSION INTO THE CODE; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Citrus County Board of County Commissioners ("Board") is the legislative and governing body of Citrus County, Florida, a political subdivision of the State of Florida, authorized to exercise governmental powers pursuant to Article VIII of the Constitution of the State of Florida and Section 125.01, Florida Statutes;

WHEREAS, from time to time, parts of the Citrus County Code must be revised, repealed, adopted and or amended;

WHEREAS, the Board has determined that it is appropriate to amend Chapter 18, Article II of the Citrus County Code to align with the provisions of Ch. 489 of the Florida Statutes,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF CITRUS COUNTY, FLORIDA, that:

Section 1. The provisions of Chapter 18, Article II, Section 18-56(a), entitled "The License Compliance Special Master" are hereby amended as follows:

- (a) There is hereby established and created, for the purpose of hearing and deciding matters of alleged violations of chapter 18, this article, and F.S. Ch. 489, part I and part II, and to impose fines and enforcement costs when applicable, a licensing compliance special master. The special master shall be vested with all the powers granted to a construction licensing appeal board under the Florida Statutes, except that any powers conferred upon local governments therein, including but not limited to, the authority to execute satisfactions and releases of liens, or to otherwise mitigate code fines and liens shall not be delegated to the special master, but are expressly reserved for the Citrus County Board of County Commissioners.

Section 2. The provisions of Chapter 18, Article II, Section 18-57(1), Qualifications of the License Compliance Special Master, are amended as follow:

- (1) Must be a member in good standing of the Florida Bar for a minimum of five years and shall have demonstrated adequate knowledge of the County Code of Ordinances and F.S. Ch. 489, part 1 and part II.

Section 3. The provisions of Chapter 18, Article II, Section 18-58(b) and (c), Appointment and removal of the License Compliance Special Master, are amended as follows:

- (b) Appointments shall be for a term of one year. There shall be no limit on the number of reappointments that may be given to any individual, provided however, a determination as to removal or reappointment must be made by the board of county commissioners at the end of each one-year term.

- (c) The license compliance special master shall not be a county employee but shall be compensated at an hourly rate to be established by contract.

Section 4. The provisions of Chapter 18, Article II, Section 18-59, Jurisdiction of the License Compliance Special Master, are hereby amended as follows:

Sec. 18-59. – Jurisdiction of the license compliance special master.

- (a) The license compliance special master shall have the jurisdiction to hear and decide citations and administrative complaints alleging violations of chapter 18, this article, and Ch. 489, parts I and II, Florida Statutes, .
- (b) The jurisdiction of the license compliance special master shall not be exclusive. Any alleged violation of the county codes may be enforced by appropriate action before a special master as established by Section by 162.03(2) or an action brought in any court of competent jurisdiction.
- (c) The license compliance special master shall not hear any case in which he or she has a conflict of interest through familial relationship, personal or business financial interest, or other conflict of interest recognized under the rules regulating the Florida bar.

Section 5. The provisions of Chapter 18, Article II, Section 18-60, Powers and Duties of the License Compliance Special Master, are hereby amended as follow:

Sec. 18-60. - Powers and duties of the license compliance special master as to matters concerning locally licensed or registered contractors.

- (a) The license compliance special master shall have the power to:

- (1) Conduct disciplinary hearings based on the sworn petition of a code enforcement officer, field investigator, the building official or his/her designee alleging violations of any provision of this article or Ch. 489, parts I and II, Florida Statutes.

(2) Take testimony under oath.

(3) Issue a final order setting forth findings of fact and conclusions of law as well as disciplinary action to be taken for such violation.

(4) Require restitution.

(5) Suspend or revoke a certificate of competency, local license or registration 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 in violation or to have been an officer, director, partner, trustee, or manager of a disciplined business organization who knew or reasonably should have known of the conduct leading to the discipline.

(6) Assess fines not to exceed \$5,000.00.

(7) Assess against the violator reasonable costs of investigation and prosecution of the violation, including attorney's fees and costs for the special master's time.

(8) Recommend a penalty to be issued against the violator by the State of Florida Department of Business and Professional Regulation.

(b) The license compliance special master shall conduct hearings on a regular scheduled monthly basis or more frequently upon request of the director of planning and development.

Section 6. The following is hereby added as Chapter 18, Article II, Section 18-61, Powers and Duties of the Licensing Compliance Special Master as to Matters Concerning State Certified Contractors:

Sec. 18-61. – Powers and duties of the licensing compliance special master as to matters concerning state certified contractors:

(a) Upon sworn petition by a code enforcement officer, field investigator, the building official or his/her designee alleging fraud or a willful violation of the building code, the license compliance special master may under authorization of Section 489.113(4)(b), Florida Statutes, conduct disciplinary proceedings against a certified contractor and may, upon finding the certified contractor guilty of fraud or willful violation of the building code:

(1) Deny, suspend, or revoke the authority of the certified contractor to obtain a building permit or limit such authority to obtaining permits with specific conditions.

