

LEE COUNTY ORDINANCE NO. 23-09

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA REPEALING LEE COUNTY ORDINANCE 00-26 THE LEE COUNTY CONSTRUCTION LICENSING BOARD ORDINANCE; ESTABLISHING THE LEE COUNTY CONSTRUCTION LICENSE ORDINANCE; PROVIDING FOR LOCAL LICENSE CATEGORIES NO LONGER REQUIRING A LICENSE; PROVIDING FOR GRANDFATHERED LOCAL LICENSES; PROVIDING FOR ANNUAL RENEWAL OF GRANDFATHERED LOCAL LICENSES; PROVIDING FOR REQUIREMENTS FOR ANNUAL RENEWAL; PROVIDING FOR GRANDFATHERED LOCAL LICENSE HOLDER'S RESPONSIBILITIES; PROVIDING FOR REPORTING REQUIREMENTS FOR CHANGE IN BUSINESS STATUS; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY; SCRIVENER'S ERRORS; MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has regulated the construction industry in Lee County through the issuance of local contractor licenses since 1991; and

WHEREAS, Lee County Ordinance 00-26 sets forth the county's regulations regarding local contractor licenses; and

WHEREAS, the Florida Legislature enacted House Bill 735 in the 2021 legislative session; and

WHEREAS, House Bill 735 preempted occupational licensing to the state and provided a sunset date for existing local government licensing of occupations of July 1, 2023; and

WHEREAS, House Bill 735 provided that local governments may not require a person to obtain a license for a job scope which does not substantially correspond to the job scope of one of the contractor categories licensed by the state; and

WHEREAS, a number of Lee County local contractor licenses substantially correspond to the job scopes of one of the contractor licenses offered by the state; and

WHEREAS, the Board of County Commissioners finds that it is desirable to grandfather those existing local license holders for licenses that substantially correspond to the job scopes of a state contractor license; and

WHEREAS, a number of Lee County local contractor licenses do not substantially correspond to the job scopes of one of the contractor licenses offered by the state; and

WHEREAS, the Board of County Commissioners finds that it is desirable to enumerate those local licenses that do not substantially correspond to the job scopes of a state contractor license and declare that those job scopes no longer require a contractor license in Lee County; and

WHEREAS, the Board of County Commissioners finds that it is in the best interest of the public to repeal Ordinance 00-26 and adopt this Ordinance grandfathering certain local contractor licenses.

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

SECTION ONE: REPEALER

Lee County Ordinance 00-26 is hereby repealed and is of no further force and effect.

SECTION TWO: SHORT TITLE

This Ordinance will be known and may be cited as the Lee County Construction License Ordinance.

SECTION THREE: APPLICABILITY

This Ordinance applies to contractors performing work or contracting to perform work within unincorporated Lee County. The provisions of this Ordinance constitute a supplement to the state regulations regarding the construction industry. Regarding Section Five of this Ordinance, if the Florida Building Code governs a scope of work, and state law requires a license for that scope of work, a construction license issued by the State is required. In the event of a conflict between this Ordinance and state law, state law prevails.

SECTION FOUR: DEFINITIONS

The words, terms and phrases below will have the following meaning unless the context clearly indicates otherwise.

Contracting means engaging in business as a contractor and performing acts attributable to a contractor. The attempt to sell contracting services and the negotiation or bid for contract services also constitutes contracting. If the construction services offered require licensure or agent qualification, then the offer, negotiation for a bid, or attempt to sell these services requires the corresponding licensure.

Contractor means the person who is qualified and responsible for the contracted project; the person who, for compensation, undertakes, submits a bid to, or does by himself or through others construct, repair, alter, remodel, add to, subtract from, demolish or improve any building or structure, including related improvements to real estate, for others or for resale. The term *Subcontractor* comes within the meaning of contractor, if the subcontractor is contracting his services to another contractor.

Director means the Department of Community Development Director or designee.

SECTION FIVE: LOCAL LICENSE CATEGORIES NO LONGER REQUIRING A LICENSE

As of the effective date of this Ordinance, a license is no longer required to perform the scope of work under the following Lee County local license categories. These local licenses will not be grandfathered or renewed as these licenses are no longer required to perform that job scope. Notwithstanding, if the job scope is governed by the Florida Building Code, see Section Three of this Ordinance.

