

ORDINANCE NO. 2013 - 67

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 90-105, AS AMENDED, KNOWN AS THE COLLIER COUNTY CONTRACTORS' LICENSING BOARD ORDINANCE, BY AMENDING PART FOUR, STANDARDS OF CONDUCT AND DISCIPLINE, SPECIFICALLY SECTION 4.3, DISCIPLINARY PROCEEDINGS, INCLUDING MINOR VIOLATIONS, IN ORDER TO APPLY RECENT REVISIONS TO CHAPTER 489, FLORIDA STATUTES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, on December 11, 1990, the Board of County Commissioners (Board) adopted Ordinance No. 90-105, which has become known as the Collier County Contractors' Licensing Board Ordinance, in order to regulate the contracting industry in Collier County; and

WHEREAS, effective July 1, 2013, the Florida Legislature enacted 2013-193 Laws of Florida, (House Bill No. 269) which amended several Florida Statutes relating to building construction including Chapter 489, Florida Statutes; and

WHEREAS, the Board desires to amend Ordinance No. 90-105, as subsequently amended, in order to apply the recent revisions to Chapter 489, Florida Statutes.

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

**SECTION ONE: AMENDMENTS TO PART FOUR OF ORDINANCE NO. 90-105, AS AMENDED.**

Part Four of Ordinance No. 90-105, as amended, is hereby amended as follows:

PART FOUR: STANDARDS OF CONDUCT AND DISCIPLINE.

\* \* \* \* \*

4.3 Disciplinary Proceedings, ~~including Minor Violations.~~

Words Underlined are added; Words ~~Struck Through~~ are deleted.





4.3.1. There are three categories of violations: (i) Violations of subsection 489.127(1), *Florida Statutes* and/or Section 1.1 of this Ordinance, as amended; (ii) Violations of subsection 489.132(1), *Florida Statutes*; and (iii) other violations within the jurisdiction of the Contractor's Licensing Board.

(a) Subsection 489.127(1), *Florida Statutes*, is incorporated herein. (Lack of required license, certificate, or registration). The following are designated to enforce subsection ~~487.127(1)~~ 489.127(1), *Florida Statutes*: Collier County Building Official, all License Compliance Officers, the Chief Building Inspector, Chief Electrical Inspector, Chief Plumbing/Mechanical Inspector, and/or other inspectors authorized from time-to-time by the Building Official. Procedures specified in this Ordinance shall apply except to the extent, if any, that Section 489.127 or Section 489.132, may require different procedure(s). The penalties for each uncontested violation of subsection 489.127(1) and/or 489.132(1), *Florida Statutes*, are ~~three hundred dollars (\$300.00)~~ one thousand (\$1,000.00) dollars for the first uncontested violation and ~~five hundred dollars (\$500.00)~~ two thousand (\$2,000.00) dollars for ~~each subsequent~~ the second uncontested violation by the same individual or entity. In the event of a third uncontested violation, the Contracting Licensing Supervisor shall refer the matter to the State Attorney's Office for filing of charges. Notwithstanding the above-referenced penalties, in the event a first uncontested violation is the result of the violator engaging in the business or acting in the capacity of a contractor of advertising himself or herself 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, the penalty shall be abated from \$1,000.00 to \$300.00 if the violator submits a completed application in accordance with Section 2.1 and 2.2 of this Ordinance within forty-five (45) days of the date of issuance of the Citation for the violation. Penalties for contested violations of subsection 489.127(1), *Florida Statutes*, are as now or hereafter specified in Section 489.127, *Florida Statutes*. Penalties for contested violations of subsection 489.132(1) *Florida Statutes*, are as now or hereafter specified in Section 489.132, *Florida Statutes*. The Citation form attached hereto as exhibit "A" is approved, which form may be amended from time-to-time by Resolution of the Board of County Commissioners.

~~(b) — Minor violations: The Contractor Licensing Supervisor or designee shall issue a "Notice of Noncompliance" as the County's first response to a minor violation of any provision of any regulatory law, including this Ordinance, when (i) it is reasonable for staff to assume that the violator, at the time of violation, was not aware of the provision that was violated or it can be assumed that it was not clear to the violator how to comply with the violated provision; and (ii) that violation has not then resulted in economic harm or physical harm to any person; and (iii) the violation has neither adversely affected the public health, safety, or welfare, nor created any significant threat~~

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~~of any such adverse affect. The Notice of Noncompliance should identify the specific provision that was violated, should provide information on how to comply with that provision and should specify a reasonable time for full compliance. The Notice of Noncompliance shall not be accompanied with any immediate threat of any monetary fine or any other disciplinary penalty, but may specify that failure of the violator to correct the violation within the time specified in the Notice for Compliance may result in disciplinary proceedings. Each violation that is not a "minor" violation is a "major" violation.~~

~~(e)~~ (b) Major Violations. The Contractor Licensing Supervisor, or his designee, may initiate disciplinary proceedings against a licensed contractor for ~~major~~ violations of this Ordinance by filing a sworn complaint with the Clerk to the Collier County Board of County Commissioners or may issue a Notice of Non Compliance when (i) it is reasonable for Staff to assume that the violator, at the time of violation, was not aware of the provision that was violated or it can be assumed that it was not clear to the violator how to comply with the violated provisions; and (ii) that violation has not then resulted in economic harm or physical harm to any person..

