

POLK COUNTY ORDINANCE 92-03

AN ORDINANCE AMENDING POLK COUNTY ORDINANCE NO. 90-16, WHICH CREATED THE POLK COUNTY CONTRACTOR LICENSING BOARD; PROVIDING FOR AND AMENDING DEFINITIONS; PROVIDING FOR THE ENFORCEMENT OF CERTAIN ENUMERATED BUILDING CODES; PROVIDING FOR THE ORGANIZATION OF THE BOARD; REQUIRING CERTIFICATES OF COMPETENCY AND AMENDING THE MEANS OF OBTAINING SAID CERTIFICATES; PROVIDING FOR AND AMENDING A LIST OF EXCEPTIONS; PROVIDING FOR RENEWALS OF CERTIFICATES OF COMPETENCY; PROVIDING FOR AND AMENDING CERTAIN CLASSES OF CERTIFICATES OF COMPETENCY; PROVIDING FOR AN INACTIVE STATUS; PROVIDING FOR FEES; AMENDING THE REQUIREMENT OF POSTING OF VEHICLES AND OTHER TYPES OF ADVERTISEMENT; AMENDING THE LIST OF PROHIBITED ACTIVITIES; PROVIDING FOR DISCIPLINARY PROCEEDINGS AND AMENDING THE PROCEDURE; PROVIDING FOR PROCEEDINGS AGAINST UNLICENSED INDIVIDUALS OR FIRMS; AMENDING THE PROVISION PROHIBITING UNSUPERVISED WORK; PROVIDING AN APPEALS PROCEDURE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:

SECTION 1: Section 1 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 1: DEFINITIONS.

For the purpose of this article, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future, words in the plural numbers shall include the singular number, words used in the singular number shall include the plural number, and words used in the masculine gender shall include the feminine gender. The word "shall" is always mandatory, and not merely directory.

(1) ACCESSORY BUILDING/STRUCTURE OR USE

A building, structure, or use on the same lot as the primary structure and of a nature customarily incidental and subordinate to the principal building or use.

(2) ALUMINUM SPECIALTY STRUCTURE CONTRACTOR

Aluminum Specialty Structure Contractor shall mean any person or firm qualified and certified by the Board whose services are limited to the execution of contracts requiring the experience, knowledge, and skill necessary for the fabrication, assembling, handling, erection, installation, dismantling, adjustment, alteration, repair, servicing, and design work when not prohibited by law, in accordance with accepted engineering data and/or according to manufacturers specifications in the aluminum metal, vinyl and fiberglass screening, and allied materials construction trade for residential properties.

The scope of such work shall include and be limited to residential-type construction including 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, and single-story self-contained aluminum utility storage structures (not to exceed 500 sq. ft.). The scope of such work shall include wood work incidental to the aluminum and allied materials construction work. It shall be limited to the construction of wood framing for the walls of uninhabitable utility storage structures or raised wood decks for enclosures and the repair and/or replacement of wood incidental

to the installation of glass windows and doors. Such work shall comply with all plans, specifications, codes, laws and regulations as applicable. The scope of such work shall also include masonry concrete work and be limited to slabs and block knee walls incidental to the aluminum and allied materials construction work. The Aluminum Specialty Structure Contractor shall not perform any work that alters the structural integrity of the building including but not limited to roof trusses, lintels, load bearing walls, and foundations. Nothing contained herein shall require a licensed building contractor to subcontract to an Aluminum Specialty Structure Contractor on any construction that is properly permitted in order to install soffit, fascia, or other non-structural aluminum on a building.

The Aluminum Specialty Structure Contractor shall subcontract, with a licensed qualified contractor in the field concerned, all other work incidental to that which is defined herein but which is the work of a trade other than that of such contractor.

Those who applied for licensure pursuant to this subsection shall not be limited to residential work providing they have tested and obtained a passing grade, which result was relayed to the Polk County Board of Examiners between August 1, 1990 and August 1, 1991; have shown that they have obtained three permits for the installation of aluminum on a commercial project within the past five years; or have met the following conditions: 1) have or obtain a current license that allows specialty structure construction work and 2) have formerly held an aluminum specialty structure

license with Polk County between 1973 and 1978.

(3) ALUMINUM SPECIALTY MECHANIC shall mean an installer or mechanic for the installation (pursuant to subcontract with a properly licensed contractor) of aluminum railings, soffits, siding, gutters, screen enclosures, cabanas, carports, aluminum structures and buildings and installation work falling within the scope of work of an aluminum specialty structure contractor. Notwithstanding any other portion of this Ordinance, any properly licensed contractor (i.e., general, building, residential, or aluminum specialty structure contractor) may subcontract any aluminum specialty installation work within the scope of his license to an aluminum specialty mechanic. Such aluminum specialty mechanic (and his employees, if any) shall perform such subcontracted work under the direct supervision of the properly licensed contractor and shall be covered by workers' compensation insurance provided either by the aluminum specialty mechanic or the contractor, with the provider of such insurance being designated in this subcontract. Direct supervision shall mean the person qualified and certified by the Board shall be in direct communication with those under his supervision. Such aluminum specialty mechanic shall not be required to pass any examination to obtain such designation but shall be required to obtain an occupational license from Polk County.

(4) BOARD shall mean the Polk County Contractors Licensing Board.

(5) BOARD OF EXAMINERS shall mean the Municipal Board of Examiners, Inc. of Polk County and Municipalities or such other entity as the commission shall appoint.

(6) BUILDING CONTRACTOR shall mean any person or firm who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to construct, remodel, repair, or improve any building or other structure or to excavate or commence any project, development, or improvement--or do any part thereof including the erection of scaffolding or other structures or works in connection therewith for the incorporation of labor or materials therein; provided, however, that a building contractor shall subcontract all electrical, plumbing, heating, air conditioning, refrigeration, ventilation, roofing, swimming pool work, and solar water heating, for which an examination for a Certificate of Competency is required, unless such contractor holds a Certificate of Competency for the respective trade category. Anything herein to the contrary notwithstanding, a building contractor shall be permitted to install pre-engineered, pre-fabricated metal structures or systems. Building Contractors are not required to subcontract the installation of wood shakes or wood, asphalt, or fiberglass shingle roofing materials on a new building of their construction. All other types of roofing, (i.e. tile, built up, system, etc.) must be subcontracted by Building

Contractors unless they hold licensure as Roofing Contractors. The term "building contractor" shall include general, building, and residential but not include "subcontractors".

(7) CERTIFICATE OF COMPETENCY shall mean that instrument which, when duly issued by the Board to a person or firm, authorizes said person or firm to perform the work of the contractor or journeyman classification for which the certificate is issued pursuant to the scope of said work as defined in this article.

(8) GENERAL CONTRACTOR CERTIFICATE OF COMPETENCY - CLASS A shall mean that instrument which, when duly issued by the Board to a person or firm, authorizes said person or firm to act as a building contractor and to engage in the unlimited construction, remodeling, repair, or improvement of any classification of building or structure.

(9) BUILDING CONTRACTOR CERTIFICATE OF COMPETENCY - CLASS B shall mean that instrument which, when duly issued by the Board to a person or firm, authorizes said person or firm to act as a building contractor to perform the duties of a residential contractor and to engage in the construction; remodeling; repair; or improvement of any "residential", "business", "storage", or "industrial" building--not to exceed three (3) stories in height--and any accessory use structures utilized in connection therewith and the remodeling; repair; or improvement of any building, structure, or facility in any other building classification provided, however, said services do not affect the structural members of said building.

