

ORDINANCE 2024 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA; REPEALING CHAPTER 6, ARTICLE VII, DIVISION 2. OKALOOSA COUNTY ELECTRICAL COMPETENCY BOARD; AMENDING CHAPTER 6, ARTICLE VII, DIVISION 3, SECTION 6-243. ELIGIBILITY, LICENSURE BY EXAMINATION; AMENDING CHAPTER 6, ARTICLE VIII, DIVISION 2. COMPETENCY BOARDS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Okaloosa County Code of Ordinances, Chapter 6, Article VII, Division 2, “Okaloosa County Electrical Competency Board” establishes the functions, powers and authorities of the Okaloosa County Electrical Competency Board; and

WHEREAS, Okaloosa County Code of Ordinances, Chapter 6, Article VIII, Division 2, “Competency Boards” establishes the functions, powers and authorities of the Okaloosa County Plumbing, Mechanical, and Construction Competency Board; and

WHEREAS, in light of difficulties recruiting volunteers willing to serve on the Plumbing, Mechanical, and Electrical Competency Boards and hardship caused for applicants resulting from inability of the Plumbing, Mechanical, and Electrical Competency Boards to have a quorum of membership present for meetings to conduct regular business, the Plumbing, Mechanical, and Electrical Competency Boards have expressed a desire to consolidate to ensure continued conduct of regular business; and

WHEREAS, the Board of County Commissioners finds that this Ordinance serves the public interest and is necessary and appropriate to protect the public health, safety, and welfare of the citizens of Okaloosa County.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Okaloosa County as follows:

Section 1. The Okaloosa County Code of Ordinances, Chapter 6, Article VII, Division 2, “Okaloosa County Electrical Competency Board” is hereby repealed.

Section 2. The Okaloosa County Code of Ordinances, Chapter 6, Article VII, Division 3, Section 6-243 “Eligibility, licensure by examination” is hereby amended as follows (note strikethrough text indicates deletions, underline text indicates additions):

Sec. 6-243. Eligibility, licensure by examination.

A completed application package for examination must be filed at least two weeks prior to the appropriate regularly scheduled county plumbing, mechanical, and electrical competency board meeting for which the applicant seeks to be included on the agenda. The board shall review the application to determine the applicant's eligibility for examination. The examination shall cover knowledge of basic principles of contracting in the field for which the applicant is applying and basic principles for business and law.

To be eligible for certification by examination, the applicant must meet the following criteria, through information and documentation supplied with the application, and prior to taking the exam:

- (a) The applicant shall provide a credit report from a Department of Business and Professional Regulation approved credit-reporting agency, demonstrating evidence of financial responsibility, as required by Rule 61G6-5.003(2)(a),(b) F.A.C.
- (b) The applicant shall have no outstanding judgments or have been convicted of a felony. This requirement may be waived by the board on a case-by-case basis with appropriate documentation.
- (c) The applicant must be at least 22 years of age and must meet the relevant experience requirements for the field in which he or she seeks to obtain a certification, as provided below. For the purposes of experience requirements, one year of experience shall be equivalent to a minimum of 2,000 person-hours.

An applicant shall meet one of the following, as relevant to his or her chosen field:

- (a) Has, within the six years preceding the filing of the application, at least three years of proven management experience in the trade or education equivalent thereto, or a combination thereof, but not more than one-half of such experience may be educational equivalent;
- (b) Has, within the eight years immediately preceding the filing of the application, at least four years of experience as a foreman, supervisor or contractor in the trade for which he or she is making application;
- (c) Has, within the 12 years immediately preceding the filing of the application, at least six years of comprehensive training, technical education, or supervisory experience associated with an electrical or alarm system contracting business, or at least six years of technical experience in electrical or alarm system work with the Armed Forces or a governmental entity;
- (d) Has, within the 12 years immediately preceding the filing of the application, been licensed for three years as a professional engineer who is qualified by education, training or experience to practice electrical engineering; or

(e) Has any combination of qualifications under subparagraphs (a)—(c) totaling six years of experience.

(f) For purposes of this subsection "supervisory" means a person having the experience gained while having the general duty of overseeing the technical duties of the trade, provided that such experience is gained by a person who is able to perform the technical duties of the trade without supervision.

