

MEMO



Construction Services Department

To: Construction Services Staff, Private Providers, Contractors and Fee Owners
Date: October 19, 2007
From: Neil K. Melick, Construction Services Director/Building Official
Subject: Implementation Standard for Private Providers authorized under Florida Statutes, ss 553.791

IMPLEMENTATION STANDARD FOR PRIVATE PROVIDERS

AUTHORITY

- Florida Statutes, Chapter 553, Building Construction Standards, Part IV, Florida Building Code, ss 553.791, Alternative plans review and inspection.
- Florida Statutes, Chapter 468, Part XII, Building Code Administrators and Inspectors

SCOPE

To clarify the City of West Palm Beach Construction Services Department's role as it relates to the use of private providers authorized under the provision of Florida Statutes. To establish the guidelines for the use of private providers in the City of West Palm Beach.

GENERAL

The City of West Palm Beach Construction Services Department (Department) understands that the use of alternative plans review or inspections, also known as private providers (Provider) can at times be appropriate and beneficial. The original intent of this provision of Florida Statutes was to establish an alternative when the local enforcement agency is unable to provide timely plan review and/or inspections.

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PLAN REVIEWS

Even though the Department may be able to provide timely plan reviews, the issue of code compliance has required multiple reviews and thus extended the permit issuance timeline.

The use of private providers (Provider) for plan review could reduce or eliminate the necessity of repetitive plan reviews. Complete plans and specifications can be submitted to the Provider team to “scrub” the plans for code deficiencies. The plans are then sent back to the design team for corrections. Upon completion of the corrections required by the Provider, the plans are resubmitted to the Provider for review. Once the Provider is satisfied that code compliance is reached, the entire package can be submitted to the Department. If the Department has determined the application is complete and plans are in compliance with the code and all other applicable laws and ordinances, the permit will be issued.

The Department may elect to perform an audit of the submitted permit application and plans for code compliance. The level of audit will depend on the quality of submittal and the previous experience with the particular Provider, as determined by the Department.

However, this should not discourage the use of Providers. In the past, once the Department has rejected the submittal reviewed by the Provider, the Provider has been terminated. Such termination defeats the purpose. The benefit of using Providers is as follows:

- The Department has a first in, first out policy for order of plan reviews. Providers are not restricted to this limitation.
- With the use of a Provider, it will reduce the number of plan reviews performed for each project by the Department. This will result in a reduction of total workload and improve overall permit issuance timelines.
- If the same reviewer for each discipline is used by the Provider for the City of West Palm Beach, the inevitable result will be consistency. For example, if a reviewer from either the Provider or Department notes a code violation missed by the other, then eventually both will be looking for and requiring the same thing. This will build confidence and reduce plan review times.

INSPECTIONS

Presently, the Department maintains a 99% same-day inspection performance level. If the inspection is requested on the automated system before 7:00 a.m. on the day of inspection, it is performed that day. With this high level of performance, there may not be adequate justification for the additional cost of using a Provider. However, it is still the option of the fee owner or the fee owner’s contractor to make the determination.

The Department will not require the use of a Provider to perform the inspections when the Provider has been used for plan review.

PROCEDURES

See Attachment A. Attachment A is the provisions and procedures of Florida Statutes, Chapter 553, ss 553.791, Alternative plans review and inspection. These are incorporated by reference and shall be in force and effect as if fully set out in this section.

QUESTIONS & ANSWERS

This format of questions and answers is provided as a convenient commentary.

1. Does the City of West Palm Beach Construction Services Department accept the use of private providers as alternative plan review?

Yes. When requested in compliance with Florida Statutes, Chapter 553, Building Construction Standards, Part IV, Florida Building Code, ss 553.791, Alternative plans review and inspection.

2. Is a private provider required to register with the City of West Palm Beach?

Yes. Private providers and duly authorized representatives working within the City must register to verify compliance with the licensure requirements and insurance requirements of the Florida Statutes. A certificate of insurance evidencing appropriate coverage shall be submitted at time of registration. No fee will be charged to register with the City.

3. Will the City of West Palm Beach Construction Services Department perform an audit for permits submitted under the private provider process?