(10) RESIDENTIAL CONTRACTOR CERTIFICATE OF COMPETENCY-CLASS C

shall mean that instrument which, when duly issued by the Board to a person or firm, authorizes said person or firm to act as a residential building contractor and to engage in the construction, remodeling, repair, or improvement of any one, two, or three-family unit residential structure--not to exceed two (2) stories in height, and any accessory use structures utilized in connection therewith. This activity shall also include the installation of aluminum railings, soffit, siding, gutters, screen enclosures, prefabricated cabanas or carports, or other prefabricated aluminum structures or buildings not under an existing roof.

(11) COMMISSICN shall mean the Board of County Commissioners of Polk County, Florida.

(12) CONTRACTOR shall mean any person or firm who in any capacity undertakes, offers to undertake, or purports to have the capacity to undertake; or accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, or any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work authorized to be performed by any contractor classification defined and regulated by this article.

(13) COUNTY shall mean all of the unincorporated areas of Polk County, Florida.

(14) DEMOLITION CONTRACTOR shall mean any person or firm qualified and certified by the Board to demolish and remove any category of structures including commercial buildings, residential structures, and any appurtenances or foundation in connection

therewith. Such a contractor is precluded from using any type of explosive device, medium, or apparatus in connection with said demolition operations. All demolition operations shall be in strict compliance with all applicable laws, statutes, ordinances, rules, and regulations pertaining to demolition. Nothing contained herein shall interfere or limit the services of a Building Contractor as defined in this article.

(15) ELECTRICAL CONTRACTOR shall mean any person or firm who undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, or any other type of compensation; or submits a bid himself or by or through any other person or firm to perform any work involving the installation, repair, alteration, extension, or design of any electrical wiring, fixture, appliance, apparatus, raceway, conduit, or any part thereof, which generates, transmits, transforms, or utilizes electrical energy in any form including the electrical installation and systems within plants, substations, commercial buildings, and residential structures.

(16) EMPLOYEE is defined as a person who receives compensation from and is under the supervision and control of an employer who regularly deducts the FICA and withholding tax and provides workers' compensation, all as required by law.

(17) FIRM shall mean any sole proprietorship, partnership, association, company, corporation, agency, or any other type of business organization.

(18) NATURAL GAS CONTRACTOR shall mean any person or firm who

in any capacity undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work involving the design, fabrication, installation, maintenance, repair, alteration, or extension of any gas piping, appliances, main lines, laterals, tanks, apparatus, devices, and any other appurtenances or equipment associated therewith. The scope of work of such contractor shall also include any excavation work incidental thereto but shall not include any electrical power wiring. Such contractor shall subcontract all work outside the prescribed scope of his license, and all such work in a certifiable trade category, as specified in this article, shall be subcontracted to a certified contractor. Prior to any person obtaining licensure as a natural gas contractor, he shall provide proof, satisfactory to the board, that he shall have had at least 10,000 hours of supervised gas fitting experience prior to date of application.

(19) H.A.R.V. is an abbreviation for the general term heating, air conditioning, refrigeration, and ventilation.

(20) H.A.R.V. CONTRACTOR shall mean any person or firm who in any capacity undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus percentage, a fixed fee, or any other type of com-

pensation; or submits a bid himself--or by or through any other person or firm--to perform any work authorized to be performed by any of the following:

- (A) H.A.R.V. Class "A" Contractor,
- (B) H.A.R.V. Class "B" Contractor,
- (C) Mechanical Contractor,
- (D) Sheet Metal Contractor,

excluding, however, the sales, service, and installation of all package heating or air conditioning units with a single power cord and no ducts or remote controls up to a maximum of 3 tons, 36,000 B.T.U. in capacity.

(21) H.A.R.V. CLASS A CONTRACTOR shall mean any person or firm qualified and certified by the Board to install, maintain, repair, fabricate, alter, expand, design, or service--when not otherwise prohibited by law--any system of refrigeration; central air conditioning; heating; or ventilation, unlimited in horsepower or tonnage, including duct work and boilers utilized in connection therewith only to the extent such duct work and boilers are necessary to make said system complete, together with all appurtenances, apparatus, or equipment used in connection therewith, including the installation of a condensate drain from any air conditioning unit to any existing safe waste or other approved disposal system, other than direct connection to a sanitary disposal system, all in such manner as to comply with all plans, specifications, codes, law, and regulations applicable thereto and to disconnect and/or reconnect power wiring on the load side of an existing electrical disconnect

switch and low voltage heating, ventilating, and air conditioning control wiring. The scope of work of such contractor shall also include any excavation work incidental thereto, but shall not include any work such as liquified petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring, except as specified in this article.

(22) H.A.R.V. CLASS B CONTRACTOR shall mean any person or firm qualified and certified by the Board to install, maintain, repair, fabricate, alter, expand, design, or service--when not otherwise prohibited by law--any system of refrigeration, central air conditioning, heating, or ventilating, up to and including a capacity of 25 tons in any one system; including duct work and boilers utilized in connection with such complete system, only to the extent such duct work and boilers are necessary to make said system complete, together with all appurtenances, apparatus, or equipment used in connection therewith, including the installation of a condensate drain from any air conditioning unit to any existing safe waste or other approved disposal system, other than direct connection to a sanitary disposal system, all in such a manner as to comply with all plans, specifications, codes, laws, and regulations applicable thereto; and to disconnect and/or reconnect power wiring on the load side of an existing electrical disconnect switch and low voltage heating, ventilating, and air conditioning control wiring. The scope of work of such contractor shall also include any excavation work incidental thereto, but shall not include any

work on ammonia refrigeration systems, liquified petroleum or natural gas fuel lines within buildings, potable waterlines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring except as specified in this article.

(23) JOURNEYMAN shall mean any person performing any work authorized to be performed by any journeyman classification defined and regulated by this article.

(24) JOURNEYMAN ELECTRICIAN shall mean any person qualified and certified by the Board to supervise or perform the skilled work of installing electrical fixtures or systems or any part thereof.

(25) JOURNEYMAN PLUMBER shall mean any person qualified and certified by the Board to supervise or perform the skilled work of installing plumbing fixtures or systems or any part thereof.

(26) MECHANICAL CONTRACTOR shall mean any person or firm qualified and certified by the Board to perform the work of H.A.R.V. unlimited contractor and, in addition thereto, to install; maintain; repair; fabricate; alter; expand; or design--when not otherwise prohibited by law--piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, fire suppression systems up to the detector check valve, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, lift station equipment and piping, and natural gas fuel lines within buildings, and all appurtenances, apparatus, appliances, utilized in connection therewith,

and such contractor may disconnect and/or reconnect electrical power wiring on the load side of an existing electrical disconnect switch and low voltage heating, ventilating, and air conditioning control wiring and install a condensate drain from an air conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary sewer system. The scope of work for mechanical contractor shall also include any excavation incidental thereto but shall not include any work such as liquified petroleum gas lines within buildings, potable water-lines or connection thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring except as specified in this article.

(27) IRRIGATION CONTRACTOR shall mean any person or firm qualified and certified by the Board who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work involving the design, installation maintenances, repair, alteration, and extension of all piping, sprinkler heads, control system components, pumps, and chemical injectors used both for commercial landscaping and residential lawn irrigation systems. The scope of such work shall include electrical power wiring on the load side of an existing electrical disconnect switch. Such contractor may connect irrigation systems to potable water utilizing a code-approved back

flow prevention device. Connection may be made such that water may be drawn from a legal water source or from an existing well head of a private well. The scope of work of said contractor shall also include any excavation work incidental thereto, but said contractor shall sub-contract out work in a certifiable trade unless said contractor is holder of a Certificate of Competency in such certifiable trade.