(g) For the purposes of this subsection, at least 40 percent of the work experience for an alarm system contractor I must be in types of fire alarm systems typically used in a commercial setting.

(h) Every applicant who is qualified shall be allowed to take the examination three times, notwithstanding the number of times the applicant has previously failed the examination. If an applicant fails the examination three times, the board shall require the applicant to complete additional college-level or technical education courses in the area of deficiency, as determined by the board, as a condition of future eligibility to take the examination. The applicant must also submit a new application that meets all registration requirements at the time of its submission and must pay all appropriate fees.

The following information and documents relative to the experience requirements are required in order to process an application. These documents and the requested information are board approved and cannot be substituted.

(1) Past employment must be listed in chronological order, starting with most current employment, and must include a detailed job description.

(2) An experience affidavit form confirming employment must be completed using an Okaloosa County Verification of Experience Form. An out-of-state experience affidavit must be supplemented by verification on the company letterhead of applicant's employer. Explanations must include a timeframe and a description of work duties and functions. A DD214 military form with supporting documentation may be used as proof of experience.

From the date of board approval, an applicant shall have one calendar year to have taken and scored a grade of at least 75 percent or above on the Standard Business and Law Practice Exam and on an examination in the particular field for which the application is being made; to be prepared, proctored and graded by the approved testing agency. When the passing score is achieved, the applicant shall proceed with application for state licensure. Upon receipt of a state license the applicant shall provide to the department of growth management, the state license, business tax receipt, proof of general liability insurance, worker's compensation exemption insurance and a hold harmless agreement to obtain a certificate of competency. The

department shall issue the certificate of competency when the above-mentioned documentation is provided and all fees are paid in full.

If an applicant fails to take the exam within the one calendar year after board approval, then the applicant will be required to reapply to the board for reapproval.

Applicants who have taken and failed the exam six months prior to the effective date of this article, will be allowed an additional six months after the effective date of this article to continue to take the exam without prior board approval.

Section 3. The Okaloosa County Code of Ordinances, Chapter 6, Article VIII, Division 2, “Competency Boards” is hereby amended as follows (note strikethrough text indicates deletions, underline text indicates additions):

DIVISION 2. COMPETENCY BOARDS

Sec. 6-291. Composition; appointment of members.

The board of county commissioners shall appoint members to the ~~three~~ boards addressed in this ordinance division, namely, the construction competency board, the plumbing competency board and the mechanical competency board. The membership shall be as follows:

(a) The construction competency board shall consist of 12 members, with nine who are engaged in business as marine, general, residential, or building contractors, specialty contractors such as specialty structures, exterior applications, landscape, demolition, site removal and house moving, and three who are consumer representatives.

(b) The plumbing, mechanical, and electrical competency board shall consist of 12 ~~eight~~ members, with ~~three~~ five who are engaged in the business either as a plumbing contractor, a pool contractor, irrigation contractor, or a-master gas contractor; three who are engaged in business as a mechanical contractor, an air conditioning contractor, a sheet metal contractor, or a master gas fitter; three who are engaged in business as a licensed electrical contractor, an alarm contractor, or a specialty contractor; and three who are consumer representatives. The plumbing, mechanical, and electrical competency board may also have up to four alternate members appointed by the board of county commissioners who are engaged in any of the above-referenced trades or who are consumer representatives who shall serve in the place of a member who is unable to attend any regularly scheduled or special meeting. The alternate member shall count as a part of the total membership necessary to constitute a quorum for business.

~~(c) The mechanical competency board shall consist of eight members, with five who are engaged in business either as a mechanical contractor, an air~~

~~conditioning contractor, a sheet metal contractor, or a master gas fitter, and three who are consumer representatives.~~

The county building official shall be an ex officio member of each of these boards, but he or she shall have no vote.

Sec. 6-292. Qualifications for appointment.

To be eligible for appointment to an Okaloosa County competency board, each non-consumer representative member shall be actively engaged in the construction, plumbing, mechanical or electrical contracting business as specified in Section 6-291 above and have been so engaged for a period of not less than five consecutive years before the date of such appointment; and be a citizen and resident of Okaloosa County. The board of county commissioners may waive any of these requirements of qualifications.

