

ORDINANCE NO. 16 – ____

AN ORDINANCE OF THE COUNTY OF PINELLAS RELATED TO THE PINELLAS COUNTY CONSTRUCTION LICENSING BOARD (PCCLB); PROVIDING THAT THE PINELLAS COUNTY CODE BE AMENDED BY REVISING SECTION 22-13 TO PERMIT THE PCCLB TO RECOVER CIVIL PENALTIES FOR UNLICENSED CONTRACTING TO THE EXTENT PERMITTED UNDER STATE LAW; PROVIDING FOR CLARITY BETWEEN ALTERNATIVE REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Pinellas County Board of County Commissioners' ("BCC") power to adopt ordinances establishing enforcement programs related to unlicensed contracting is provided for in § 489.127(5)(c), Florida Statutes;

WHEREAS, the Pinellas County Construction Licensing Board's ("PCCLB") power to administer and implement such enforcement programs is authorized under § 489.127(5)(l), Florida Statutes;

WHEREAS, on December 12, 2003, the BCC passed Ordinance 03-98, which created a mechanism for the PCCLB to utilize Special Magistrates for hearing contested citations issued by the PCCLB related to unlicensed contracting;

WHEREAS, on May 27, 2005, the BCC passed Ordinance 05-33, which stipulated that all citations issued by the PCCLB related to unlicensed contracting include a civil penalty of exactly \$500;

WHEREAS, § 489.127(5)(c), Florida Statutes, permits such citations to include civil penalties up to \$2,000;

WHEREAS, consistent with § 489.127(5)(c), Florida Statutes, the BCC wishes to afford the PCCLB greater flexibility in the civil penalties the PCCLB includes with citations issued related to unlicensed contracting;

WHEREAS, affording such latitude to the PCCLB is not only consistent with state law, but equitable to the public in that the civil penalty attributed to a violation would greater correlate with the severity of the violation;

WHEREAS, pursuant to the PCCLB's authority as an Independent Special District created by Chapter 75-489 Laws of Florida as amended, the PCCLB may adopt formal rules and establish a civil penalty schedule for citations related to unlicensed contracting;

WHEREAS, such a civil penalty schedule would better frame the gravity of violations for Special Magistrates the PCCLB utilizes to hear contested citations related to unlicensed contracting and increase the efficiency of accordant Special Magistrate proceedings;

WHEREAS, in addition to Special Magistrates designated by the PCCLB, Ordinance 03-98 permits contested citations related to unlicensed contracting to be heard before Judges in County Court pursuant to § 125.69, Florida Statutes;

WHEREAS, the Board desires to further clarify that County Court remains a viable alternative to Special Magistrate proceedings for violations related to unlicensed contracting; and

WHEREAS, although the PCCLB issues approximately 1,100 citations related to unlicensed contracting per year, unlicensed contracting remains a rampant problem in the County that continues to threaten the health, safety, and welfare of the public.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pinellas County, Florida that:

SECTION 1. Section 22-13 of the Pinellas County Code is hereby amended to read as follows:

Sec. 22-13: Penalties for violations.

- (a) Pursuant to F.S. ~~§§ 125.69, and 489.127(5)(c)(f),~~ violations of this division may result in a civil penalty ~~ies of levied by enforcement officers~~ up to \$12,000.00 ~~or up to 60 days in county jail or both.~~ Citations ~~issued written~~ by enforcement officers pursuant to sections ~~22-11 and 22-12(a)(1)~~ shall be written to impose a civil penalty ~~ies of between~~ \$500 and \$2,000. Pursuant to state law, for citations issued under section 22-12(a)(1), the PCCLB may establish civil penalty schedules and special masters may impose enhanced civil penalties ~~pursuant to state law.~~ This division shall not be construed to effect any provision of F.S. § 489.127(5); ~~nor shall this subsection be construed to limit any remedy available in county court under F.S. § 125.69 as provided for in section 22-12(a)(2).~~
- (b) Each day of a continuing violation, each advertisement, each permit, each contract, and each separate activity requiring a permit shall constitute a separate violation under section 22-14.
- (c) Jail shall be a possible sentence only under the county court process, and no jail time shall be given as a sentence for a violation of this division unless:
 - (1) The defendant has been previously convicted or assessed fines or civil penalties relating to citations under this division twice in the previous 12 months under either process contained in section 22-12; and
 - (2) The prosecuting attorney files a written notice with the court that a jail sentence will be requested.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

SECTION 3. CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Pinellas County Code and that the

sections of this Ordinance may be renumbered or relettered and the word “ordinance” may be changed to section, article, or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 4. EFFECTIVE DATE. Pursuant to Section 125.66 of the Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon filing of the ordinance with the Department of State.