(28) OWNER shall mean any person who owns property either individually, jointly, or by an estate. For the purpose of this article, ownership of the subject property shall be deemed to consist of fee simple ownership and nothing contained herein shall be interpreted or construed to require a mortgagee or other lienholder to join in any application required by the terms of this article.

(29) PLUMBING CONTRACTOR shall mean any person or firm qualified and certified by the Board who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work involving the maintenance, extension, installation, repair, alteration, or service of any piping, fixtures, appliances, or appurtenances, apparatus, or equipment utilized in connection with any of the following: sanitary drainage or storm drainage facilities; the venting system and the public or private water supply systems within or adjacent to any building, structure, or conveyance; or any storm water or

sewerage and water supply system of any premises to its connection with any point of public disposal or other acceptable terminal; and, in addition thereto, to install, maintain, repair, fabricate, alter, expand, or design--when not otherwise prohibited by law--piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, fire suppression systems up to the detector check valve, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, lift station equipment and piping, natural gas fuel lines within buildings, and all appurtenances, apparatus, appliances, or equipment utilized in connection therewith, precluding however liquefied petroleum lines and connections thereto and electrical power wiring.

(30) SHEET METAL CONTRACTOR shall mean any person or firm qualified and certified by the Board for unlimited service in the sheet metal trade for the manufacture, handling, installation, erection, maintenance, dismantling, conditioning, repair, fabrication, alteration, adjustment, expansion, or design--when not otherwise prohibited by law--of ferrous and non-ferrous materials of US #10 gauge or its equivalent or lighter gauge and other similar materials used in lieu thereof, including air distribution, turning vanes, splitter or volume dampers, fire dampers, internal and exterior insulation, access doors, and other work incidental thereto for the purpose of moving, directing, and controlling air in the operation of heating, air conditioning, and ventilation

equipment and all designed architectural sheet metal; excluding, however, the setting of equipment or installation of any air handling equipment or electrical resistance heaters. Nothing contained herein should be interpreted to mean that licensure is required for sheet metal work performed in a manufacturing environment.

(31) SOLAR WATER HEATING CONTRACTOR shall mean any person or firm who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work to size, install, alter, repair, maintain, relocate, or replace any and all solar hot water systems and solar swimming pool heaters.

(32) SUBCONTRACTOR shall mean any person or firm who contracts with a contractor to perform part or all of the latter's work.

(33) SWIMMING POOL/SPA CONTRACTOR shall mean any person or firm qualified and certified by the Board who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work involving the construction, repair, water treatment, or servicing of any swimming pool or spa (public, private, or otherwise) used for therapy, swim-

ming, or other use; excluding, however, manufacturing of prefabricated above or below-ground pools. Said work shall include, but not be limited to, design, layout, excavation, operation of construction pumps for dewatering purposes, steel work, installation of tile and coping installation of all filter equipment, chemical feeders, and pool equipment of any type, including systems for the direct infusion of chlorine gas, plastering of the interior, pouring of decks, guniting, fibreglassing, construction of housing for pool equipment, and the installation of package pool heaters; provided, however, that the scope of the work of such contractor shall not include electrical power wiring, remote located solar heating devices, or direct connection to any sanitary sewer or potable water supply system. The term swimming pool contractor shall not include any person or firm engaged solely in the servicing, repair, water treatment, and maintenance of swimming pools, public or private.

(34) SWIMMING POOL/SPA SERVICE CONTRACTOR shall mean any person or firm qualified and certified by the Board who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to perform any work involving the servicing, repair, water treatment--including, but not limited to, the direct infusion of chlorine gas, and maintenance of any swimming pool or hot tub or spa, whether public or private. The

scope of such work includes the repair and/or replacement of piping; the repair and/or replacement of existing pool equipment including filters, chemical feeders, and package pool heaters; and the installation of additional equipment as required as long as such installation does not upgrade or downgrade the design criteria of the original pool systems. The scope of such work shall also include the reinstallation of tile and coping, pool refinishing, pool replastering, and repouring of decks provided, however, that the scope of work of such persons and firms shall not include electrical power wiring, solar heating devices, or direct connection to any sanitary sewer or potable water supply systems.

(35) ROOFING CONTRACTOR shall mean any person or firm qualified and certified by the Board who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order to contract on a fixed sum, cost plus a percentage, a fixed fee, any combination thereof, or for any other type of compensation; or submits a bid himself--or by or through any other person or firm--to install, maintain, repair, alter, extend, or design--when not otherwise prohibited by law--and use materials and items used in the installation, maintenance, extension, alteration, or repair of all types of roofing and waterproofing, including specialty roofs. All persons or firms engaged in the application, repair, or replacement of specialty roofs shall be factory certified applicators for each type of specialty roof to be applied. Further, any specialty roof system applied in Polk County shall have a Southern Building Code Congress International (SBCCI)

Compliance Report prior to such application. Factory certified applicator and compliance report documentation shall be maintained in the contractor's file. The scope of work of the roofing contractor shall exclude, however, all roof penetrations required for installation, maintenance, or repair of electrical, plumbing, or H.A.R.V. fixtures or systems or any part thereof performed under the direct supervision and control of a journeyman, master, or contractor fully qualified and certified by the Board in the applicable field.

(36) UNDERGROUND UTILITIES CONTRACTOR shall mean any person or firm qualified and certified by the Board who, in any capacity, undertakes, offers to undertake, or purports to have the capacity to undertake; accepts an order or contract on a fixed sum, cost plus a percentage, a fixed fee, or any combination thereof; or submits a bid himself--or by or through any other person or firm--to perform any work involving the excavation, construction, installation, repair, replacement, removal, alteration, or continuation of utility lines. Said work shall not include installation of piping that constitutes the exclusive part of any fire protection/suppression system from the detector check valve, detector service valve, or engineer's designated point of connection. Such work shall not preclude limit or interfere with the specified duties of Class I building contractors, mechanical contractors, plumbing contractors, or paving specialty contractors who utilize their own employees while engaged in underground utility activities for storm water collection systems in accordance with applicable federal, state,

and county laws, rules, and regulations; provided, however, that such paving specialty contractor must subcontract other portions of utility work to duly licensed utilities contractors.

SECTION 2: Section 2 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 2: CREATION AND COMPOSITION OF POLK COUNTY CONTRACTORS' LICENSING BOARD.

(1) There is hereby created the Polk County Contractors' Licensing Board. The membership of the Board shall include at least two (2) members who are primarily engaged in business as building contractors; at least one (1) member who is primarily engaged in business as an electrical contractor; at least one (1) member who is primarily engaged in business as a H.A.R.V. contractor; at least one (1) member who is primarily engaged in business as a plumbing contractor; at least one (1) member who is primarily engaged in business as either an architect or engineer duly licensed by the State of Florida; at least one (1) member who is primarily engaged in business as a swimming pool contractor; at least one (1) member who is primarily engaged in business as a roofing contractor; at least one (1) member who is associated with the Gas Association; and (2) members who are appointed as alternates at the discretion of the Commission, all of whom shall have been residents of Polk County, Florida for a period of not less than one year immediately prior to appointment. Said members shall be appointed by the Board of County Commissioners of Polk County, Florida for a term of three (3) years. The term of appointment

shall commence on January 1 of the year of the appointment and shall run for a term of three years. Each Board member may be re-appointed for an additional three-year term. Any vacancy occurring during the term of any member of the Board shall be filled by the Commission for the remainder of the unexpired term only. Members of the Board shall serve at the pleasure of the commission and may be removed from office any time by majority vote of the Commission.

