

Meeting Date
April 25, 2017



AGENDA	
Section	CONSENT
Item No.	II.A.3

**AGENDA REPORT**  
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	LEGISLATIVE INTENT AND PERMISSION TO ADVERTISE ORDINANCE AMENDING CHAPTER 22, ARTICLE VI CONTRACTORS' LICENSING CODE OF BREVARD COUNTY
DEPT/OFFICE:	PLANNING & DEVELOPMENT/Licensing Regulation and Enforcement

Requested Action:

It is requested that the Board of County Commissioners consider legislative intent and grant permission to advertise an Ordinance to amend the Contractors' Licensing Code of Brevard County, Chapter 22, Article VI, Divisions 1 through 4.

Summary Explanation & Background:

On July 01, 2012 changes were made to Florida Statute 489.105 redefining the term "demolish", for purposes of describing the scope of work of a "contractor" to include all buildings or residences rather than buildings or residences of certain heights and sizes.

Due to the change in the Statute, local demolition businesses that hold only a Business Tax Receipt are now required to obtain a County Certificate of Competency as a Demolition Contractor.

Amendments for consideration are as follows:

- 1) Sec 22-477 establishing a definition of Demolition Contractor;
- 2) Sec 22-477 removing demolition from the list of specialty contractor now that the trade classification is regulated;
- 3) Sec 22-529 adding demolition to the classes of Certificates of Competency;
- 4) Sec 22-567 adding the provision for the grandfathering of demolition contractors; allowing 120 days to apply

As a housekeeping matter, Section 22-567 is further amended to delete references to "framing/carpentry, excavation, masonry, or swimming pool finishing subcontractor/contractor" as the window of opportunity to grandfather said activities has expired.

For purposes of clarity, the unlicensed contractor fine mitigation was approved for legislative intent on May 3, 2016, and will be included as part of the code changes contemplated herein.

Clerk to the Board Instructions:

Exhibits Attached: Proposed Ordinance

Contract /Agreement (If attached): Reviewed by County Attorney    Yes     No     PR

County Manager 	Assistant County Manager	Department Director / Extension
Stockton Whitten	Assistant County Manager	Tad Calkins 5-6532 



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

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Tammy.Rowe@brevardclerk.us

April 26, 2017

**MEMORANDUM**

**TO:** Tad Calkins, Planning and Development Director

**RE:** Item II.A.3., Legislative Intent and Permission to Advertise Ordinance Amending Chapter 22, Article VI, Contractors' Licensing Code of Brevard County

The Board of County Commissioners, in regular session on April 25, 2017, approved legislative intent and granted permission to advertise an ordinance amending Chapter 22, Article VI, Divisions 1 through 4, Contractors' Licensing Code.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

**ORDINANCE NO. 2017-\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 22, ARTICLE VI, DIVISIONS 1 THROUGH 4, CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, RELATING TO CONTRACTORS; SPECIFICALLY AMENDING SEC 22-477, DEFINITIONS, ADDING THE DEFINITION OF DEMOLITION CONTRACTOR TO COMPLY WITH FLORIDA STATUTE 489; REMOVING DEMOLITION FROM THE LIST OF SPECIALTY CONTRACTOR; SPECIFICALLY AMENDING SEC 22-529, CLASSES OF CERTIFICATES OF COMPETENCY, ADDING DEMOLITION; SPECIFICALLY AMENDING SEC 22-559, ENFORCEMENT PROCEDURES, PROVIDING FOR MITIGATION OF FINES FOR FIRST TIME VIOLATORS; SPECIFICALLY AMENDING SEC 22-567, GRANDFATHERING, ADDING THE PROVISION FOR THE GRANDFATHERING OF DEMOLITION CONTRACTORS FOR AN 120 DAY PERIOD; ELIMINATING GRANDFATHERING FOR FRAMING/CARPENTRY, EXCAVATING, MASONRY, SWIMMING POOL FINISH; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; PROVIDING A CONFLICT PROVISION; PROVIDING FOR AREA ENCOMPASSED; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 22, Article VI, Division 1 through 4, Code of Ordinances of Brevard County, Florida, govern the regulation, licensing, and examination of all persons desiring to engage in the business of contracting in the unincorporated areas of Brevard County, Florida; and

