

**CITY OF BONITA SPRINGS, FLORIDA  
ORDINANCE NO. 10 – 04**

AN ORDINANCE OF THE CITY OF BONITA SPRINGS;  
CREATING THE CONSTRUCTION LICENSE ORDINANCE;  
REQUIRING A CONTRACTOR TO EITHER HAVE A LEE  
COUNTY LICENSE OR STATE OF FLORIDA LICENSE TO  
ENGAGE IN BUSINESS IN THE CITY OF BONITA SPRINGS;  
ESTABLISHING THE INSURANCE REQUIREMENTS OF  
CONTRACTORS; QUALIFICATIONS FOR OBTAINING PERMITS;  
PROVIDING PENALTIES FOR PERSONS WITHOUT  
CERTIFICATES REPRESENTING THEMSELVES AS  
CONTRACTORS; PROVIDING FOR IDENTIFICATION;  
REGULATING TRADES, CRAFTS AND CONTRACTORS;  
PROVIDING FOR RESPONSIBILITIES OF CERTIFIED  
CRAFTSMAN, CREATING A PROCESS FOR CORRECTION OF  
ERRORS IN CERTIFICATE ISSUING PROCESS; CONTRACTOR  
CERTIFICATE HOLDERS MAINTAINING QUALIFICATIONS;  
REVOCAION OR SUSPENSION UPON FAILURE TO MAINTAIN;  
PROVIDING FOR ENFORCEMENT, INTERPRETATION, AND  
JUDICIAL REVIEW; PROVIDING THAT REGISTRATION  
NONTRANSFERABLE AND RENEWAL; PROVIDING FOR  
VIOLATIONS AND PENALTIES; PROVIDING FOR REPEALERS,  
CONFLICTS OF LAW, SEVERABILITY, CODIFICATION,  
SCRIVENER'S ERRORS, INCLUSION IN CODE AND AN  
EFFECTIVE DATE.

WHEREAS, Bonita Springs City Council finds it necessary to protect the public by making sure that there is a process to ensure that general contractors and specialty contractors are state certified, and those that are registered contractors, pursuant to Florida Statutes § 489.117, only work where they have complied with local registration requirements.

WHEREAS, Code Enforcement has encountered problems with at least one specialty contractor, who has not been licensed in Lee County who continues to work in Bonita Springs; and

WHEREAS, Lee County will not process disciplinary complaints arising from work performed within the City of Bonita Springs, by taking those complaints to the Lee County Construction Licensing Board, necessitating a need to establish a process for both licensing and discipline.

**THE CITY OF BONITA SPRINGS HEREBY ORDAINS:**

**SECTION ONE:    PURPOSE.**

In order to protect the public health, safety and welfare, it is declared necessary to establish regulations to ensure that persons engaged in the contracting for a performance of certain trades, construction, equipping and installations of and in buildings and structures are competent to perform their work and possess the experience, education, skill and financial capability to adequately produce construction, equipment and installation which are safe to persons and property.

This ordinance applies to any contractor performing work or contracting to perform work within the City of Bonita Springs. The provisions of this ordinance constitute a supplement to the state regulations regarding the construction industry.

**SECTION TWO: CONTRACTOR CERTIFICATE--REQUIRED TO ENGAGE IN BUSINESS.**

(a) *Generally.* It is unlawful for any person to engage within the city in the business or act in the capacity of a contractor without being registered in the City of Bonita Springs and holding either a valid contractor competency issued by Lee County or a valid Florida state license as a registered or certified contractor.

(b) *Bidding on city projects.* Any person who bids or proffers a bid to the city on any public works project within the scope of this ordinance shall, at the time the bid or proffer of bid, hold a valid contractor certificate issued by Lee County qualifying him/her to perform the work proposed by the bid and contract documents or meet the state licensure requirements.

(c) *Certification program.* The City of Bonita Springs does not test or certify construction contractors for local licenses, but will accept only (1) contractors certified by Lee County, (2) registered contractors who have complied with the Lee County registration requirements, as established by Lee County in accordance with Florida Statutes §489.117, or (3) certified by the State of Florida as provided in Florida Statutes Ch. 489.

**SECTION THREE: INSURANCE REQUIREMENTS OF CONTRACTORS.**

In addition to holding a valid contractor certificate issued by Lee County, every contractor, including contractors holding a current state certification of competency, shall file with the building official a copy of its certificate of insurance(s) for the following and keep them current:

1. Liability insurance.
  - a. Every contractor shall furnish the building official evidence that the contractor has in full force and effect a policy of public liability insurance with respect to such contractor's business, trade or

occupation issued by an insurance company authorized to do business in the State of Florida. The amounts of the policy shall be at least equal to but not limited to those amounts required by the State of Florida or Lee County.