(2) No member of the Board shall receive any compensation for the duties involved, except that each member may be entitled to travel expenses as provided by law.

(3) At the first meeting held by the Board each calendar year, the members of the Board shall elect, by majority vote from its members, a Chairman, Vice-Chairman, and such other officers as deemed necessary for performance of its duties. Said officers shall serve for a term of one (1) year. The Chairman, or in the Chairman's absence the Vice-Chairman, shall serve as the presiding officer at all meetings of the Board.

(4) The Board shall have the power to adopt from time to time its own rules of procedure. Said rules of procedure, and any amendment thereto, shall be effective only upon approval of the Commission. Following said approval, a copy of such rules of procedure, and any amendment thereto, shall be filed with the Clerk of the Board of County Commissioners.

(5) The Board shall have jurisdiction over all matters pertaining to the examination, qualification, regulation, and control of any person or firm desiring to engage in the construction

business in the unincorporated areas of Polk County, Florida in those trade categories required to be licensed pursuant to this ordinance.

(6) The Board shall have jurisdiction over those building trades regulated in the following ordinances:

a) Polk County Ordinance 89-56, the Polk County Building Code, as amended.

b) Polk County Ordinance 89-57, the Polk County Plumbing Code, as amended.

c) Polk County Ordinance 89-58, the Polk County Mechanical Code, as amended.

d) Polk County Ordinance 89-59, the Polk County Electrical Code, as amended.

e) Polk County Ordinance 89-60, the Polk County Gas Code, as amended.

f) Polk County Ordinance 89-61, the Polk County Swimming Pool Code.

(7) The Board shall have the power to determine the qualifications of applicants for the various classes of Certificates of Competency; to issue Certificates of Competency; to hold hearings to determine if a Certificate of Competency should be suspended or revoked for any violation of this article; to establish the length of time, terms, and conditions, if any, of such suspension; to investigate complaints against any persons or firms required to be licensed pursuant to those Polk County Ordinances relating to Building Trades; to initiate corrective or

punitive actions against any persons or firms violating the provisions of this article, including, but not limited to, calling of an administrative hearing or filing of a complaint for injunctive relief, all in accordance with the procedures hereinafter set forth; and to call upon members of the construction industry to advise and assist.

(8) The Board shall have the power to hear and decide appeals of any decision or interpretation rendered by any administrative officer employed by the Commission who renders decisions affecting the construction industry.

(9) The Board shall have the power to administer oaths and to compel the attendance of witnesses at any general or special meetings, including administrative hearings, called by the Board.

SECTION 3: Section 3 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 3: ACCOUNTABILITY AND LIABILITY OF BOARD MEMBERS

(1) The County shall defend the Board and any member of the Board against any and all actions arising from any act or omission when acting in official capacity. In providing such defense the County may, in addition to the office of County Attorney, employ or utilize the legal services of outside counsel.

SECTION 4: Section 4 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 4: SECRETARY TO THE BOARD.

The Polk County Building Official, or his authorized designee, shall serve as the secretary to the Board and shall perform the following duties:

- (1) To attend all meetings of the Board.
- (2) To receive and process all applications for Certificates of Competency and to keep a permanent record of all persons and firms applying for or issued a Certificate of Competency.
- (3) To prepare the agenda and send out notices to all members of the Board of each general and special meeting.
- (4) To keep, prepare, and serve as custodian of the minutes and records of the Board.
- (5) To collect and account for all fees established by the Commission for the application, processing, or issuance of any Certificate of Competency and associated documentation.
- (6) The secretary may, upon direction of the Board or upon his own motion or upon the sworn, written complaint of any person, investigate or cause to be investigated possible violations of the provisions of this ordinance by any person or firm licensed under this ordinance. The secretary shall submit a written report to the Board of all investigations made.

SECTION 5: Section 5 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 5: MEETINGS OF THE BOARD; RECORDS.

- (1) The Board shall hold not less than six (6) regular meetings each year. Special meetings of the Board may be called by

the Commission, the chairman of the Board, the secretary of the Board, or upon the written request of any four (4) members of the Board. Any Board member or alternate member who absents himself from three (3) consecutive meetings without just cause will automatically terminate his appointment.

(2) Five (5) members of the Board shall constitute a quorum for the transaction of business at any meeting, and the vote of a majority of such quorum shall be sufficient for formal action by the Board; provided, however, that if at any meeting there shall be less than a quorum, the majority of those present may adjourn said meeting from time to time and place to place. Alternate members shall be entitled to vote on any matter coming before the Board in the event the vote of such alternate member does not make the total vote on any matter exceed nine (9) votes. The chairman, or in his absence the vice-chairman, shall designate which alternate member or members may vote on any matter in the event such designation is necessary to maintain a maximum of nine (9) votes on any one item.

(3) All minutes and records of the Board shall constitute public records.

SECTION 6: Section 6 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 6: CERTIFICATE OF COMPETENCY.

(1) Any person or firm engaged in or desiring to engage in business as a contractor, or any person desiring to work as a journeyman as required by applicable building regulations in the unincorporated areas of Polk County, Florida, shall be the holder

of a Certificate of Competency issued by the Board, by the State of Florida Construction Industry Licensing Board, or the State of Florida Electrical Contractors Licensing Board prior to engaging in business or working as a journeyman. A firm may hold a Certificate of Competency by and through a qualifying agent. Such qualifying agent shall be certified by the Board, by the State of Florida Construction Industry Licensing Board, or by the State of Florida Electrical Contractors Licensing Board in order for said firm to be certified in the category of business for which the qualifying agent is certified. The Certificate of Competency, when issued to a firm, shall be in the name of the qualifying agent, and the name of the firm shall also be noted thereon. If any qualifying agent who has been issued a Certificate of Competency by the Board ceases to be affiliated with such firm by reason of death, termination, or otherwise, said qualifying agent or firm shall so inform the Board within seven (7) calendar days of cessation of his affiliation with the firm he qualifies. If such qualifying agent is the only certified individual affiliated with the firm, the firm shall have a period not to exceed 30 calendar days from the date of cessation of the qualifying agent's affiliation with the firm in which to employ another qualifying agent. During said 30-day period, no new permits for construction shall be issued to said firm. Nothing herein shall be interpreted or construed to prohibit such firm from completing any existing contract then incomplete. In no event shall any person qualify more than one firm in any given trade category.

(2) Any person or firm desiring to engage in business as a contractor, or any person desiring to work as a journeyman as required by applicable building regulations in the unincorporated areas of Polk County, Florida, who does not hold or is not qualified by the Board, by the State of Florida Construction Industry Licensing Board, or by the State of Florida Electrical Contractors Licensing Board, shall make application for certification by the Board on a form prescribed by the Board which shall be available at the Polk County Building Division. All applications must be accompanied by an application fee in order to be considered by the Board. Application fees shall be established by resolution of the Commission.

(a) All applicants for a Certificate of Competency as a contractor must successfully complete an examination prescribed by the Board in order to show his degree of experience in the field for which he is seeking certification; his knowledge of all applicable local, state, and federal laws, including but not limited to all applicable building codes, safety, health, and lien laws of the county, state, and federal governments; and his knowledge of rudimentary administrative principles of the contracting business for which application is being made.

(b) Examinations prescribed by the Board shall be administered by the Board of Examiners. The Board of Examiners shall certify all test results to the Board.

(c) Notice of the next regular examination shall be given in writing by the Board of Examiners to all who make application to take said examination.

(d) The Board of Examiners may administer oral examinations. The Board has the right, in its sole discretion, to refuse to accept the results of an oral examination and require the applicant to take a written examination instead.