**WHEREAS**, the Brevard County Board of County Commissioners has established a Contractors' Licensing Board; and

**WHEREAS**, the Contractors' Licensing Board and the Board of County Commissioners of Brevard County Florida recognize the need for continued clarification of Chapter 22, Article IV, Division 1 through 4, Code of Ordinance, Brevard County, Florida to maintain consistency with the requirements of the State Statutes and current Administrative Codes; and

**WHEREAS**, the Contractors' Licensing Board recognized changes in the definition of "Contractor" defined in Florida Statute 489.105 redefining the term "demolish" to include all buildings or residences rather than buildings or residences of certain heights and sizes, effective

July 1, 2012; and establish language and scope of work for Demolition Contractor in Chapter 22, Article IV, Division 1 through 4, Code of Ordinance, Brevard County, Florida; and

**WHEREAS**, the Board of County Commissioners has determined that the proposed amendment serves the public health, safety and welfare of the citizens of Brevard County, Florida.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, as follows:

**Section 1. Amendment to Sections 22-477, 22-529, 22-559, and 22-567.**

Sections 22-477, 22-529, 22-559, and 22-567 of the Code of Ordinances of Brevard County, Florida, are hereby amended to read as follows:

**Sec. 22-477. - Definitions.**

Demolition contractor (non-explosive) means any person or firm qualified and certified by the board whose scope of work shall include and be limited to the demolition, wrecking, and disassembling of buildings and other structures or parts thereof, and the removal of debris there from in such a manner that adjoining structures, properties, and parts thereof, workers, and other persons are not injured. Nothing in this definition shall be construed to limit the scope of work by any contractor certified or registered pursuant to Brevard County Ordinance and F.S. 489 which may be necessary and incidental to his work in compliance with building code and other applicable codes and regulations.

*Specialty contractor* means any person or firm not subject to the terms of this article whose operations consist of the performance of construction work requiring special skills and whose principal contracting business involves the use of specialized building trades and crafts. Specialty contractors are exempt from testing, but will require a current county business tax receipt. The scope of work, however, is limited as some specific activities as identified below may require a general building or residential contractor. Specialty contractors shall include, but not be limited to, the following:

- (1) Bridge construction.
- (2) Cabinet and millwork.
- (3) Cement and concrete.

- (4) Elevators.
- (5) Fence erectors.
- (6) Filling and grading.
- (7) Gasoline tanks, pumps and piping.
- (8) Glazing.
- (9) Guniting and sandblasting.
- (10) House moving.
- (11) Hydraulic lifts and airline systems.
- (12) Insulating.
- (13) Levee construction.
- (14) Paving and sidewalks.
- (15) Plastering.
- (16) Sign erection.
- (17) Steel reinforcing and iron.
- (18) Structural steel erection.
- (19) Termite treating.
- (20) Well drilling.

**Sec. 22-529. – Classes of certificates of competency.**

(a) Upon ascertaining that the applicant has satisfied the requirements set out in this division, the board shall issue one of the following classes of certificates of competency, depending on which class was applied for and the applicant's qualifications as determined by the board:

- (1) Alarm system contractor I
- (2) Alarm system contractor II
- (3) Building contractor
- (4) Demolition
- (5) Drywall contractor
- (6) Electrical contractor
- (7) Electrical sign contractor
- (8) Excavating contractor

- (9) Fencing contractor
- (10) Floor covering contractor
- (11) Floor covering with tile, marble and terrazzo contractor
- (12) Framing/carpentry contractor
- (13) Garage door contractor
- (14) General contractor
- (15) (Class A) H.A.R.V. contractor
- (16) (Class B) H.A.R.V. contractor
- (17) Irrigation contractor
- (18) Limited contractor
- (19) Limited energy systems contractor
- (20) Marine contractor I
- (21) Marine contractor II
- (22) Masonry contractor
- (23) Mechanical contractor
- (24) Painting contractor
- (25) Plumbing contractor
- (26) Residential contractor
- (27) Roofing contractor
- (28) Sheet metal contractor
- (29) Solar water heating contractor
- (30) Specialty structure contractor
- (31) Storm shutter contractor
- (32) Stucco contractor
- (33) Swimming pool contractor
- (34) Swimming pool service contractor
- (35) Swimming pool finishing subcontractor
- (36) Underground utilities contractor
- (37) Window and door contractor