~~(d)~~ (c) Failure of Non-State Certified Individual to Promptly Pay Penalty to County. The Collier County Building Department should not issue any permit or any other required authorization to any Collier County Certified individual who then has an obligation to pay a penalty to the County imposed with finality under this Ordinance for any violation of this Ordinance (including a citation that is not contested) and that individual has not paid that penalty in full by the applicable deadline date, plus reimbursement of the County's costs, such as recording fees and court costs. An appeal of uncontested citations stays all such withholdings.

~~(e)~~ (d) Failure of Non-State Certified Individual to Meet Permit Conditions. The County's Building Department may withhold issuance of any further permit(s) or any other authorization(s) to any individual who, or entity that, has not then complied with any condition of all County-issued permit(s) issued to that individual or entity, including every follow-up inspection or any other act then capable of being complied with, although late in time.

~~(f)~~ (e) Withholding Permit Pulling Privileges of State Certified Contractor. Before the CLB may withhold any permit pulling privilege(s) of a State Certified Contractor, the CLB, after public hearing, must find that the Contractor violated a provision of Section 4.2 of this Ordinance.



4.3.2. Any person who believes that a contractor holding a Certificate of Competency has violated this Ordinance may submit a sworn complaint to the Contractor Licensing Supervisor, or his/her designee. The complaint shall be in substantially the form prescribed by the Contractor Licensing Supervisor. The complaining party shall state with particularity which section(s) of this Ordinance he or she believes has been violated by the contractor and the essential facts in support thereof.

4.3.3. Upon the submission of a sworn complaint, the Contractor Licensing Supervisor, or his/her designee, shall conduct a preliminary investigation and determine whether the complaint submitted warrants the filing of formal charges. If charges are warranted, the Contractor Licensing Supervisor, or his/her designee, shall file the complaint with the Clerk to the Collier County Board of County Commissioners and shall send, by certified mail, return receipt requested, a letter to the licensed contractor at his local address, or if applicable the local agent's address, as shown by the records of the Contractors' Licensing Board, enclosing a copy of the complaint and indicating:

- a. The name of the complainant;
- b. The date(s) of the commission of the alleged offense(s);
- c. The section(s) of this Ordinance alleged to have been violated;
- d. The range of disciplinary sanctions which may be imposed upon any contractor, pursuant to this Ordinance by the Contractors' Licensing Board in the event said Board finds a violation of this Ordinance to have occurred;
- e. The date, time and place at which the contractor shall appear before the Contractor's Licensing Board for a hearing regarding the complaint. The date scheduled shall not be sooner than twenty (20) days from the mailing date of the certified letter.

4.3.3.1. The notice of hearing required by this Section may, in the alternative, be accomplished by hand delivery of said notice to the contractor by the Contractor Licensing Supervisor, or his/her designee, or by leaving said notice at the contractor's business or usual place of residence with some person of his/her family over 15 years of age and informing such person of the contents of the notice.

\* \* \* \* \*

Words Underlined are added; Words ~~Struck Through~~ are deleted.



**SECTION TWO: CONFLICT AND SEVERABILITY.**

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion.

**SECTION THREE: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION FOUR: EFFECTIVE DATE.**

This Ordinance shall become effective upon filing with the Florida Department of State.

**PASSED AND DULY ADOPTED** by the Board of County Commissioners of Collier County, Florida, this 10th day of December, 2013.

ATTEST:  
DWIGHT E. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

By: [Signature]  
Deputy Clerk

By: [Signature]  
GEORGIA A. HILLER, ESQ.  
CHAIRWOMAN

Attest as to Chairman's  
signature only.

Approved as to form and legality:

[Signature]  
Kevin Noell  
Assistant County Attorney

This ordinance filed with the  
Secretary of State's Office the  
19th day of December, 2013  
and acknowledgement of that  
filing received this 19th day  
December 2013  
By: [Signature]  
Deputy Clerk

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No 8500

**COLLIER COUNTY  
GROWTH MANAGEMENT DIVISION**

**CITATION**

Pursuant to section 489.127, (3) (a), Florida Statutes, the undersigned hereby certifies that upon personal investigation, he/she has reasonable and probable grounds to believe that the person whose name appears below as issued to, did violate subsection 489.127(1), Florida Statutes, and the Collier County Contractor's Licensing Ordinance No. 2006-46 (as may be amended) by committing the violation stated below.

