

ORDINANCE NO. 72-1

AN ORDINANCE DECLARING IT TO BE THE PUBLIC POLICY OF HOLMES COUNTY, FLORIDA, THAT IN ORDER TO SAFEGUARD THE LIFE, HEALTH, PROPERTY AND PUBLIC WELFARE OF ITS CITIZENS, THE BUSINESS OF CONSTRUCTION AND HOME IMPROVEMENTS IS A MATTER AFFECTING THE PUBLIC INTEREST; PROVIDING THAT PERSONS ENGAGED IN THE BUSINESS OF CONTRACTING AS DEFINED HEREIN SHALL BE REQUIRED TO ESTABLISH THEIR COMPETENCY AND QUALIFICATIONS AND BE ISSUED A CERTIFICATE TO ENGAGE IN BUSINESS AS A CONTRACTOR; PROHIBITING ANY PERSON TO ENGAGE IN BUSINESS AS A CONTRACTOR WITHOUT HAVING BEEN DULY CERTIFIED; PROVIDING A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR THE ESTABLISHMENT OF THE HOLMES COUNTY, FLORIDA, CONSTRUCTION INDUSTRY LICENSING BOARD; PROVIDING FOR THE ORGANIZATION, MEETINGS, POWERS AND DUTIES OF SAID HOLMES COUNTY, FLORIDA, CONSTRUCTION INDUSTRY LICENSING BOARD; PRESCRIBING FEES TO BE CHARGED THOSE MAKING APPLICATION TO BE CERTIFIED; PRESCRIBING FEES FOR THE RENEWAL OF CERTIFICATION; PRESCRIBING THE DISPOSITION OF FEES; PROVIDING FOR FEES AND COMPENSATION FOR THE BOARD; SETTING FORTH THE PROCEDURE FOR OBTAINING CERTIFICATION; PRESCRIBING PROCEDURE FOR BUSINESS ORGANIZATIONS TO BE CERTIFIED; PRESCRIBING THE DISPOSITION OF RECORDS OF THE BOARD; PROVIDING FOR THE REVOCATION AND SUSPENSION OF CERTIFICATES; PROVIDING FOR EXEMPTIONS FROM THE ORDINANCE; DEFINING CERTAIN TERMS USED IN THE ORDINANCE; FURTHER PRESCRIBING THE EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Holmes County, Florida:

SECTION 1: PURPOSE OF THIS ORDINANCE: It is hereby declared to be the public policy of this County that, in order to safeguard the life, health, property and public welfare of its citizens, the business of construction and home improvements is a matter affecting the public interest, and any person engaging in the business as herein defined should be required to establish his competency and qualifications to be certified as herein provided.

SECTION 2: DEFINITIONS: As used herein:

(1) "Contractor" means, except those herein exempted, any person who, for compensation, undertakes to, or submits a bid to, or does himself or by others, construct, repair, alter, remodel, add to, subtract from, improve any building or structure, including related improvements to real estate for others, or for resale to others, and who is responsible for substantially the entire project. "Contractors" are subdivided into three categories as follows:

(a) "General Contractors" are those whose services are unlimited about the type of work they may do as set forth above.

(b) "Building Contractors" are those whose services are limited to construction of commercial buildings and single or multiple dwelling residential buildings, neither to exceed three stories in height, and accessory use structures in connection therewith or those whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building.

(c) "Residential Building Contractors" are those whose services are limited to construction, remodeling, repair, or improvement of one, two, or three-family unit residences not exceeding two stories in height and accessory use structures in connection therewith.

(2) "Contracting" means, except as herein exempted, engaging in business as a contractor.

(3) "Board" means the Holmes County, Florida, Construction Industry Licensing Board created hereby unless the context otherwise requires.

(4) "Certificate" means a certificate of competency issued by the board as provided herein.

(5) "Certification" means the act of obtaining or holding a certificate of competency from the board as provided herein.