- b. If such insurance expires or is at any time canceled, then the certification or registration of such person shall be immediately and automatically suspended; and it shall be unlawful thereafter for the person to engage in such business until the certification or registration is reinstated.

2. Worker's compensation insurance. Except as exempted by law, every contractor shall maintain worker's compensation insurance issued by an insurance company authorized to do business in this state as required by law. Evidence of such insurance shall be filed with the building official.

**SECTION FOUR: QUALIFICATIONS FOR OBTAINING PERMITS.**

Except as otherwise provided by law, application for a permit to perform work within the scope of this ordinance will be accepted only from a contractor holding a current contractor certificate issued by Lee County or the State of Florida, against whom no revocation or suspension of any of the required certificates or licenses is pending. An application for a permit shall be signed by the qualifying agent of the contractor where required.

**SECTION FIVE: PERSONS WITHOUT CERTIFICATES REPRESENTING THEMSELVES AS CONTRACTORS.**

It is unlawful for a person who is required to possess a current contractor certificate to not possess such a certificate or to do the following acts:

1. To advertise to the public in a newspaper, airwave transmission, or telephone directory, or otherwise, that the person is a contractor, or is qualified to engage in business as a contractor, or
2. To hold himself/herself out as a contractor as plaintiff or defendant in any court of this state.

**SECTION SIX: CONTRACTOR IDENTIFICATION.**

1. *Vehicles.* Every contractor doing business in the city shall identify all of his/her vehicles used to transport materials and equipment to a job site, by placing thereon, his/her identification, by name or symbol, and his/her contractor certificate number issued by Lee County or the State of Florida, each in at least two (2) locations in at least two-inch letters.

2. *Advertising.* Every contractor doing business in the city shall include his/her contractor certificate number issued by Lee County or the State of Florida in any advertising to the public in a newspaper, airwave transmission, telephone directory, or otherwise.

## **SECTION SEVEN: TRADES, CRAFTS AND CONTRACTORS.**

*Generally.* Except as otherwise provided by law, it is unlawful for any person to engage in contracting, trade or craft as specified in this section without being registered in the City of Bonita Springs for the particular construction, trade or craft engaged in. Engaged in business includes any act towards work performance, including providing quotes and solicitation for work. But a worker, helper or apprentice who is not so certified may work at such a trade or craft if he/she is employed by a contractor qualified in the trade or craft and he/she is working under the direct supervision of a certified craftsman on the job site as provided in section eight (b). It is the employing contractor's responsibility to provide certified craftsmen on each job site, and failure to do so is a violation of this ordinance. It is also unlawful and a violation of this ordinance for any person not possessing a valid craftsman certificate issued by Bonita Springs to represent himself/herself as holding one, or to do any work requiring one except under the direct supervision of a certified craftsman.

(1) *Contractor. Scope.* For the purpose of this ordinance, the construction and home improvement industries are significant industries. Such industries may pose significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services. Therefore, it is necessary in the interest of the public health, safety and welfare to regulate the construction industry which shall include:

- (a) *General contractor*, whose services are unlimited as to the type of work which he/she may do, except by other types of certification by state.
- (b) *Building contractor*, which means a contractor whose services are limited to construction of commercial building and single-dwelling or multiple-dwelling, residential buildings, which commercial or residential buildings do not exceed three stories in height and accessory use structures in connection therewith, or a contractor 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 contractor*, which means a contractor whose services are limited to construction, remodeling, repair or improvement of one-family, two-family or three-family residences not exceeding two stories in height and accessory use structures in connection therewith.

(2) *Certificate of competency required.* It is unlawful for any person required by subsection (1) to have a craftsman certificate to engage in the trade of construction or to do construction work for others unless he/she holds a valid contractor certificate, issued by Lee County or state. It is unlawful for any person to engage in the business of construction unless he/she holds a valid contractor certificate in that category issued by Lee County or by the state.

**SECTION EIGHT: RESPONSIBILITIES OF CERTIFIED CRAFTSMAN.**

(a) *Disallow use of name to obtain permit for unlawful work.* It is unlawful for any contractor or master craftsman to allow his/her name to be used to obtain permits for work:

- (1) Which is to be done by anyone who is not a bona fide employee of the contractor or master craftsman or of the entity for which the contractor or master craftsman works full time; or
- (2) Which is not done under the supervision of the contractor or master craftsman.

(b) *Lawful work by lawful craftsman.* It is the responsibility of the contractor or master craftsman obtaining a permit under his/her name to ensure that:

- (1) Work done under the permit complies with the law and regulations related to the work;
- (2) The work is done by craftsmen holding valid certificates where required; for this purpose, a certified craftsman is deemed to do the work if he/she is in direct charge of the work, is continuously present on the site where the work is being done, and is assisted by no more than four helpers.
- (3) *Performance of work under improper or no permit declared unlawful.* It is unlawful for any contractor, master or journeyman craftsman to do work for which no permit has been issued where required or the permit does not cover the full extent of the work.