(e) The Board of Examiners shall notify each applicant of his/her score and shall immediately present the results of said examination to the Board for its consideration. All applicants, whether a contractor or journeyman, must achieve a minimum passing grade of 75 percent to be considered eligible for certification by the Board.

(3) No application for a Certificate of Competency as a contractor shall be considered unless the applicant supplies the following:

(a) Type of Certificate of Competency sought;

(b) The applicant's name, residence, and business address;

(c) If the applicant is a firm, the name and business address of the firm; the names and residences of all directors and officers of the firm together with the amount or percentage of their interest therein; and the name and address of the resident agent for said firm. If the applicant is a corporation, a Certificate of Incorporation and a letter from the Secretary of State of the state of Florida confirming that such corporation is current with the Secretary of State, and further confirming the name and address of the resident agent authorized to receive service of process on behalf of said firm;

(d) A sworn list of all businesses owned, operated, or managed by the applicant within the past five (5) years and the addresses of such businesses;

(e) A sworn statement that the applicant and all other members of the firm have not been convicted within the past five years, of a misdemeanor or felony involving dishonesty, fraud, or moral turpitude. If this is not the case, the applicant shall provide to the Board a list of the charges, sentence, and name and address of the court hearing said case;

(f) A credit report by a credit bureau satisfactory to the Board;

(g) List of actual work experience and education in the category for which application is being made.

(4) All applications for a Contractor's Certificate of Competency shall include the following documents in addition to all documents required by subsection (3) above:

(a) A check or money order for the applicable fee;

(b) Letter from a licensed insurance agent or agency showing the applicant's insurability for the following policies of insurance, all insurance policies shall be updated annually:

(i) Appropriate Workers' Compensation insurance,

(ii) Public Liability insurance in at least the policy limits commonly known as \$100,000/\$300,000 or \$300,000 CSL,

(iii) Property Damage insurance in the amount of \$25,000,

(c) Letters of recommendation from three (3) different building materials suppliers, all of whom have supplied materials to the applicant within the six (6) months immediately preceding the date of application.

(d) Letters of recommendation from three (3) subcontractors, all of whom have been subcontractors on projects for the applicant within the six (6) months immediately preceding the date of application, or, if applicable, letters of recommendation from three (3) contractors, for whom the applicant has worked as a subcontractor within the six (6) months immediately preceding the date of application.

(e) In the event the applicant is unable to furnish the letters required by subsections (c) and (d) because he has not carried on any contracting or subcontracting business within the six (6) months immediately preceding the date of application, the applicant shall submit three (3) letters of recommendation from reputable business or professional persons, not related by blood or marriage to the applicant, residing in Polk County, Florida, or in the county of the applicant's last business venture or residence, vouching for the applicant's reputation as to honesty, integrity, and good character.

(f) A sworn statement that the applicant or the applicant's qualifier has worked in the contractual field in which the applicant is seeking certification for at least four (4) years;

provided, however, that the Board may reduce said requirement to two (2) years for individuals who show proof of formal education satisfactory to the Board.

(g) Any other documents or information requested by the Board.

(5) The Board shall not issue a Certificate of Competency to any contractor except upon a finding by the Board:

(a) That the applicant, or if the applicant is a firm that the qualified representative thereof, has made a passing grade on the prescribed examination and has the necessary experience for the type of certificate for which he has applied.

(b) That the credit report and financial statement of the applicant show that the applicant is financially responsible and able to engage in the contracting field for which certification is requested.

(c) That the applicant and each member of the firm possess a reputation for honesty and are of good character and have not been convicted in the past five (5) years of any misdemeanor or felony involving dishonesty, fraud, or moral turpitude. Honesty, integrity, or good character may be established by legally sufficient evidence that:

(i) Applicant has not committed an act within the past three (3) years which, if committed by a licensed contractor, would be grounds for suspension or revocation of a Certificate of Competency.

(ii) Applicant has not committed an act within the past three (3) years involving dishonesty, fraud, deceit, or lack of integrity whereby the applicant has benefitted or whereby some injury has been sustained by another.

(iii) Applicant has not in the past five (5) years refused to pay valid bills of at least five (5) different persons or firms supplying materials or services to said applicant as evidenced by unsatisfied judgments entered in a court of competent jurisdiction.

(d) That the applicant is insured by a responsible insurance company for:

(i) Workers' Compensation insurance.

(ii) Public liability insurance in at least the policy limits commonly known as \$100,000/\$300,00 OR \$300,000 CSL.

(iii) Property damage insurance in the amount of \$25,000.

(e) That the applicant has filed with the Board a bond in the sum of \$5,000.00 payable to Polk County, conditioned upon the applicant complying with all building codes, ordinances, laws, rules, regulations, policies, or procedures adopted by the Commission and shall protect, save harmless, and indemnify Polk County, Florida and the Commission against all injury and damage to persons or property which the Commission or any other person sustains as a

result of work performed by the contractor, his agents, or employees. Said bond shall be in a form prescribed by the Commission, which document shall be available at the Polk County Building Division.

(f) The contractor applicant or qualifier possesses the required skill, knowledge, and experience in the category for which application is made as evidenced by four (4) years' proven experience in the trade; provided, however, that the Board may reduce said requirement to two (2) years for individuals who show proof of formal education satisfactory to the Board.

(6) All applications for a Certificate of Competency as a Journeyman shall include a check or money order for the applicable fee and shall provide evidence satisfactory to the Board that the applicant has two (2) years' experience in the field for which he wishes to be qualified; provided, however, that the Board may reduce said requirement to one (1) year for individuals who show proof of formal education satisfactory to the Board.

(7) The Board shall not issue a Certificate of Competency to any journeyman unless the applicant has passed the required examination and has satisfied all designated experience requirements except those Certificates of Competency which are issued as a result of grandfather certification procedures.

(8) Any person desiring to engage in business as a contractor in his own name or with a firm other than the one with which he has previously qualified shall make application for transfer in writing to the Board on a form adopted by the Board, which form shall be

available at the Polk County Building Division. Said application for transfer shall be accompanied by a transfer fee and shall include all information required by this article for new applicants. After investigation of the financial responsibility and the credit and business reputation of said person or firm and posting of bonds, insurance and other documents, the Board, upon a favorable determination, shall forthwith issue a new Certificate of Competency in the person's name, or in the name of the new firm; provided, however, that in no event shall any person qualify more than one person or firm in any given trade category.

SECTION 7: Section 7 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 7: EXEMPTIONS.

The provision of this article shall not apply to the following:

(1) Any person certified by the State of Florida Construction Industry Licensing Board; the State of Florida Electrical Contractors Licensing Board; the State of Florida Division of Liquefied Petroleum Gas; the State of Florida Fire Marshal's Office; or the State of Florida Department of Motor Vehicles (Mobile Home Division).

(2) Any owner-builder of residential property who is building, altering, improving, or repairing farm outbuildings or one single-family residence for the occupancy or use of such owner and not intended or offered for sale, lease, or rent, may do so without qualifying for a Certificate of Competency. However, the

application for a building permit or construction of more than one single-family residence within a one-year period shall be construed as engaging in the construction business, and said owner shall be required to secure a Certificate of Competency before the second permit would be issued. In all actions brought under this subsection, proof of the sale or offering for sale or lease or rent of more than one (1) structure by the owner-builder within one (1) year after completion of same shall be presumptive evidence that such structure was undertaken for the purpose of sale or lease or offer to lease. In no event, shall an owner make direct connection to any sanitary sewer or potable water supply system or to any house electrical panel or other approved electrical source, except upon final inspection and approval by Polk County Building Official or his designated representative.