Yes. The Department may elect to perform an audit of the submitted permit application and plans for code compliance. The level of audit will depend on the quality of the submittal and the previous experience with the particular Provider, as determined by the Department. If a cursory audit reveals a code violation, then a more thorough audit may be required. However, the Department will meet or exceed the 30-business-day time limitation outlined in the referenced statute for plan review. If the Department cannot complete the review in the time specified, the permit will be issued as mandated under the provision of the referenced statute.

NOTE: Even though the permit is issued, it is still the statutory responsibility of the Department to ensure compliance with the Florida Building Code and related laws and ordinances; therefore, the audit will continue after permit issuance and will be completed as soon as possible so as not to create an impediment with the construction process. If code violations are found, the Department will enforce its authority under the Florida Building Code, Chapter 1, Administration, as amended by the City of West Palm Beach, specifically

sections 105.4.1, 105.5.1 and 105.5.2 and Florida Statutes, Part IV, s 553.79(1) as copied below.

105.4 Conditions of the permit.

105.4.1 Permit intent. A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction or violations of this code.

105.5 Revocation of permits

105.5.1 Misrepresentation of application. The building official may revoke a permit or approval, issued under the provisions of this code, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.

105.5.2 Violation of code provisions. The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

553.79 Permits; applications; issuance; inspections.—

(1) After the effective date of the Florida Building Code adopted as herein provided, it shall be unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building within this state without first obtaining a permit therefore from the appropriate enforcing agency or from such persons as may, by appropriate resolution or regulation of the authorized state or local enforcing agency, be delegated authority to issue such permits, upon the payment of such reasonable fees adopted by the enforcing agency. **The enforcing agency is empowered to revoke any such permit upon a determination by the agency that the construction, erection, alteration, modification, repair, or demolition of the building for which the permit was issued is in violation of, or not in conformity with, the provisions of the Florida Building Code.** Installation, replacement, removal, or metering of any load management control device is exempt from and shall not be subject to the permit process and fees otherwise required by this section.

4. What is the recommended process for use of a private provider for plan review?

Complete plans and specifications must be submitted to the private provider team to review the plans for code deficiencies. The plans are then sent back to the design professionals for corrections. Upon the completion of the corrections required by the private provider, the plans are resubmitted to the private provider for review. Once the private provider is satisfied that code compliance is reached, the permit application must be submitted to the Construction Services Department. The “permit application” consists of the plans reviewed by the private provider, the affidavit of code compliance from the private provider, an acknowledgement form from the fee owner, any applicable fees, and **all documents to determine that the fee owner has secured all other governmental approvals required by law.**¹ If the Construction Services Department finds code violations, the package should be picked up and resubmitted to the private provider to note code violations prior to returning to the design professional for corrections. As this package was submitted by affidavit of code compliance through the private provider process, the package must be reviewed and verified for code compliance by the private provider prior to resubmittal to the Construction Services Department.

¹ Examples of these other documents are: signoffs from Fire, Engineering, Planning/Zoning, Health Department, Division of Hotels and Restaurants, and other agencies when required. Signoffs for Fire, Engineering and Planning/Zoning may be performed during the submittal to the City as part of the One-Stop-Shop. The City will attempt to complete these reviews

within the required business days. **However, delays by these departments will not be counted against the required 30 business days for plan review for building code compliance.**

It is strongly recommended that the Provider uses the same trade/discipline reviewer (e.g., building/structural, electrical, mechanical, or plumbing) for all packages submitted to the City. This will result in consistency, as both the City and private provider reviewers will be looking and requiring the same code provisions. This will build confidence and reduce plan review times.

5. May permits be submitted by a private provider used as a code consultant rather than through the formal affidavit provisions of Florida Statutes, s553.791?

Yes. Private providers may act as code consultants for the purpose of reviewing the plans for code compliance without the need of the formal affidavit process. This process will serve the same intent of scrubbing the plans of code violations and will reduce, if not eliminate, the need for multiple resubmittals to the Construction Services Department.

6. Once permits have been issued, how are revisions to plans processed?

All revisions must be submitted to the private provider for review and a new affidavit of compliance issued prior to submitting to the Construction Services Department.

