

ORDINANCE NO. 2020-

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 ____ day of _____, 2020.

Attest:

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY

Scott Ellis, Clerk

Bryan Lober, Chair

(As approved by the Board on _____, 2020)