(3) Employees of any contractor who are subordinates of a person holding a valid Certificate of Competency to engage in such contracting business, if the employees do not hold themselves out for hire or engage in contracting except as an employee.

(4) Public utilities performing construction, maintenance, and development work by their forces and incidental to their business.

(5) Any authorized employee of the United States government; the State of Florida irrigation district or reclamation district; or any municipality, city, county or other municipal or political corporation or subdivision of this state as long as said

employee does not hold himself out for hire or otherwise engage in the contracting profession except in accordance with his public employment.

(6) Any person who merely furnishes materials or supplies without fabricating them into or consuming them in the performance of the work of the contractor.

(7) Any owner of residential property constructing, installing, repairing, servicing, altering, or maintaining any swimming pool utilized for therapy, swimming, or other private use of owner of such property and not intended or offered for sale. An owner of residential property may construct one (1) pool for his own use without qualifying for a Certificate of Competency, but the application for a building permit for more than one (1) swimming pool within one year's time shall be construed as engaging in the construction business, and said owner shall be required to secure a Certificate of Competency before the second permit will be issued. In all actions brought under this subsection, proof of the sale or offering for sale of more than (1) parcel of residential property by the owner-builder within one (1) year after completion of the construction of a pool on such property shall be presumptive evidence that such construction was undertaken for the purpose of sale.

(8) Any person performing the skilled work of installing roofing, waterproofing, sheet metal, electrical, plumbing, gas or H.A.R.V. fixtures or systems, or any part thereof while under the

direct supervision and control of a journeyman, or contractor duly qualified and certified by the Board in said field; provided, however, that:

(a) In no event shall any electrical or plumbing journeyman have more than five (5) such persons under his direct supervision and control at any time.

(b) For the purpose of this subsection, the term "direct supervision and control" shall be deemed to require the actual presence at the job site of any journeyman acting in such supervisory capacity.

SECTION 8: Section 8 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 8: CURRENT CERTIFICATION.

(1) Any person or firm who desires to do business in any one or more of the areas regulated by this article and who holds a current Certificate of Competency issued by the Board shall not be required to obtain a new certificate under this article if such previously issued certificate is valid at the time this article goes into effect; provided, however, that said person or firm shall be required to renew said certificate upon its expiration, in accordance with the requirement herein set forth.

(2) Any person who is required by this article to obtain a Certificate of Competency shall be excused from taking any required examination, but not from the other requirements of this article, if said person is licensed by any other county or by any municipality in the State of Florida and has satisfactorily completed a

standard examination to determine the competency of such contractor or journeyman, and said examination has been approved by the Board; provided that said municipality or county has adopted plumbing, electrical, building, swimming pool, mechanical, or other codes comparable to those applicable to Polk County, Florida.

SECTION 9: Section 9 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 9: RENEWAL OF CERTIFICATE OF COMPETENCY.

All Certificates of Competency issued by the Board shall be valid for a period of one (1) calendar year commencing October 1, and terminating on September 30 of the following year. Said Certificate of Competency may be renewed at any time without penalty if said application for renewal is filed at least 30 days prior to the date of expiration of the Certificate of Competency. Failure to apply for renewal of a Certificate of Competency prior to expiration shall render said certificate inoperative, and it shall thereafter be unlawful for said person or firm to undertake, offer to undertake, or purport to have the capacity to undertake any offer or job in the contracting field for which said certificate was issued, except upon payment of a delinquent fee established by resolution of the Commission.

SECTION 10: Section 10 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 10. CLASSES OF CERTIFICATES OF COMPETENCY.

(1) Upon ascertaining that the contractor applicant has satisfied the requirements set forth in this ordinance, the Board

shall issue one of the following classes of Certificates of Competency, depending on the applicant's qualifications as determined by the Board:

- (a) Building Contractor:
 - (i) General Contractor Competency - Class A.
 - (ii) Building Contractor Competency - Class B.
 - (iii) Residential Contractor Competency - Class C.
- (b) H.A.R.V. Contractor:
 - (i) H.A.R.V. Class A Contractor.
 - (ii) H.A.R.V. Class B Contractor.
 - (iii) Mechanical Contractor.
 - (iv) Sheet Metal Contractor.
- (c) Irrigation Contractor.
- (d) Plumbing Contractor.
- (e) Gas Contractor.
- (f) Electrical Contractor.
- (g) Swimming Pool/Spa Contractor.
- (h) Swimming Pool/Spa Service Contractor.
- (i) Roofing Contractor.
- (j) Solar Water Heating Contractor.
- (k) Underground Utility Contractor.
- (l) Aluminum Specialty Structures Contractor.
- (m) Demolition Contractor.

(2) Upon ascertaining that the applicant for certification as a journeyman has satisfied the requirements set forth in this ordinance, the Board shall issue one of the following classes of

Certificates of Competency depending on the applicant's qualifications as determined by the Board:

(a) Journeyman Electrician.

(b) Journeyman Plumber.

(3) A Certificate of Competency is not transferable to any person or firm except in accordance with the terms of this article.

(4) A Certificate of Competency shall be renewable from year to year upon payment of a renewal fee and without further examination unless the contractor wishes to advance to a higher or unrelated classification. The Board may refuse to renew a Certificate of Competency of any person if said person has violated any of the terms and provisions of this ordinance. At each renewal period, any person or firm holding a Certificate of Competency as a contractor shall furnish to the Board a certificate of insurance, including public liability property damage and workers' compensation; a current state registration; a surety bond; current occupational license; and such other information as the Board may require from time to time.

SECTION 11: Section 11 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 11: INACTIVE STATUS.

Any person holding a current active Certificate of Competency may go on inactive status, during which time he shall not engage in the contracting field for which said certificate was issued, but may retain his certificate on an inactive basis upon payment of an annual inactive renewal fee. Any person on inactive status

desiring to return to active status may do so by applying to the Secretary of the Board for return to active status and providing evidence of current insurance including workers' compensation, surety bond, current occupational license, current state registration, and payment of all required fees. However, certificate holders who have been on inactive status in excess of five (5) years must successfully pass an administrative examination and appear before the Board and receive Board approval prior to return to active status.

The provisions of this article notwithstanding, those individuals who are certified pursuant to this ordinance and in addition are required to place their Certificate of Competency on Inactive Status as a condition of employment, shall be exempt from any fees during the term of said employment and shall be exempt from any testing requirements upon reactivation of the Certificate of Competency.

SECTION 12: Section 12 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 12: FEES.

(1) Polk County Building Official is hereby authorized to collect the following classes of fees, the amount of which shall be established from time to time by resolution of the Commission:

(a) Application processing fee to be paid at the time the applicant submits an application to the Board.

(b) Certification fee to be paid at the time a successful applicant receives any Certificate of Competency.

(c) Renewal fee consisting of an annual fee to be paid upon renewal of Certificate of Competency.

(d) Delinquent fee to be paid by any person who fails to renew a Certificate of Competency by September 30th of the applicable year.

(e) Inactive fee to be paid by any person in lieu of an active renewal fee when such person or firm does not intend to engage in the contracting business in Polk County during the ensuing calendar year but wishes to keep his certificate in effect.

(f) Transfer fee to be paid upon transfer of any Certificate of Competency from a firm to an individual, from an individual to a firm, or from one firm to another firm--including but not limited to--change of corporate name or designation.

(g) Outgoing reciprocity fee to be paid when a Polk County certified contractor or journeyman desires to reciprocate his Certificate of Competency to another municipality or county.

(h) Incoming reciprocity fee to be paid in lieu of all application and certification fees otherwise required upon initial application for a Certificate of Competency by a person licensed by any other county or municipality.