SECTION 3: PROHIBITED ACTIVITIES; PENALTIES:

(1) It is unlawful for any person to engage in the business or act in the capacity of a contractor in Holmes County, Florida, without having been duly certified by the Holmes County, Florida, Construction Industry Licensing Board.

(2) Any person who violated any provision of this Ordinance or commits any of the acts constituting cause for disciplinary action as herein set forth shall, upon conviction thereof, be fined not exceeding \$300.00 for each offense.

SECTION 4: HOLMES COUNTY, FLORIDA, CONSTRUCTION INDUSTRY LICENSING BOARD; ORGANIZATION, MEETINGS, POWERS, DUTIES:

(1) The Holmes County, Florida, Construction Industry Licensing Board is hereby created, consisting of the Board of County Commissioners.

(2) The board shall meet bi-annually with date to be set by board. Special meetings of the board may be held as the board provides in its rules and regulations. Three members of the board constitutes a quorum.

(3) The Board is authorized to adopt rules and regulations to carry out the provisions of this Ordinance.

(4) The board is authorized to incur expenses as authorized to perform its duties and enforce this Ordinance and shall sue and be sued in its official name.

(5) The board shall adopt a seal for its use containing the words.. "Holmes County, Florida, Construction Industry Licensing Board."

SECTION 5: DISPOSITION OF FEES; EXPENSES; COMPENSATION;

All monies collected by the board shall be received, deposited, expended and accounted for pursuant to law. The expenses of the board and its officers and of the examinations held by the board, and of other matters in connection with this Ordinance shall be paid from the monies collected under this Ordinance.

SECTION 6: CERTIFICATION:

(1) To obtain a certificate, an applicant shall submit an application in writing to the board containing the statement that the applicant desires the issuance of a certificate and the class of certificate desired on a form containing the information prescribed by the board.

(2) (a) Examinations shall be held at times and places within the County and the board determines, but there shall be at least two examinations a year. Each applicant shall take an objective written examination about his fitness for a certificate in the category for which application is made. There shall be a type of examination for building contractors and residential building contractors only. The examination shall cover knowledge of basic principles of contracting and construction applicable to the category for which a certificate is requested.

(b) A passing grade on the examination is seventy-five per cent.

(3) Following receipt of application and successful completion of the examination, the board shall investigate the financial responsibility and credit, and business reputation of the applicant and of any business organization on behalf of which

he proposes to engage in contracting, as well as the education and experience of the applicant. Within thirty days from the date of the examination, the board shall inform the applicant in writing whether he has qualified or not and, if the applicant has qualified, that it is ready to issue a certificate in the category for which application was made, subject to compliance with the requirements of subsection (5) of this section.

(4) A person who holds a Certificate of Competency from the Florida Construction Industry Licensing Board to engage in the business of a contractor in Holmes County, Florida, shall not be required to take an examination to be certified.

(5) As a prerequisite to issuance of a certificate, the board shall require the applicant to submit satisfactory evidence that he has obtained public liability insurance in amounts to be determined by the board, but not less than the amounts required by the Florida Construction Industry Licensing Board. Thereupon, the certificate shall be issued forthwith, but this subsection does not apply to inactive certificates.

(6) If an applicant for an original certificate, after having been notified to do so, does not appear for examination within one year from the date of filing his application, the fee paid by him shall be credited to the board as an earned fee. New application for a certificate shall be accompanied by another application fee fixed by this Ordinance. Forfeiture of a fee may be waived by the board for good cause.

(7) The certificate shall not be transferable.

SECTION 7: BUSINESS ORGANIZATIONS:

(1) When an individual proposes to do business in his own name, certification, when granted, shall be issued only to that individual.

(2) If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, the application shall state the name of the partnership and of its partners, or the name of the corporation and of its officers and directors, or the name of the business trust and its

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trustees, or the name of such other legal entity and its members, and furnish evidence of statutory compliance if a fictitious name is used. Such application shall also show that the person applying for the examination is legally qualified to act for the business organization in all matters connected with its contracting business; and that he has authority to supervise construction undertaken by such business organization. The certification, when issued upon application of a business organization, shall be in the name of such business organization and the name of the qualifying individual or individuals shall be noted thereon.