Sec. 6-293. Members terms.

Terms of members shall be staggered. New terms shall be set for three-year periods.

Sec. 6-294. Meetings; removal of members.

Each Board shall meet regularly bi-monthly or as required. Special meetings of a board may be held as needed. A quorum of the construction competency board and a quorum of the plumbing, mechanical, and electrical competency board shall consist of seven voting members. ~~A quorum of each the plumbing and the mechanical competency boards shall consist of five voting members.~~ Unexcused absences for three consecutive meetings shall be deemed a voluntary resignation from the board. Upon motion passed by two-thirds of the membership of an Okaloosa County competency board, the competency board may recommend to the board of county commissioners the removal of any one of its members for cause. The cause for such recommendation shall be stated within the motion for removal.

Sec. 6-295. Officers.

The appointed members of each Okaloosa County competency board shall elect a chairman, and vice-chairman. Minutes shall be kept of all hearings by each board, and all hearings and proceedings shall be open to the public. The department of growth management shall provide clerical and administrative personnel as may be reasonably required by each Board for the proper performance of its duties.

Sec. 6-296. Duties, generally.

It shall be the duty of each Okaloosa County competency board to adopt by-laws governing its procedures to correspond with other county board procedures; to determine compliance with the qualifications for, and to authorize the issuance of, certificates of competency on a permanent or probationary basis, by the department of growth management; to conduct hearings for discipline of contractors holding certificates of competency, and to levy discipline against contractors holding such certificates of competency or take such other action as is authorized and deemed necessary for the public health, safety and welfare.

Sec. 6-297. Complaints.

Any citizen who has knowledge of a violation of this article or any other county ordinance may file a notarized affidavit of complaint using the form provided by the department of growth management. The affidavit can be mailed, faxed, or hand delivered to the department of growth management.

Complaints from citizens or a legitimate business shall be investigated upon notice in a form that includes legible name, signature, address or any other means where the complainant is identifiable. This is in lieu of the required notarized affidavit.

Investigations should be as a result of an identifiable complainant as prescribed above. Aesthetics alone shall not be a case where county officials shall act/enforce upon private property without a complaint. The county shall enforce violations in cases where health and safety are issues. The county shall provide the respondent with a copy of the alleged complaint.

Upon receipt of a complaint from an interested party, or as a result of an investigation by a code enforcement officer, each Okaloosa County competency board may conduct hearings on the question of whether a certificate of competency holder shall be disciplined. Three valid consumer complaints or three violations of county ordinances related to contracting within a 12-month period shall constitute grounds for a mandatory board hearing.

Any person, firm, corporation, or other business entity that violates any provision of this article shall be prosecuted and punished as provided by code.

Sec. 6-298. Probable cause hearing.

A hearing shall be held only upon notice to the holder of the certificate of competency sought to be disciplined and the complainant. "Notice" shall be defined as written notice sent by certified mail to the last known address of the holder of the certificate of competency sought to be disciplined or hand delivered not less than 30 days prior to a hearing.

The board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental procedural due process shall be observed and shall govern the proceedings.

Each case before a board shall be presented by a member of the administrative staff of the local governing body. If the local governing body prevails in proving probable cause before the board, it shall proceed to a disciplinary proceeding.

Sec. 6-299. Disciplinary proceedings.

A hearing shall be held only upon notice to the holder of the certificate of competency sought to be disciplined and the complainant. "Notice" shall be defined as written notice sent by certified mail to the last known address of the holder of

the certificate of competency sought to be disciplined or hand delivered not less than 30 days prior to a hearing.

The board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental procedural due process shall be observed and shall govern the proceedings.

Each case before a board shall be presented by a member of the administrative staff of the local governing body.