Alteration and Repair – Non Structural
Asphalt Sealing and Coating Contractor
Awning Contractor
Cabinet and Millwork Contractor
Cement Finishing
Concrete Coatings
Concrete Placing and Finishing (Flatwork) Contractor
Court (outdoor) Contractor
Dredging and Landfilling
Dredging Contractor
Excavation Contractor
Exposed Aggregate
Fence Erection Contractor
Finish Carpentry Contractor
Flooring
Gutter and Downspout Contractor
Masonry Contractor
Painting Contractor
Paint and Roof Paint
Paver Block Contractor
Paving and Sealing
Paving Contractor
Plastering/Stucco Contractor
River Rock Contractor
Roof Painting
Roof Spraying
Sandblasting Contractor
Sign Contractor - Non-Electrical
Sign Contractor - Restricted
Terrazzo Contractor
Tile and Marble Contractor
Tile, Terrazzo, River Rock and Marble
Tiles

SECTION SIX: GRANDFATHERED LOCAL LICENSES

As of the effective date of this Ordinance, any individual holding a Lee County local license for the following local license categories is vested with respect to the scope of work allowed under the license category. The scopes of work are defined in Lee County Administrative Code AC-12-6. However, in order to maintain the grandfathered license, the contractor must annually renew the license in accordance with Sections Seven and Eight of this Ordinance and must otherwise comply with the requirements of this Ordinance. Grandfathered local licenses are vested to the current license holder and are not transferable to any other individual.

Air Conditioning - Class A
Aluminum non-structural
Aluminum Specialty Structures Contractor
Aluminum without concrete
Carpentry Contractor
Cement, Concrete and Masonry

Concrete Forming and Placing Contractor
Demolition Contractor
Drywall Contractor
Garage Door Contractor
Glass and Glazing Contractor
Glazing and Window Installations
Hurricane Shutter Contractor
Insulation (All types) Contractor
Insulation (Building) Contractor
Irrigation Sprinkler Contractor
Journeymen Air Conditioning
Journeymen Electrician
Journeymen Plumber
Journeymen Mechanical
Marciting Contractor
Marine Contractor
Master Electrical Contractor
Pile Driving Contractor
Plastering, Lathing, Stucco and Drywall
Plumbing
Pool - Class A
Pool - Class C
Sign Contractor – Electrical
Sign Contractor - Limited
Structural Steel Erection Contractor

SECTION SEVEN: ANNUAL RENEWAL OF GRANDFATHERED LOCAL LICENSES

1. Grandfathered local licenses are valid for a period of one year running from July 1 through June 30.
2. Grandfathered local licenses must be renewed annually. It is the contractor's responsibility to seek renewal. While the County will attempt to provide a renewal reminder notice, the County is not obligated to furnish the contractor with a reminder notice that renewal is necessary.
3. A grandfathered local license may be renewed either online or in person (at Lee County Department of Community Development offices during regular business hours) during the six weeks preceding June 30.
4. The deadline to renew a grandfathered local license is June 30 of each year. The Director or designee may approve a late renewal submitted no later than 30 days past the deadline for good cause shown. If an individual holding a grandfathered license fails to renew the license by June 30, or 30 days thereafter as may or may not be applicable, or otherwise allows the license to lapse, then the contractor will lose all rights that attach to the previously held license. Thereafter, if the contractor wishes to continue contracting in Lee County under that job scope, he or she must obtain a construction license issued by the State.

SECTION EIGHT: REQUIREMENTS FOR ANNUAL RENEWAL

Upon a timely request for an annual renewal, the Department of Community Development will issue a renewed grandfathered local license upon proof as to all of the following:

1. *Proof of liability insurance.* All grandfathered local license holders must carry public liability and property damage insurance. Acceptable proof of insurance consists of a certificate from the insuring company indicating:
 - a. The name, address and phone number of the insuring company and the insurance agent.
 - b. The name and address of the insured. All insurance policies must reflect the exact name of the entity qualified by the grandfathered local license holder.
 - c. The insurance policy number.
 - d. The effective dates of the insurance policy. All contractors holding a grandfathered local license must maintain current insurance.
 - e. The coverage amount is at least \$50,000 per person/\$100,000 per incident for liability and \$5,000 per incident for property damage.
 - f. Lee County, as certificate holder, will receive a written notice 30 days prior to cancellation.
 - g. The certificate must be prepared by a bonafide insurance agent.
2. *Proof of worker's compensation coverage.* All grandfathered local license holders must maintain workers' compensation insurance or provide proof of a valid exemption in accordance with F.S. Ch. 440. Acceptable proof of insurance consists of a certificate from the Division of Employment and Workers' Compensation indicating compliance with Ch. 440. Workers' Compensation Insurance or an appropriate exemption must be in effect at all times the contractor maintains a grandfathered local license.
3. *Payment of fees.* Payment of the applicable renewal fees as set forth in the Department of Community Development fee schedule, is required to be paid in full prior to, or on, June 30 of each year. Delinquent fees will constitute as a failure to renew the license.

SECTION NINE: GRANDFATHERED LOCAL LICENSE HOLDER'S RESPONSIBILITIES

A grandfathered local license provides the holder with the following responsibilities.

1. A grandfathered local license holder or an employee of the holder can contract only in the name of the business entity or individual indicated on the grandfathered license.
2. A grandfathered local license holder must notify the county as to any change in business status.

3. A grandfathered local license holder must renew his or her grandfathered local license annually and pay the required fees in order to remain active.
4. A grandfathered local license holder must maintain current public liability insurance in accordance with this Ordinance.
5. A grandfathered local license holder must maintain current workers' compensation insurance in accordance with this Ordinance.
6. A grandfathered local license holder may not transfer his or her license to any other individual.

SECTION TEN: REPORTING REQUIREMENTS FOR CHANGE IN BUSINESS STATUS

All grandfathered local license holders must provide the Department of Community Development with written notice within 30 days of any change in business status concerning:

1. The name of the business entity or the name under which the business is contracting.
2. The business address.
3. The grandfathered local license holder qualifying the business.
4. The removal or resignation of a grandfathered local license holder qualifying the business.
5. The registered agent for purposes of service.

SECTION ELEVEN: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION TWELVE: SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any provision of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, that portion will be deemed a separate provision and will not affect any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such unconstitutional provision was not included.

SECTION THIRTEEN: SCRIVENER'S ERRORS

The Board of County Commissioners intends that this Ordinance can be renumbered or relettered and typographical errors that do not affect the intent can be corrected with the authorization of the County Manager or his designee, without the need for a public hearing.

SECTION FOURTEEN: MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications shall be incorporated into the final version.

SECTION FIFTEEN: EFFECTIVE DATE

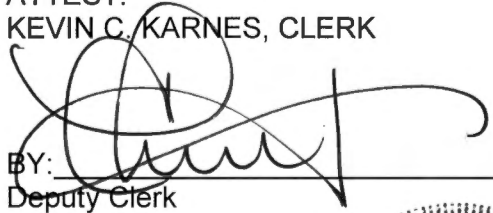
This Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State.

Commissioner Pendergrass made a motion to adopt the foregoing Ordinance, seconded by Commissioner Greenwell. The vote was as follows:

| | |
|---------------------|--------|
| Kevin Ruane | Aye |
| Cecil L Pendergrass | Aye |
| Raymond Sandelli | Absent |
| Brian Hamman | Aye |
| Mike Greenwell | Aye |

DULY PASSED AND ADOPTED this 2nd day of May, 2023.

ATTEST:
KEVIN C. KARNES, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Brian Hamman, Chair



APPROVED AS TO FORM FOR THE
RELIANCE OF LEE COUNTY ONLY


Office of the County Attorney



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

CORD BYRD
Secretary of State

May 4, 2023

Honorable Kevin Karnes
Clerk of the Circuit Courts
Lee County
Post Office Box 2469
Fort Myers, Florida 33902-2469

Attn: Chris Jagodzinski

Dear Kevin Karnes:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 23-09, which was filed in this office on May 3, 2023.

Sincerely,

Anya Owens
Director
Administrative Code and Register

ACO/wlh

RECEIVED

By Chris Jagodzinski at 8:29 am, May 04, 2023