(3) (a) At least one member of supervising employee of the business organization shall be qualified under this law in order for the business organization to hold a current certificate in the category of the business conducted for which the member or supervising employee is qualified. If any individual so qualified on behalf of such business organization ceases to be affiliated with such business organization, he shall inform the board. In addition, if such individual is the only qualified individual affiliated with the business organization, the business organization shall notify the board of the individual's termination and shall have a period of Ninety days from the termination of the individual's affiliation with the business organization in which to qualify another person under the provisions of this Ordinance, failing which the certificate of the business organization shall be subject to revocation by the board.

(b) The individual shall also inform the board in writing when he proposes to engage in contracting in his own name or in affiliation with another business organization; and he or such new business organization shall supply the same information to the board as required for applicants under this Ordinance.

(c) After an investigation of the financial responsibility, credit, and business reputation of the individual, or the new business organization, upon a favorable determination, the board shall forthwith issue without charge or examination a new certificate in the individuals name, or in the name of the new business organization, as provided above.

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SECTION 8: RENEWAL OF CERTIFICATE AND RESTORATION: Certificates shall expire annually at midnight on June 30:

(1) Failure to renew the certificate during June shall cause the certificate to become inoperative, and it is unlawful thereafter for any person to engage or offer to engage or hold himself out as engaging in contracting under the certificate unless the certificate is restored or reissued.

(2) A certificate which is inoperative because of failure to renew shall be restored on payment of the proper renewal fee, if the application for restoration is made within ninety days after June 30. If the application for restoration is not made within the ninety day period, the fee for restoration shall be charged in the amount of \$25.00; and in addition, the board may require reexamination of the applicant.

(3) A person who holds a valid certificate from the board may go on inactive status during which time he shall not engage in contracting but may retain his certificate on an inactive basis on payment of an annual renewal fee during the inactive period, not to exceed ten dollars per year.

SECTION 9: FEES: The board shall impose the following fees:

(1) The initial application fee for a certificate shall be fixed by the board not to exceed fifty dollars.

(2) The annual renewal fees shall be fixed by the board not to exceed the following amounts:

(a) Building Contractor - \$10.00

(b) Residential Contractor - \$5.00

(3) Any funds received by the board from certification fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the general revenue fund.

SECTION 10: RECORDS:

(1) All information required by the board of any applicant for certification shall be a public record, except financial information and examination grades which are confidential and shall not be discussed with anyone except members of the board and its

staff, but the applicant is entitled to see his examination papers and grades.

(2) If a certificate holder changes his name style, address or employment from that which appears on his current certificate, he shall notify the board of the change within thirty days after it occurs.

(3) All examinations shall be retained for a period of one year from the date of the examination.

SECTION 11: REVOCATION OR SUSPENSION OF CERTIFICATE:

(1) On its own motion or the certified written complaint of any person, the board may investigate the action of any contractor certified under this Ordinance and hold hearings. The board may take appropriate disciplinary action if the contractor is found to be guilty of or has committed any one or more of the acts or omissions constituting cause for disciplinary action set out herein or adopted as rules or regulations by the board.

(2) The following acts constitute cause for disciplinary action:

(a) Willful or deliberate disregard and violation of the applicable building codes or laws of the State of Florida, any municipality in Holmes County, or the County of Holmes.

(b) Aiding or abetting any uncertified person to evade any provision of this Ordinance.

(c) Knowingly combining or conspiring with an uncertified person by allowing one's certificate to be used by an uncertified person with intent to evade the provisions of this Ordinance.

When a certificate holder allows his certificate to be used by one or more companies without having any active participation in the operations, management, or control of said companies, this act constitutes prima facie evidence of an intent to evade the provisions of this Ordinance.