(2) Recommend a penalty to be issued by the State of Florida Department of Business and Professional Regulation or other appropriate licensing board, including imposition of a fine, order of restitution, suspension, restriction or revocation of the violator's license.

(3) Order the violator to pay costs of the investigation and prosecution of the violation, including attorney's fees and costs of the special master's time.

(b) Upon sworn petition by a code enforcement officer, field investigator, the building official or his/her designee that a certified contractor has been found guilty of fraud or a willful violation of the building code in another county or municipality within the previous twelve months, the license compliance special master may, under authorization of Section 489.113(4)(b), Florida Statutes, conduct disciplinary proceedings against a certified contractor and may deny, suspend, or revoke the authority of the certified contractor to obtain a building permit or limit such authority to obtaining permits with specific conditions.

(c) Upon sworn petition by a code enforcement officer, field investigator, the building official or his/her designee alleging violations other than fraud or a willful violation of the building code, the license compliance special master may under authorization of Section 489.131(7)(c), Florida Statutes:

(1) Recommend a penalty to be issued by the State of Florida Department of Business and Professional Regulation or other appropriate licensing board, including imposition of a fine, order of restitution, suspension, restriction or revocation of the violator's license.

(2) Order the violator to pay costs of the investigation and prosecution of the violation, including attorney's fees and costs of the special master's time.

Section 7. The provisions of Chapter 18, Article II, Section 18-61, Hearing procedure for Hearings before the License Compliance Special Master, are hereby renumbered and amended as follows:

Sec. 18-62. - Hearing procedure for hearings before the license compliance special master.

(a) At the time and place determined by the director of planning and development or his or her designee, or at such other times as may be necessary, and or upon request of a license compliance officer or the building division director, the license compliance special master shall call a hearing. However, no hearing shall be set for a date less than 20 days after service of the notice of hearing.

(b) All hearings before the license compliance special master shall be open to the public.

(c) Minutes shall be kept of all hearings conducted by the license compliance special master.

(d) The building division shall provide clerical and administrative personnel as may be necessary for each special master.

- (e) The proceedings of the hearing may be recorded by a stenographer at the expense of the requesting party.
- (f) Each case before the license compliance special master shall be presented by the license compliance officer issuing the citation, or the administrative complainant or the building division director.
- (g) Each party shall have the right to be represented by an attorney at its own expense. All testimony shall be given under oath and shall be recorded by electronic device. The license compliance special master shall take testimony from the license compliance officer issuing the citation, the administrative complainant, the building division director, as applicable, and the alleged violator. Each party shall have the right to call and examine witnesses, to introduce exhibits, and to cross-examine opposing witnesses on any issue relevant to the matter. The license compliance special master and attorney from the county attorney's office shall have the right to question the alleged violator and any witness giving testimony.
- (h) 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 attorney's 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 his/her attorney fail to appear, the special master may find the alleged violator in default and shall proceed with the hearing and accept evidence relevant to the existence of a violation of this article and/or applicable codes, law, rules and associated practices.
- (i) If the person issued the citation or his designated representative appears at the administrative hearing and proves that the citation is invalid or that the violation has been corrected prior to appearing before the license compliance special master, the license compliance special master may dismiss the citation unless the license compliance special master finds the violation to be irreparable or irreversible.
- (j) The formal rules of evidence shall not apply, but fundamental due process shall be observed. The license compliance special master may accept any relevant and material evidence. The license compliance special master's decision shall be based upon competent and substantial evidence.
- (k) In order to support a finding of guilt in any matter before the license compliance special master, the special master must find by a preponderance of the evidence that the violator was legally responsible for the violation of the county code, an ordinance, or state statute cited in the civil citation.

- (l) At the conclusion of the hearing, the license compliance special master shall state his or her findings of fact based on the evidence in the record and conclusions of law, and shall state the proper relief ordered consistent with the powers granted herein. The license compliance special master shall have the findings of fact and conclusions of law reduced to a written order. The order shall also include a notice that it must be complied with by a specified date and that a fine may be imposed.
- (m) In the case of a contested unlicensed contractor violation, 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 \$1,000.00 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.
- (n) In the case of an uncontested unlicensed contractor violation, the special master shall enter an order directing the violator to pay the civil penalty set forth on the citation or notice of violation; upon notice from a designated code enforcement office, field investigator, building official or his/her designee that the violator has not contested the citation or paid the civil penalty within the time frame allowed on the citation; or that 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.
- (o) Lack of a state certificate 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 licensing 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.
- (p) Lack of a county certificate or county certification or registration may be established by confirming with the building division, 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 licensing office that pertinent licensing records have been reviewed confirming that no record of county certificate/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.