**Sec. 22-559. – Enforcement procedures.**

- (e) First time offenders shall be issued a citation with a \$250 fine. Should the stated first time offender obtain a Brevard County Certificate of Competency within 120 days of the citation's issuance, the cost of the fine will be applied to the application fee and first year license fee with any remaining fees due to the County at that time. Moreover, any employees of the stated first time offender who obtains a Brevard County Certificate of Competency pursuant to this section, will have said fines refunded in full upon providing proof that he or she was the first time offender's employee, as defined by Section 22-478(4)b., at the time the citation in question was issued.
- (f) Failure by the alleged violator to challenge the issuance of the citation within this time period shall constitute a waiver of the alleged violator's right to a hearing. A waiver of the right to a hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

**Sec. 22-567. - Grandfathering.**

Any person who has been actively engaged in performing the work of a demolition contractor as his/her primary occupation for a period of three years immediately prior to the effective date of this section and can produce a county business tax receipt as a demolition contractor, with proof of the required insurance, shall be considered qualified for certification, without examination, upon application, letters of recommendation, payment of application and certification fee and approval of the board, provided, however, that the application is received in the contractor licensing and regulation office within a period of 120 days from the date of the approval of this section.

After 120 days any person requesting to be licensed as a demolition contractor will be required to submit a completed application, pay application fee, and take the required trade examination and business and law examination. He/she will be required to provide all required documents set forth in section 22-524.

**Section 2. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

**Section 3.**     **Inclusion in Code.** It is intention of the Board of County Commissioners that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Brevard County, Florida, and that the sections of this ordinances may be renumbered or re-lettered and that the word “ordinance” may be changed to “section,” “article,” or such other appropriate word or phrase in order to accomplish such intentions.

**Section 4.**     **Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

**Section 5.**     **Area Encompassed.** This ordinance shall take effect only in the unincorporated areas of Brevard County, Florida.

**Section 6.**     **Effective Date.** This ordinance shall take effect upon filing a copy of this ordinance with the Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this 25 day of April, 2017.

ATTEST:

\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Curt Smith, Chair

As approved by the Board on April 25, 2017

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- (1) Bridge construction.
- (2) Cabinet and millwork.
- (3) Cement and concrete.

~~(4)~~ Demolition (not including commercial or industrial).

~~(5)~~(4) Elevators.

~~(6)~~(5) Fence erectors.

~~(7)~~(6) Filling and grading.

~~(8)~~(7) Gasoline tanks, pumps and piping.

~~(9)~~(8) Glazing.

~~(10)~~(9) Guniting and sandblasting.

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- ~~(e)~~ (f) Failure by the alleged violator to challenge the issuance of the citation within this time period shall constitute a waiver of the alleged violator's right to a hearing. A waiver of the right to a hearing shall be deemed an admission of the violation and penalties may be imposed accordingly.

**Sec. 22-567. - Grandfathering.**

Any person who has been actively engaged in performing the work of a demolition contractor framing/carpentry, excavation, masonry or swimming pool finishing subcontractor/contractor as his/her primary occupation for a period of three years immediately prior to the effective date of this section and can produce a county business tax receipt as a demolition contractor framing/carpentry, excavation, masonry or swimming pool finishing subcontractor/contractor, with proof of the required insurance, shall be considered qualified for certification, without examination, upon application, letters of recommendation, payment of application and certification fee and approval of the board, provided, however, that the application is received in the contractor licensing and regulation office within a period of 120 days from the date of the approval of this section.

After 120 days any person requesting to be licensed as a demolition contractor framing/carpentry, excavation, masonry or swimming pool finishing subcontractor/contractor will be required to submit a completed application, pay application fee, and take the required trade ~~experior~~ examination and business and law examination. He/she will be required to provide all required documents set forth in section 22-524.

**Section 2. Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalid or

unconstitutional portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the other portions of this ordinance, provided the remaining portions effectuate the purpose and intent of this ordinance.

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**Section 4. Conflicting Provisions.** In the case of a direct conflict between any provisions of this ordinance and a portion or provision of any other appropriate federal, state, or county law, rule, code or regulation, the more restrictive shall apply.

**Section 5. Area Encompassed.** This ordinance shall take effect only in the unincorporated areas of Brevard County, Florida.

**Section 6. Effective Date.** This ordinance shall take effect upon filing a copy of this ordinance with the Department of State by the Clerk of the Board of County Commissioners.

**ENACTED** this \_\_\_ day of April, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
BREVARD COUNTY, FLORIDA

\_\_\_\_\_  
Scott Ellis, Clerk

\_\_\_\_\_  
Curt Smith, Chair  
As approved by the Board on April \_\_\_, 2017