(d) *Registration of employer.* Each contractor and master craftsman serving as a qualifying agent shall register with the building official the name and place of business of his/her full-time employer. No contractor or master craftsman serving as a qualifying agent shall serve in that capacity more than one employer at a time. No master craftsman shall serve as qualifying agent for more than two contractors in any 12-month period.

(e) *Notification of change in employment.* Each contractor or master craftsman serving as a qualifying agent shall promptly notify the building official of a change in employment. If a contractor has obtained a permit for work to be done under the supervision of a master craftsman who later leaves the contractor's employ, work authorized by the permit may be done by qualified journeyman craftsmen, notwithstanding the lack of supervision by a master craftsman, but only as provided in section ten (b).

(f) *Qualifying agent generally.* Where a master craftsman has notified the building official, by endorsement of an application for a contractor's certificate or otherwise, that he/she is serving a contractor as qualifying agent, the master craftsman shall be held responsible under this Code for ensuring that all work done by the contractor is in compliance with all provisions of this Code applicable thereto. A qualifying agent is required to keep himself/herself informed of the status of work being performed by his/her employing contractor and to carry out the responsibilities delineated by this section. It is the express intent of these regulations that a master craftsman serving as a qualifying agent will be physically capable of carrying out his/her responsibilities at all times while employed in that capacity.

**SECTION NINE:**                    **CORRECTION OF ERRORS IN CERTIFICATE ISSUING PROCESS**

(a) *Error resulting in issuance.* If the building official determines that a contractor or craftsman has been issued a building permit in error, whether of error of law or of fact, or because of administrative error or because of representations of Lee County, the building official may revoke or correct the building permit, after written notice to the permit holder and a reasonable opportunity for him/her to be heard, but without charges, findings or other formal requirements. Failure to return a revoked permit or to deliver a permit for correction to the building official upon demand is an offense against the city.

(b) *Error resulting in denial.* The building official may correct an error of law or of fact, or an administrative error, which resulted in the denial of an application for a building permit.

**SECTION TEN:**                    **CONTRACTOR CERTIFICATE HOLDERS MAINTAINING QUALIFICATIONS; REVOCATION OR SUSPENSION UPON FAILURE TO MAINTAIN**

(a) *Generally.* Except as provided in subsection (b), whenever the holder of a contractor registration fails to maintain one or more of the qualifications required for the issuance of a registration, he/she shall within five days report his/her lack of qualifications to the building official. The registration is automatically suspended from the date on which the holder first failed to maintain all of the required qualifications until he/she reestablishes his/her qualifications. In lieu of suspension and on request of the holder, the building official may declare the certificate inactive for a stated period of time. Suspended registrations under this section become invalid after one year and shall not thereafter be renewed.

(b) *Failure to have a qualifying agent.* If a contractor fails to have a required qualifying agent for a period of 30 consecutive days, his/her contractor registration is automatically suspended. During the 30-day period, the contractor may complete any work for which all permits have been issued prior to the loss of the agent, but he/she may not obtain any new permits or contract for new work.

Upon suspension, the contractor shall cease all work. Until a suspended registration becomes invalid under subsection (a), but not thereafter, suspension automatically terminates when the contractor again acquires a qualifying agent.

**SECTION ELEVEN:**                    **ENFORCEMENT, INTERPRETATION, CITATION TO HEARING EXAMINER OR COURT AS APPENDIX A; AND JUDICIAL REVIEW**

(a) *Enforcement and interpretation.* It shall be the duty of the building official of the building codes and standards division to interpret and enforce the provisions of this ordinance as related to the activities of contractors regulated herein.

(b) Any person who violates any section of this ordinance or fails to comply with any of its requirements, may be prosecuted through Code Enforcement or by the Lee County Sheriff's Office.

(c) The City may institute in any court of competent jurisdiction action to prevent, restrain, correct or abate any violation of this ordinance or any order or ruling made in connection with its administration or enforcement by way of mandatory injunction or otherwise, as deemed proper by the court. In certain cases restitution may be sought in lieu of fine and/or imprisonment. The City of Bonita Springs Code Enforcement Officers, may, in addition, or alternatively, to pursuing criminal penalties or seeking injunctive relief, bring violations before the Code Enforcement Hearing Examiner, in accordance with all of the provisions of, and pursuant to, the enforcement procedures established under City of Bonita Springs Ordinance No. 03-10. Each separate occurrence of a violation of this Ordinance shall constitute a separate violation, and shall be punishable as such.