Section 8. The following is hereby added as Chapter 18, Article II, Section 18-63, Orders of Special Master to be Recorded:

224 Sec. 18-63. – Orders of special master to be recorded.

225 (a) A certified copy of an order shall be recorded in the public records of the county.

226 (b) An order imposing a civil penalty against the violator shall, upon recording,
227 constitute a lien against any real or personal property owned by the violator. Upon
228 petition of the circuit court, such order may be enforced in the same manner as a
229 court judgment including a levy against personal property. However, such order
230 shall not be deemed to be a court judgment except for enforcement purposes. A
231 civil penalty imposed pursuant to this section shall continue to accrue interest until
232 the violator comes into compliance or until judgment is rendered in a suit to
233 foreclose on a lien filed pursuant to this section, whichever occurs first. After three
234 months from the filing of any such lien which remains unpaid, the board of county
235 commissioners may authorize the county attorney's office to foreclose on the lien.
236 No lien created on real property which is homestead pursuant to the provisions of
237 this section may be foreclosed on under Section 4, Article X, of the State
238 Constitution.

239 (c) If an order is complied with by the date specified in the order, the special master
240 shall issue an order acknowledging such compliance. A hearing is not required
241 for issuance of an order acknowledging compliance. The order of compliance shall
242 be recorded in the public records of the county.

243 **Section 9.** The provisions of Chapter 18, Article II, Section 18-62, Appeals of a License
244 Compliance Special Master Order, are hereby renumbered and amended as follows:

245 Sec. 18-64. - Appeals of a license compliance special master order.

246 An aggrieved party, including the board of county commissioners, may appeal a final
247 administrative order of the license compliance special master to the circuit court. Such
248 an appeal shall not be a hearing de novo but shall be limited to appellate review of the
249 record created before the license compliance special master hearing. An appeal shall
250 be filed within 30 days of the date on which the order to be appealed was executed or
251 the right to appeal shall have been waived.

252 **Section 10.** The provisions of Chapter 18, Article II, Section 18-63, Fines, are hereby
253 renumbered and amended as follows:

254 Sec. 18-65. - Fines.

255 (a) Schedule of fines. The Citrus County Board of County Commissioners does hereby
256 establish the following schedule of fines for violations:

257 (1) Falsely hold himself or herself or a business organization out as a licensee
258 certificate holder or registrant \$500.00

259 (2) Falsely impersonate a certificate holder or registrant \$500.00

- 260 (3) Present as his or her own the license, certificate, or registration of another
261 \$500.00
- 262 (4) Knowingly give false or forged evidence to the license compliance special
263 master or building division staff for the purpose of obtaining a certificate or
264 registration \$500.00
- 265 (5) Use or attempt to use a certificate or registration that has been suspended or
266 revoked \$500.00
- 267 (6) Engage in the business or act in the capacity of a contractor, or advertise
268 himself or herself or a business organization as available to engage in the
269 business or act in the capacity of a contractor without being duly registered or
270 certified.
- 271 a. Advertising only:
- 272 First offense \$100.00
- 273 Second offense \$250.00
- 274 Subsequent offenses \$500.00
- 275 b. Engaging in the business or acting in the capacity of a contractor without
276 being duly registered or certified \$500.00
- 277 (7) Operate a business organization engaged in contracting after 60 days following
278 the termination of the only qualifying agent without designating another primary
279 qualifying agent:
- 280 First offense \$100.00
- 281 Subsequent offenses \$500.00
- 282 (8) Commence or perform work for which a building permit is required pursuant to
283 F.S. Ch. 553, part IV, without such building permit being in effect:
- 284 First offense \$100.00
- 285 Second offense \$250.00
- 286 Subsequent offenses \$500.00
- 287 (9) Willfully or deliberately disregard or violate any municipal or county ordinance
288 relating to uncertified or unregistered contractors \$500.00
- 289 (b) Monies collected pursuant to violations found by the license compliance special
290 master shall be set aside by the county in a specific fund to be used to support
291 future enforcement activities against unlicensed contractors.

Section 11. The provisions of Chapter 18, Article II, Section 18-64, Discipline and Penalties for Registered, Certified, and Competency Cardholders, are hereby renumbered and amended as follows:

Sec. 18-66. - Discipline and penalties for locally licensed or registered contractors.