SECTION 13: Section 13 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 13: POSTING OF VEHICLES & MEDIA ADVERTISING
REQUIREMENT

Each vehicle used by any contractor who is required by this article to obtain a Certificate of Competency shall have prominently displayed thereon the name of contractor or his business designation if such contractor is doing business as a firm and his state registration number in one-inch letters by means of an affixed sign or decal or by painting such information on the vehicle. All contractors shall affix their state registration numbers to business proposals; contracts; construction site signs; all newspaper, airwaves, and phone directory ads (block type); trade association, manufacturer, and authorized dealer ads; and all classified advertisements.

SECTION 14: Section 14 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 14: PROHIBITED ACTIVITIES.

(1) The following actions shall constitute grounds for the initiation of disciplinary action against any person or firm or the imposition of penalties set forth in Section 15 of this ordinance:

(a) Contract or agree to do any work outside the scope of the particular Certificate of Competency which he has been issued.

(b) Abandon without legal cause any project or operation in which he is engaged or under contract as a contractor.

(c) Perform any work in a manner not in compliance with any applicable building code, ordinance, law, rule, regulation,

policy, or procedure, and any amendments thereto, adopted by the Commission.

(d) Depart in any material respect from the plans or specifications of any work or project which the contractor has to perform or which the journeyman has been employed to perform.

(e) While in the performance of his contracting business or in the performance of his duties as a journeyman, violate any of the building, safety, health, insurance, or workers' compensation laws of the State of Florida or ordinances of Polk County, Florida.

(f) Misrepresent any material fact in his application or supporting documents required for the issuance of a Certificate of Competency.

(g) Fail to fulfill any contractual obligation through inability to pay all creditors for material furnished or work or services performed.

(h) Aid or abet any person or firm not holding a Certificate of Competency to evade the provisions of this article, or allow his Certificate of Competency to be used by any person or firm not holding a Certificate of Competency, or to act as an agent, partner, or associate of any person or firm not holding a Certificate of Competency with intent to evade the provisions of this article. The use of a Certificate of Competency by any firm or firms without the holder thereof having any active participation in the operation, management, or control of said firm or firms, shall be prima facie evidence of intent to evade the provisions of this subsection.

(i) Allow, under any circumstances, for monetary gain or otherwise, the use of a Certificate of Competency for the issuance of building permits for the benefit of any unlicensed contractor or contractor other than that person or firm to whom the applicable certificate is issued.

(j) Perform any fraudulent act as contractor or journeyman by which another is substantially injured.

(k) Divert any funds or property received for the prosecution or successful completion of any construction project or operation where, as a result of said diversion:

(i) The contractor is or will be unable to fulfill the terms of his obligation or contract; or

(ii) The owner is subjected to the claims of any person or firm for labor, services, or material under Chapter 713, Florida Statutes, commonly known as the "Mechanic's Lien Law".

(l) Fail to notify the Board that the contractor's qualified representative has severed his relationship with the contractor within seven (7) days of the effective date of severance as required by this ordinance.

(m) Employ any person to do work which is within the scope of work of any of the classes of journeyman herein set forth if such person has not been duly certified by the Board.

(n) Fail to maintain any policy of insurance or workers' compensation insurance required by the terms of this article.

(o) Conduct business as a contractor in any other name than that appearing on a Certificate of Competency held by said contractor.

(p) Submit an invoice for a completed project where 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 is the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by terms of the contract between contractor and customer.

(q) Falsely present release of lien statements to a customer whereby the customer believes that all bills from material suppliers and subcontractor have been settled by the contractor.

(r) Commence any work on a construction site that requires a building permit without having first obtained and posted or stored said permit at a location visible from the street at the construction site.

(s) Fail to call for required sequential or final inspection of work performed under the authority of a Polk County Building Permit.

(t) Obtain a building permit for any construction activity in which the contractor does not have direct participation in such activity, including -- but not limited to -- selection and supervision of subcontractors, purchasing of materials, cognizance of day-to-day construction operations.

SECTION 15: Section 15 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 15: DISCIPLINARY PROCEEDINGS.

(1) The Secretary of the Board shall, upon his own motion or upon receipt of a sworn complaint from any person or upon direction of the Board, investigate, or cause to be investigated, any alleged violation of the terms of this article.

(2) The Board shall consider the results of said investigation at a regularly scheduled meeting and shall be authorized to receive and consider such additional supporting data as it, in its sole discretion, may deem necessary to determine the prima facie existence of a violation of this article. If the Board determines that the prima facie existence of a violation is established, the Board shall take one or more of the following actions:

(a) Instruct the Secretary to send, by certified mail, a letter to the contractor or journeyman's last known address, as shown by the Board's records, setting out the time of commission of the alleged offense and the section of this ordinance alleged to be violated, notifying said person or firm to appear before the Board at a time and place designated therein, not less than 10 nor more than 30 days from the date of mailing of the certified letter, to show cause why his Certificate of Competency should not be suspended or revoked.

(b) Request the Board of County Commissioners to pursue any available alternate remedy.

(3) The administrative hearing provided for in this section shall be open to the public and shall be conducted in accordance with the following rules of procedure:

(a) The proceedings of said hearing shall be recorded and may be transcribed at the expense of any party requesting a transcript.

(b) Each party shall have the right to appear either personally or by counsel or both, to present witnesses and evidence on his own behalf, to cross-examine witnesses, and to submit rebuttal evidence.

(c) The hearing need not be conducted according to technical rules of procedure relating to evidence and witnesses. Any relevant evidence shall be admitted if the Board finds it competent and reasonable, regardless of the existence of any common law or statutory rule which might render improper the admission of such evidence in a court of law. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would otherwise be admissible under standard rules of evidence in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(d) Five (5) members of the Board shall constitute a quorum for an administrative hearing and the vote of a majority of such quorum shall be sufficient for formal action by the Board.

(4) In the event it is determined that the contractor or journeyman is guilty of violating any provision of this article, the Board shall be authorized to take the following disciplinary action:

(a) Suspend the contractor or journeyman from all operations as a contractor or journeyman for a period not to exceed one (1) year; provided, however, that the Board may, in its discretion, permit the contractor or journeyman to complete any contract then incomplete.

(b) Revoke the Certificate of Competency as of a date certain.

(c) Place the contractor or journeyman on probation, setting out the terms of such probation and its duration, including provision that violation of any of the terms of such probation or of this article will result in the Board either suspending or revoking the Certificate of Competency.

(5) Following suspension of a Certificate of Competency on any grounds herein set forth, the Board may remove such suspension on proof of compliance by the contractor or journeyman with all conditions prescribed by the Board for removal of suspension, or in the absence of such conditions, as in the sound discretion of the Board.

(6) Appeals from decisions of the Board shall be made to the Circuit Court for the Tenth Judicial Circuit in and for Polk County, Florida

SECTION 16: Section 16 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 16: UNLICENSED INDIVIDUALS OR FIRMS

(1) VIOLATIONS. It shall be a violation of this ordinance for any person to 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 or certified pursuant to Chapter 489, Florida Statutes or this ordinance. Contractor as used in this section shall mean any person who, for compensation, undertakes to, submits a bid to, or does himself or by others construct, repair, alter, remodel, add to, subtract from, or improve any building or structure, including related improvements to real estate for others or for resale to others.

(2) CITATIONS AND NOTICES.

(a) An inspector, designated by the Board of County Commissioners, may issue a citation for any violation of this section whenever based upon personal investigation, the inspector has reasonable and probable grounds to believe that such a violation has occurred.