7. If a fee owner or the fee owner's contractor uses a private provider to provide plans review, will the building official require the fee owner or the fee owner's contractor to use a private provider to also provide required building inspections?

No.

8. Does the City of West Palm Beach Construction Services Department accept the use of private providers as alternative inspections?

Yes. When requested in compliance with Florida Statutes, Chapter 553, Building Construction Standards, Part IV, Florida Building Code, ss 553.791, Alternative plans review and inspection.

NOTE: Presently, the Department maintains a 99% same-day inspection performance level. If the inspection is requested on the automated system before 7:00 a.m. on the day of inspection, it is performed that day. With this high level of performance, there may not be adequate justification for the additional cost of using a private provider. However, it is still the option of the fee owner or the fee owner's contractor to make the determination.

9. If inspections by a private provider are still desired, will the Construction Services Department require the private provider performing required inspections to provide notice to the Department of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time as outlined in the referenced statute?

Yes. All private providers performing required inspections must call into the Construction Services Department with the date and approximate time of the inspection no later than the prior business day by 2 p.m. local time. This notice is required so the Construction Services Department's inspector can coordinate their inspection schedule.

NOTE: As stated in question and answer 8 above, Construction Services provides same-day inspection request with a 99% performance level.

10. Will the City of West Palm Beach Construction Services Department visit the site to verify performance of all required inspections?

Yes. As stated in question and answer 9 above, the private provider must call into the Construction Services Department with the date and approximate time of the inspection no later than the prior business day by 2 p.m. local time.

11. What is the responsibility of the private provider in reference to inspection records?

Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the Construction Services Department. These inspection records shall reflect those inspections required by the applicable codes of each phase of construction for which permitting is required. Before leaving the project site the private provider shall post each completed inspection record, indicating pass or fail, at the site and provide the record to the local building official within 2 business days. Records of all required and completed inspections shall be maintained at the building site at all times and made available for review by the building official or designee. The private provider shall report to the Construction Services Department any condition that poses an immediate threat to public safety and welfare.

12. What are the requirements for obtaining a Certificate of Completion or Occupancy?

Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the Construction Services Department, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider's knowledge and belief, the building construction inspected complies with the approved plans and

applicable codes. The statement required of the private provider shall be substantially in the following form:

“To the best of my knowledge and belief, the building components and site improvements outlined herein and inspected under my authority have been completed in conformance with the approved plans and the applicable codes.”

No more than 2 business days after receipt of a request for a certificate of occupancy or certificate of completion and the applicant's presentation of a certificate of compliance and approval of all other government approvals required by law, the Construction Services Department shall issue the certificate of occupancy or certificate of completion or provide a notice to the applicant identifying the specific deficiencies, as well as the specific code chapters and sections. To resolve any identified deficiencies, the applicant may elect to dispute the deficiencies to the City Construction Board of Adjustment and Appeals or to submit a corrected request for a certificate of occupancy or certificate of completion.

13. How will code deficiencies and disputes be handled?

If the building official or designee determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, if the official determines that such noncompliance poses a threat to public safety and welfare, subject to the following:

(a) The building official or his designee shall be available to meet with the private provider within 2 business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion.

(b) If the building official and private provider are unable to resolve the dispute, the matter shall be referred to the City Construction Board of Adjustment and Appeals which shall consider the matter at its next scheduled meeting or sooner. Any decisions by the City Construction Board of Adjustment and Appeals may be appealed to the Florida Building Commission as provided by Florida Statutes.

14. If the alternative plan review or inspection process through a private provider is proposed, will there be a discount in the permit fee?

No. The use of a private provider does not negate the requirement of paying the permit and related fees adopted by resolution. The City of West Palm Beach Construction Services Department is required to oversee, administer and audit the private provider process.

End of Implementation Standard for Private Provider

Neil K. Melick, CBO
Construction Services Director

ATTACHMENT A

Florida Statutes, Chapter 553, Building Construction Standards, Part IV, Florida Building Code, ss 553.791, Alternative plans review and inspection.

