



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.1.

3/24/2020

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### **Subject:**

Public Hearing amending Ordinance Chapter 22, Article VI, Contractors Code of Brevard County.

### **Fiscal Impact:**

No fiscal impact

### **Dept/Office:**

Planning and Development

### **Requested Action:**

Approve the proposed Ordinance amending Chapter 22, Article VI, Division 4, Section 22-562 of the Contractors Code of Ordinances, Brevard County.

### **Summary Explanation and Background:**

On February 25, 2020, the Board of County Commissioners granted legislative intent and permission to advertise a change amending Chapter 22, Article VI, of the Contractors Code of Ordinances, Brevard County.

This amendment is required to maintain consistency with Florida Statutes and Florida Rules of Civil Procedures in reference to the appellate procedure for review of a special magistrate, contractor licensing board or code enforcement board order in a contractor licensing hearing. Currently, the County provides for the appeal of a Special Magistrate's order by certiorari to the circuit court. Rule 1.630 of the Florida Rules of Civil Procedure was amended in 2013 to remove the reference to certiorari proceedings. Section 489.127 Florida Statutes now provides for a specific appellate procedure in the Circuit Court. This amendment is repealing the prior reference to certiorari proceedings and adopting the appellate language required under Section 489.127 Florida Statutes.

### **Clerk to the Board Instructions:**

Return a certified copy to Planning and Development when approved and recorded with the State.



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

March 25, 2020

**MEMORANDUM**

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

**RE:** Item H.1., Public Hearing Amending Ordinance Chapter 22, Article VI, Contractors Code of Brevard County

The Board of County Commissioners, in regular session on March 24, 2020, adopted Ordinance No. 20-04, amending Chapter 22, "Buildings and Building Regulations, Section 22-562 Appellate Review" Code of Ordinances of Brevard County, providing for appellate review consistent with 489.127, Florida Statutes; providing for conflicting provisions; providing for severability; providing for area encompassed; providing for an effective date; and providing for inclusion in the Brevard County Code of Ordinances. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Denna Scott*  
Tammy Rowe, Deputy Clerk

/kp

Encl. (1)



## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

March 25, 2020

Honorable Scott Ellis  
Clerk  
Board of County Commissioners  
Brevard County  
Post Office Box 999  
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2020-04, which was filed in this office on March 25, 2020.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb

ORDINANCE NO. 2020-04

**AN ORDINANCE AMENDING CHAPTER 22, "BUILDINGS AND BUILDING REGULATIONS, SECTION 22-562 APPELLATE REVIEW" CODE OF ORDINANCES OF BREVARD COUNTY, PROVIDING FOR APPELLATE REVIEW CONSISTENT WITH 489.127, FLORIDA STATUTES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AREA ENCOMPASSED; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR INCLUSION IN THE BREVARD COUNTY CODE OF ORDINANCES.**

**WHEREAS**, Chapter 22, Article VI, Division 1 through 4, Code of Ordinances of Brevard County, Florida, govern the regulations, 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 (The "County") has established a Contractors' Licensing Board; and

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

**WHEREAS**, the Florida Rules of Civil Procedures, Rule 1.630 was amended in 2013 to remove reference to certiorari proceedings; and

**WHEREAS**, Chapter 489.127, Florida Statutes provides for an appellate procedure to appeal the decision of the licensing board or designated special magistrate following a final administrative order; and

**WHEREAS**, the County seeks to adopt the procedural appellate language in Chapter 489.127, Florida Statutes as the appropriate remedy to seek appellate review of the licensing board or designated special magistrate's final administrative order on the discipline of both unlicensed and licensed contractors.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida, as follows:

Section 1. Section 22-562 is hereby amended to read:

Sec. 22-562. - Appellate review.

An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board or licensing board or designated special magistrate 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 enforcement board or licensing board or designated special magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed.

(Ord. No. 93-04, § 1.06, 3-2-93) State law reference 489.127.

Section 2. 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 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 4. Area Encompassed. This ordinance shall take effect only in the unincorporated area of Brevard County, Florida.

Section 5. Effective Date. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida within ten (10) days of enactment. This ordinance shall take effect upon adoption and filing as required by law.

Section 6. Inclusion in Code. It is the intention that the provisions of this ordinance shall become and be made part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article," or other such appropriate word or phrase in order to accomplish such intentions.

DONE, ORDERED, AND ADOPTED, in regular session this 24 day of March, 2020.

Attest:

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY

  
\_\_\_\_\_  
Scott Ellis, Clerk  
\_\_\_\_\_  
Bryan Lober, Chair

(As approved by the Board on March 24, 2020)