(b) All citations issued by an inspector shall be on a form prescribed by the Board and at a minimum shall state the time and date of issuance, the name and address of the violator; the date of the violation; a description of the violation; the name of inspector, and the time frame during which the person charged must appear in court if the citations is appealed.

(c) 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 or inspector; or by leaving the notice at the violators usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice.

(3) PROCEDURE AFTER CITATION.

(a) The act for which the citation is issued must be ceased upon receipt of the citation; and the person charged or his attorney, may, within 3 days, exclusive of weekends and legal holidays, submit a written request to the Board for an appearance before the Board to challenge the validity of the citation, or show that the violation has been corrected, or to establish a time, before which the violation may be corrected.

(b) A person cited for a violation pursuant to this section may post a bond with the Clerk of the County Court in an amount equal to the applicable civil penalty established in subsection 4 or sign and accept the citation indicating a promise to appear. If he refuses to post a bond or sign and accept the citation indicating an intention to appear and does not submit a written request to the Board for an appearance before the Board, he shall be fined five hundred dollars (\$500.00).

(c) If a person cited for a violation pursuant to this section pays the applicable civil penalty established in subsection 4 before the date he is scheduled to appear in court, he shall have the option to admit the commission of the infraction or to indicate

that does not wish to contest the citation. If such person forfeits the bond he has posted by not appearing at the designated time and location, he shall be deemed to have admitted the commission of the infraction.

(d) If the person cited follows the above procedure, he shall be deemed to have waived his right to a hearing on the issue of the commission of the infraction.

(e) Any person electing to appear before the Board shall be deemed to have waived his right to pre-payment of the penalty.

(f) If the person cited shows that the citation is invalid or that the violation has been corrected prior to appearing before the Board, the Board should dismiss the citation. If the violation is corrected within the time set by the Board, the Board shall dismiss the violation.

(4) CIVIL PENALTIES.

Any person cited for a violation pursuant to sub-section 1 of this section may post a bond with the Clerk of the Court in the following amounts:

\$125.00 for the first violation; \$250.00 for the second violation in a three year period; and \$500.00 for the each violation thereafter in a three year period.

(5) BOARD HEARINGS.

(a) The Board, shall hear all cases wherein an alleged violator has received a citation, pursuant to this section, and has within a three (3) day period exclusive of weekends and legal

holidays, submitted a written request to the Board challenging the validity of said citation.

(b) The Board, shall hear all cases wherein an alleged violator presents evidence, satisfactory to the Board that the alleged violation has been corrected prior to the court appearance date indicated on the citation.

(c) Each case before the Board shall be presented by an inspector. All testimony shall be under oath and shall be recorded. The Board shall take testimony from the inspector and the alleged violator. Formal rules of evidence shall not apply but fundamental due process shall be observed and shall govern the proceedings. At the conclusion of the hearing, the Board shall issue findings of fact and conclusions of law and shall issue an order consistent with this section. Said order shall be binding on all parties.

(d) The Board shall have the authority to:

- (1) Adopt rules for the conduct of its hearing.
- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the sheriff.
- (3) Subpoena evidence to its hearing.
- (4) Take testimony under oath.
- (5) Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.

(6) APPEAL PROCEDURE.

(a) Appeals from the Final Order of the Contractor Licensing Board shall be made to the Circuit Court for the Tenth Judicial Circuit in and for Polk County, Florida.

(b) Appeals shall be filed within thirty (30) days subsequent to the date of issuance of the Final order.

(c) Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Contractor Licensing Board.

(7) FILING OF COMPLAINTS.

(a) The Board shall, at its sole discretion, determine whether to file a complaint with the State Attorneys Office or utilize the citation procedure, depending upon the severity of the violation(s).

(b) Complaints shall be filed with the State Attorneys Office in those instances where severe loss has been incurred by a customer or a supplier as a direct result of the actions of the unlicensed individual or firm.

(c) If the Board determines that the violation is irreparable or irreversible in nature, the Board shall impose a civil penalty as specified in sub-section 4 of this section.

SECTION 17: Section 17 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 17: UNSUPERVISED WORK.

It shall be unlawful for any contractor licensed by the Polk County Contractors' Licensing Board to employ any person or persons to engage in the skilled work of installing roofing, waterproofing, gas, electrical, plumbing, or H.A.R.V. fixtures or systems, or any part thereof, where said person or persons are not duly qualified and certified by the Board in said field, or who are not under the

direct supervision of a person so qualified and certified by the Board. Any person, firm, or corporation found in violation of this provision shall, upon conviction, be punished in accordance with the provisions of Section 125.69, Florida Statutes. In addition, it shall constitute grounds for disciplinary action under the provisions of section 15 of this ordinance, for any contractor licensed by the Polk County Contractor Licensing Board to employ any person or persons to engage in the skilled work of installing roofing, waterproofing, gas, electrical, plumbing, or H.A.R.V. fixtures or systems, or any part thereof, where said person or persons are not duly qualified and certified by the Board in said field, or who are not under the direct supervision of a person so qualified and certified by the Board. Direct supervision shall mean the person qualified and certified by the Board shall be in direct communication with those under his supervision.

SECTION 18: Section 18 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 18: PENALTIES

It shall be unlawful for any person or firm to engage in the business or act in the capacity of any contractor or journeyman subject to the terms of this article without first having obtained a Certificate of Competency from the Board. Any person, firm, or corporation found in violation of this provision shall, upon conviction, be punished in accordance with the provisions of Section 125.69, Florida Statutes.

In addition to any other remedies herein set forth, the Board may request that the commission seek to restrain or enjoin any violation of this article by suit in a court of competent jurisdiction.

SECTION 19: Section 19 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 19: APPEALS

(1) Appeals to the Board may be taken by any person aggrieved by the decision or interpretation of any administrative officer rendered under this article or any amendment thereto or any building code, ordinance, law, rule, regulation, policy, or procedure adopted by the Commission relating to the construction industry. Such appeal shall be taken within thirty (30) days from the date of such decision or interpretation by filing with the Secretary of the Board a notice of appeal specifying the grounds thereof. The office from whom the appeal is taken shall forthwith transmit to the Board all the paperwork constituting the records upon which the action appealed from was taken.

(2) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the person aggrieved by the decision or the officer from whom the appeal is taken certifies to the Board that the stay would, in his opinion, cause peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of competent jurisdiction on application, on notice to the officer from whom the appeal is taken, and on due cause

shown. The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person or by an agent, who must have written authorization from the party, or by attorney.

(3) The Board shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article or any amendment thereto or any building code, ordinance, law, rule, regulation, policy, or procedure adopted by the Commission relating to the construction industry.

(b) Upon hearing such appeals, the Board may reverse or affirm--wholly or partly--or may modify the order, requirement, decision, or determination made by such administrative official and make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken.

(c) To authorize upon appeal in specific cases such variance from the terms of the order or resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the order or resolution will result in unnecessary hardship so that the spirit of the order or resolution shall be observed and substantial justice done.

(4) The concurring vote of not less than five (5) members of the Board present at said hearing shall be necessary to reverse the

order, requirement, decision or determination of any administrative official.

(5) Any person or persons, jointly or severally, aggrieved by any decision of the Board, may, within thirty (30) days after the filing of any decision in the office of the Board, but not thereafter, apply to a court of competent jurisdiction for appropriate relief.

SECTION 20: Section 20 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 20: SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remaining portions of said ordinance shall not be affected thereby.

SECTION 21: Section 21 of Polk County Ordinance 90-16 is hereby amended to read as follows:

SECTION 21: EFFECTIVE DATE

This ordinance shall become effective February 29, 1992.