Each board may take any of the following actions against any certificate holder or registrant found guilty of, but not limited to, any of the acts listed in sections 6-277, 6-282, or 6-283 above, and the plumbing, mechanical, and electrical competency board may take any of the following actions against any certificate holder or registrant found guilty of, but not limited to, any of the acts listed in sections 6-207, 6-212, or 6-213 above: place on probation, reprimand, revoke, suspend, or deny the issuance or renewal of the certificate or registration, require financial restitution to a consumer for financial harm directly related to a violation of a provision of this part, impose an administrative fine not to exceed \$5,000.00 per violation, require continuing education, and/or assess costs associated with investigation and prosecution.

No suspension imposed by a board shall be for a period exceeding one year in duration. The effective period of revocation of a contractor's certificate of competency shall be for a period of not less than one year nor more than five years, except as provided below. Any contractor whose certificate of competency has been revoked as provided for in this subsection, in order to gain reinstatement shall have to take the appropriate examination and meet all the same requirements as a person who is seeking to receive a certificate of competency for the first time.

When a board is presented with a case or conduct constituting egregious circumstances whereby the board is convinced that the safety of the public demands permanent revocation, then the board may permanently revoke a contractor's certificate of competency by unanimous vote at a meeting with not less than four-fifths of the board membership in attendance.

If a certificate holder disciplined under this section is a qualifying agent or financially responsible officer for a business organization and the violation was performed in connection with a construction project undertaken by that business organization, a board may impose an additional administrative fine not to exceed \$5,000.00 per violation against the business organization or against any partner, officer, director, trustee, or member if such person participated in the violation or knew or should have known of the violation and failed to take reasonable corrective action.

A board shall not reinstate the certificate of, or cause a certificate to be issued to, a person who or business organization which a board has determined is unqualified or whose certificate a board has suspended until it is satisfied that such person has complied with all the terms and conditions set forth in the final order of suspension and is capable of competently engaging in the business of contracting.

Each board may assess a penalty on all fines imposed under this section against any person or business organization that has not paid the imposed fine by the due date established by rule or final order. Each board will establish the penalty.

A board shall not issue or renew a certificate or registration to any person or business organization that has been assessed a fine, interest, or costs associated with investigation and prosecution, or has been ordered to pay restitution, until such fine, interest, or costs associated with investigation and prosecution or restitution are paid in full or until all terms and conditions of the final order have been satisfied.

If a board finds any certificate holder guilty of a violation, each board may, as part of its disciplinary action, require such certificate holder to obtain continuing education in the areas of contracting affected by such violation.

If a business organization or any of its partners, officers, directors, trustees, or members or has previously been fined for violating this article or section 489.132, Florida Statutes, each Board may, on that basis alone, revoke, suspend, place on probation, or deny issuance of a certificate or registration to a qualifying agent or financially responsible officer of that business organization.

Any person aggrieved by any decision or action of a county contractor competency board may petition for writ of certiorari filed in the Okaloosa County Circuit Court within 60 days of the entry of the order to be appealed. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the board.

In addition to any action taken on the individual's local license, the board shall issue a recommended penalty to be imposed by the state construction industry licensing board. This recommended penalty may include a recommendation for no further action or a recommendation for suspension, revocation, or restriction of the registration or imposition of a fine to be levied by the state board, or a combination thereof. The board shall inform the license holder or registrant and the complainant of the local penalty imposed, the rights to appeal, and the consequences should the contractor decide not to appeal. The board shall, upon reaching adjudication or having accepted a plea of nolo contendere, immediately inform the state board of its action.

Secs. 6-300—6-310. Reserved.

Section 4. CODIFICATION. It is the intent of the Okaloosa County Board of County Commissioners that the provisions of this ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance.

Section 5. SEVERABILITY. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 6. CONFLICTS. In any case where a provision of this Ordinance is found to be in conflict with a provision of any other ordinance of the County, the provision which establishes the higher standards for the promotion and protection of the health and safety of the people shall prevail.

Section 7. EFFECTIVE DATE. This Ordinance shall be filed with the Secretary of State within ten (10) days of adoption and shall become effective upon filing.

PASSED AND ADOPTED in Regular Session this _____ day of _____, 2024.

BOARD OF COUNTY COMMISSIONERS
OF OKALOOSA COUNTY

Paul Mixon, Chairman

ATTEST:

J.D. Peacock II, Clerk

APPROVED AS TO FORM:

Lynn M. Hoshihara, County Attorney