(d) If a violation is brought to the Hearing Examiner in accordance with Florida Statutes §162.09, the fine schedule (attached as Exhibit "A") will be used by the Code Enforcement Officer when the person does not contest the violation. If contested, the Hearing Examiner may deviate from the fine schedule (increase or decrease, depending on the circumstances), and impose any additional fines to cover all costs incurred by the City of Bonita Springs in enforcing its codes and any cost of repairs to city property.

(e) *Judicial review.* Judicial review shall be as provided by law.

**SECTION TWELVE:**                    **REGISTRATION NONTRANSFERABLE; RENEWAL**

(a) Lee County contractor certificates and craftsman registration are nontransferable and expire on the last day of September of either even or odd numbered years depending on last name, as set out in Appendix B. Those registering with their state license are nontransferable and expire on the last day of August of either even numbered years, as set out in Appendix B. The building official shall renew certificates upon request and

payment of the applicable renewal fee in accordance with the schedule set out in Appendix B.

- (b) The payment of a certificate renewal fee is required in addition to and is wholly unrelated to any business tax receipt fee required by Lee County or in the future, the City of Bonita Springs.

**SECTION THIRTEEN: VIOLATIONS; PENALTIES**

It is unlawful for any person to violate a provision of this ordinance or fail to comply therewith. The proprietor, all partners, and all directors of any firm or corporation are responsible for the acts of their respective agents and employees, and it shall be an offense against the city for any such proprietor, partner or director to cause, or to knowingly suffer or permit, his/her agent or employee to violate a provision of this ordinance or fail to comply therewith.

**SECTION FOURTEEN: REPEALER**

Upon the effective date of this Ordinance, Lee County Ordinance No. 96-20, as adopted as the transitional ordinance for the City of Bonita Springs, is hereby repealed and replaced by the provisions of this Ordinance.

**SECTION FIFTEEN: 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 Court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such Court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent of the City Council for the City of Bonita Springs that this Ordinance would be adopted had such unconstitutional provision not been included herein.

**SECTION SIXTEEN: CONFLICTS OF LAW**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs Ordinance or Florida Statutes, the more restrictive shall apply.

**SECTION SEVENTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS**

It is the intention of the City Council for the City of Bonita Springs that the provisions of this ordinance shall become and be made a part of the Bonita Springs City Code; and that sections of this ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention; and

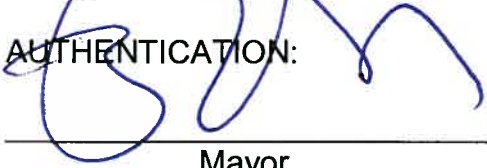
regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or re-lettered and typographical errors which do not affect the intent may be authorized by the City Manager, or the City Manager's designee, without need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

**SECTION EIGHTEEN: EFFECTIVE DATE**

The effective date of this ordinance shall be thirty (30) days from its adoption date.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Florida this 19<sup>th</sup> day of May, 2010.

AUTHENTICATION:

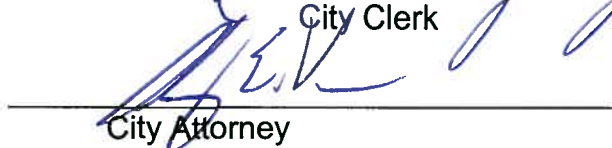


Mayor



City Clerk

APPROVED AS TO FORM:



City Attorney

Vote:

Nelson	Aye	Spear	Absent
McIntosh	Aye	Simons	Aye
Martin	Aye	Lonkart	Aye
Slachta	Aye		

Date Filed With City Clerk: 5-20-10

**APPENDIX "A" SCHEDULE OF FINES FOR VIOLATION OF  
BONITA SPRINGS CONSTRUCTION LICENSING ORDINANCE**

Section #	Offense	1st Offense	2nd Offense	3rd Offense
2.A	contracting without a valid contractor registration	250.00 mandatory court appearance/restitution	350.00 mandatory court appearance/restitution	500.00 mandatory court appearance/restitution
2.B	Bidding on city projects without Lee or state certificates	300.00	400.00	500.00
3	Failure to maintain insurance	75.00	150.00	300.00
5.A / B	Advertising or Holding oneself out as a contractor w/o license	250.00 mandatory court appearance/restitution	350.00 mandatory court appearance/restitution	500.00 mandatory court appearance/restitution
6	Not placing CC number on truck or advertisements	75.00	150.00	300.00
8	Use of name to obtain permit for unlawful work / failure to have qualifying agent	300.00	350.00	500.00
10	Failure to maintain qualifications	300.00	400.00	500.00

**APPENDIX "B"  
SCHEDULE OF FEES FOR REGISTRATION**

**Verification Fee**

\$10.00 for two year term concurrent with the state license.  
 \$10.00 for one year term concurrent with the county license.

**Verification if late or after reinstatement or reapplication**

\$20.00 Late Fee  
 \$20.00 Reinstatement