(d) Acting in the capacity of a contractor under any certificate issued hereunder except in the name of the certificate holder as set forth on the issued certificate, or in accordance with the personnel of the certificate holder as set forth in the

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application for the certificate, or as later changed as provided in this Ordinance.

(e) Diversion of funds or property received for prosecution or completion of a specified construction project or operation where as a result of the diversion the contractor is or will be unable to fulfill the terms of his obligation or contract.

(f) Disciplinary action by any municipality, city, state or county, which action shall be reviewed by the board before the board takes any disciplinary action of its own.

(g) Failure in any material respect to comply with the provisions of this Ordinance.

(3) The board is authorized to take the following disciplinary action:

(a) Suspend the certificate holder from all operations as a contractor during the period fixed by the board but the board may permit the certificate holder to complete any contracts then uncompleted.

(b) Revoke a certificate.

(c) Impose an administrative fine or penalty not to exceed \$500.00, which shall be recoverable by the board only in an action at law.

(4) After suspension of the certificate on any grounds set forth in this section, the board may remove the suspension on proof of compliance by the contractor 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.

(5) After revocation of a certificate, the certificate shall not be renewed or reissued for at least one year after revocation and then only on a showing of rehabilitative of the contractor.

(6) The lapse of suspension of a certificate by operation of law or by order of the board or a court, or its voluntary surrender by a certificate holder does not deprive the board of jurisdiction to investigate or act in disciplinary proceedings against the holder.

(7) The filing of a petition in bankruptcy, either voluntarily or involuntarily, or the making of a composition of

creditors or the appointment of a receiver for the business of the certificate holder may be considered by the board as just cause for suspension of a certificate.

SECTION 12: EXEMPTIONS: This Ordinance does not apply to:

(1) Contractors in work on bridges, roads, streets, highways, railroads, or utilities and services incidental thereto.

(2) A subcontractor or specialty contractor whose work is limited to a specific phase of construction and whose responsibility is likewise limited to that particular phase of the construction.

(3) Employees of any person engaged in contracting who are subordinates of such person who is certified to engage in contracting if the employees do not hold themselves out for hire or engage in contracting except as an employee.

(4) An authorized employee of the United States, the State of Florida, or any municipality, city or county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state as long as the employee does not hold himself out for hire or otherwise engage in contracting except in accordance with his employment.

(5) An officer appointed by a court when he is acting within the scope of his office as defined by law or court order. When construction projects which were not underway at the time of appointment of the officer by the court are undertaken, he shall employ or contract with a certificate holder.

(6) Public utilities on construction, maintenance, and development work performed by their forces and incidental to their business.

(7) The sale or installation of any financial products, materials, or articles of merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure.

(8) Owners of property building or improving one or two-family residences thereon for the occupancy of such owners and not offered for sale. In all actions brought under this Ordinance proof of the sale or offering for sale of more than one such

structure by the owner-builder within one year after completion of same is presumptive evidence that such structure was undertaken for purpose of sale.

(9) Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States, nor to any construction, alteration, improvement, or repair on any project where federal law supersedes this Ordinance.

(10) Any construction or operation incidental to the construction or repair of irrigation and drainage ditches or regularly constituted irrigation ditches, reclamation districts, or clearing or other work on the land in rural districts for fire prevention purposes or otherwise except when performed by a certificate holder under this Ordinance.

(11) A registered architect, professional engineer, or residential designer acting in his professional capacity or any person exempted by Florida state law in the chapters regulating architects and professional engineers.

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

(13) Any person as defined and licensed under Chapter 527, Florida Statutes, 1971.

SECTION 13: EFFECTIVE DATE: This Ordinance shall take effect immediately upon its becoming a law by vote of at least four-fifths (4/5th) of the members of the Holmes County Commission.

PASSED in regular session this 1st day of May, 1972.

BOARD OF COUNTY COMMISSIONERS
HOLMES COUNTY, FLORIDA

BY: Charles R. Padgett
Chairman

ATTEST: Jack Faircloth
Clerk