Month	Day	Year	Time	AM/PM	
Issued To _____					
Address _____					
City _____		State _____	Zip _____		
Telephone No.	I.D.	Date of Birth	Race	Sex	Height
Vehicle Make/Type (if applicable)		Year	Color	Tag No.	
Location of Violation _____					

**OPTIONS**

I have been informed of the violation for which I have been charged and elect the following option (Check one)

- 1) ☐ I choose to pay the penalty of \$ \_\_\_\_\_.
- 2) ☐ I choose not to pay the penalty, and will request in writing by certified mail or hand delivery an Administrative Hearing before the Contractor's Licensing Board.

Description of Violation	Date Violation Observed _____
a) <input type="checkbox"/> Falsely hold self or business organization out as a licensee, certificate holder or registrant;	
b) <input type="checkbox"/> Falsely impersonate a certificate holder or registrant;	
c) <input type="checkbox"/> Present as his/her own the certificate or registration of another;	
d) <input type="checkbox"/> Knowingly give false or forged evidence to the Board or a member thereof;	
e) <input type="checkbox"/> Use or attempt to use a certificate or registration which has been suspended or revoked;	
f) <input type="checkbox"/> Engage in the business or act in the capacity of a contractor or advertise self or business organization as available to engage in the business or act in the capacity of a contractor without being duly registered or certified;	
g) <input type="checkbox"/> Operate a business organization engaged in contracting after (60) days;	
h) <input type="checkbox"/> Commence or perform work for which a building permit is required pursuant to an adopted state minimum building code or without such permit being in effect;	
i) <input type="checkbox"/> Willfully or deliberately disregard or violate any Collier County ordinance relating to uncertified or unregistered contractors.	

A person or business organization operating on an inactive or suspended certificate, or registration, or operating beyond the scope of work or geographical scope of the registration, is not duly certified or registered.

SIGNATURE (RECIPIENT) \_\_\_\_\_

SIGNATURE (INVESTIGATOR) \_\_\_\_\_

PRINT (RECIPIENT'S NAME) \_\_\_\_\_

PRINT (INVESTIGATOR'S NAME) \_\_\_\_\_

Pursuant to 489.127, Florida Statutes, willful refusal to sign and accept this citation constitutes a misdemeanor of the second degree, punishable as provided in section 775.082 or 775.083 Florida Statutes.

(SEE REVERSE FOR INSTRUCTIONS)

**COLLIER COUNTY CONTRACTORS LICENSE**



## INSTRUCTIONS

### PAYMENT OF CITATION:

The penalty for each uncontested violation has been set by the Board of Collier County Commissioners, and shall be payable to the Board of Collier County Commissioners, 2800 North Horseshoe Drive, Naples, Florida 34104, no later than 10 days of notice receipt, excluding weekends and legal holidays.

*PAYMENTS MUST BE MADE BY CASH, CHECK, OR MONEY ORDER;  
ALL FEES MUST BE REMITTED IN U.S. FUNDS.*

#### FINE SCHEDULE - UNCONTESTED VIOLATIONS

1st Uncontested Offense	\$1,000.00
2nd Uncontested Offense	\$2,000.00

Notwithstanding the above-referenced penalties, in the event a first uncontested violation is the result of the violator engaging in the business or acting in the capacity of a contractor or advertising himself or herself 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. The penalty shall be abated from \$1,000.00 to \$300.00 if the violator submits a completed application in accordance with Section 2.1 and 2.2 of this Ordinance within forty-five (45) days of the date of issuance of the Citation for the violation.

### REQUEST FOR HEARING:

You may request an Administrative Hearing within the same ten (10) day time frame before the Collier County Contractor's Licensing Board upon notice, in writing, to the Contractor's Licensing Supervisor. If you do not request a hearing or pay the penalty fee as described, the citation shall automatically become a Final Order of the Contractor's Licensing Board, ordering the violator to pay the civil penalty set forth on the citation without a hearing. A certified copy of such Order shall be recorded in public records and thereafter shall constitute a lien against most real and personal property owned by the violator. Upon petition to the Circuit Court, such Order may be enforced in the same manner as a Court Judgment by the Sheriff's Office or the State. If after three (3) months from filing such lien, the lien remains unpaid, the Contractor's Licensing Board may authorize the County Attorney's Office to foreclose on the lien.

The maximum penalty for a contested citation is \$2,500.00 for each day the violation exists.

Each day a willful knowing violation continues it shall constitute a separate offense and penalties shall continue to accrue. Any aggrieved party may appeal a Final Administrative Order of the Board to the Circuit Court. Such appeal shall not be a hearing de novo, but shall be limited to appellate review of the record created before the Board. An appeal must be filed within thirty (30) days of execution of the Order.

If you need additional information call \_\_\_\_\_