(a) Notice of noncompliance. The Citrus County Building Division shall issue a notice of noncompliance as its first response to a minor violation of a regulatory law in any instance in which it is reasonable to assume that the violator was unaware of such a law or unclear as to how to comply with it. A violation of a regulatory law is a "minor violation" if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare, or create a significant threat of such harm. A "notice of noncompliance" is a notification by the local jurisdiction agency charged with enforcing the ordinance, which is issued to the licensee that is subject to this article. A notice of noncompliance shall not be accompanied by a fine or other disciplinary penalty, and will identify the specific ordinance that is being violated, provide information on how to comply with the ordinance, and specify a reasonable time for the violator to comply with the ordinance. Failure of a licensee to take action correcting the violation within a set period of time would then result in the institution of further disciplinary proceedings.

(b) The following discipline and penalties, or any combination thereof, may be imposed or assessed against registered contractors or competency cardholders by the special master for gross incompetency, negligence in conducting work in the trade, misrepresentation, financial irresponsibility, conviction of a felony, permitting a license to be used by another for the purpose of obtaining permits or doing work or for any cause enumerated in Sections 489.129, 489.531 and 489.533, Florida Statutes:

(1) Restitution may be ordered based upon a finding that a consumer has suffered monetary harm.

(2) Suspension or revocation of the violator's competency card;

(3) Suspension of ability to obtain building permits;

(4) Revocation of building permits;

(5) Fines, based on the schedule set forth in Section 18-63, up to a maximum of \$5,000.00;

(6) Assessment of costs of investigation and prosecution of the violation in amounts not to exceed \$50.00 per hour and \$150.00 per hour, respectively.

(7) In addition to any action the license compliance special master deems appropriate, there shall be issued, or cause to be issued, a recommended penalty to the state construction industry licensing board, referred to in this

329 section as CILB or electrical contractor licensing board, as appropriate for
330 action on their part.

331 The recommended penalty may include a recommendation for (1) no further
332 action, (2) suspension, (3) revocation, (4) restriction, or (5) fine, or any
333 combination thereof, to be placed against the individual's state registration. The
334 license compliance special master shall inform the disciplined contractor and
335 the complainant of the local penalty imposed, the penalty recommended to the
336 CILB, their rights to appeal, and the consequences should they not appeal.

337 The license compliance special master shall upon having reached adjudication
338 or having accepted a plea of nolo contendere, immediately inform the CILB of
339 its action and the recommended state board action.

340 The disciplined contractor or the complainant may challenge the license
341 compliance special master recommended penalty to the construction industry
342 licensing board as outlined in F.S. § 489.131(7)(c). A challenge shall be filed
343 within 60 days of the issuance of the recommended penalty to the construction
344 industry licensing board. If challenged, there is a presumptive finding of
345 probable cause hearing.

346 Failure of the disciplined contractor or the complainant to challenge the license
347 compliance special master recommended penalty within the time period set
348 forth heretofore shall be deemed an admission of the violation, and the penalty
349 shall become a final order. The disciplined contractor may appeal the order to
350 the district court.

351 **Section 12. Severability.** If any section, sentence, clause, phrase or provision of this
352 Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction,
353 such invalidity or unconstitutionality shall not be construed so as to render invalid or
354 unconstitutional the remaining provisions of this Ordinance.

355 **Section 13. Scrivener's Errors.** Typographical errors which do not affect the intent of
356 this Ordinance may be authorized by the County without need of a public hearing by its
357 filing a corrected or re-codified copy of the same with the Clerk.

358 **Section 14. Codification.** The publisher of the County's Code of Ordinances, the
359 Municipal Code Corporation, is directed to incorporate this article into the Code of
360 Ordinances where indicated.

361 **Section 15. Modification.** The provisions of this Ordinance may be modified as a result
362 of considerations that may arise during public hearings. Such modifications shall be
363 incorporated into the final version of the ordinance adopted by the Board and filed with
364 the Clerk.

365 **Section 16. Effective Date.** This Ordinance shall take effect as provided by law.

366 PASSED AND DULY ADOPTED, in open session, with a quorum present and voting,
367 this the _____ day of _____, 2024.

368 BOARD OF COUNTY COMMISSIONERS
369 OF CITRUS COUNTY, FLORIDA

370 ATTEST:

371 _____
372 ANGELA VICK, Clerk HOLLY L. DAVIS, Chairman

373 APPROVED AS TO FORM FOR THE
374 RELIANCE OF CITRUS COUNTY ONLY

375 _____
376 DENISE A. DYMOND LYN
377 County Attorney