553.791 Alternative plans review and inspection.--

(1) As used in this section, the term:

(a) "Applicable codes" means the Florida Building Code and any local technical amendments to the Florida Building Code but does not include the applicable minimum fire prevention and firesafety codes adopted pursuant to chapter 633.

(b) "Audit" means the process to confirm that the building code inspection services have been performed by the private provider, including ensuring that the required affidavit for the plan review has been properly completed and affixed to the permit documents and that the minimum mandatory inspections required under the building code have been performed and properly recorded. The term does not mean that the local building official is required to replicate the plan review or inspection being performed by the private provider.

(c) "Building" means any construction, erection, alteration, demolition, or improvement of, or addition to, any structure for which permitting by a local enforcement agency is required.

(d) "Building code inspection services" means those services described in s. [468.603](#)(6) and (7) involving the review of building plans to determine compliance with applicable codes and those inspections required by law of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(e) "Duly authorized representative" means an agent of the private provider identified in the permit application who reviews plans or performs inspections as provided by this section and who is licensed as an engineer under chapter 471 or as an architect under chapter 481 or who holds a standard certificate under part XII of chapter 468.

(f) "Immediate threat to public safety and welfare" means a building code violation that, if allowed to persist, constitutes an immediate hazard that could result in death, serious bodily injury, or significant property damage. This paragraph does not limit the authority of the local building official to issue a Notice of Corrective Action at any time during the construction of a building project or any portion of such project if the official determines that a condition of the building or portion thereof may constitute a hazard when the building is put into use following completion as long as the condition cited is shown to be in violation of the building code or approved plans.

(g) "Local building official" means the individual within the governing jurisdiction responsible for direct regulatory administration or supervision of plans review, enforcement, and inspection of any construction, erection, alteration, demolition, or substantial improvement of, or addition to, any structure for which permitting is required to indicate compliance with applicable codes and includes any duly authorized designee of such person.

(h) "Permit application" means a properly completed and submitted application for the requested building or construction permit, including:

1. The plans reviewed by the private provider.
2. The affidavit from the private provider required under subsection (6).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(i) "Private provider" means a person licensed as an engineer under chapter 471 or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard certificate under part XII of chapter 468.

(j) "Request for certificate of occupancy or certificate of completion" means a properly completed and executed application for:

1. A certificate of occupancy or certificate of completion.
2. A certificate of compliance from the private provider required under subsection (11).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(k) "Stop-work order" means the issuance of any written statement, written directive, or written order which states the reason for the order and the conditions under which the cited work will be permitted to resume.

(2) Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner's contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services. All such services shall be the subject of a written contract between the private provider, or the private provider's firm, and the fee

owner or the fee owner's contractor, upon written authorization of the fee owner. The fee owner may elect to use a private provider to provide plans review or required building inspections, or both. However, if the fee owner or the fee owner's contractor uses a private provider to provide plans review, the local building official, in his or her discretion and pursuant to duly adopted policies of the local enforcement agency, may require the fee owner or the fee owner's contractor to use a private provider to also provide required building inspections.

(3) A private provider and any duly authorized representative may only perform building code inspection services that are within the disciplines covered by that person's licensure or certification under chapter 468, chapter 471, or chapter 481. A private provider may not provide building code inspection services pursuant to this section upon any building designed or constructed by the private provider or the private provider's firm.

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official at the time of permit application, or no less than 7 business days prior to the first scheduled inspection by the local building official or building code enforcement agency for a private provider performing required inspections of construction under this section, on a form to be adopted by the commission. This notice shall include the following information:

(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. [553.791](#), Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building

code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change, update the notice to reflect such changes. A change of a duly authorized representative named in the permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change. In addition, the fee owner or the fee owner's contractor shall post at the project site, prior to the commencement of construction and updated within 1 business day after any change, on a form to be adopted by the commission, the name, firm, address, telephone number, and facsimile number of each private provider who is performing or will perform building code inspection services, the type of service being performed, and similar information for the primary contact of the private provider on the project.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so no less than 7 business days prior to the next scheduled inspection using the notice provided for in paragraphs (4)(a)-(c).

(6) A private provider performing plans review under this section shall review construction plans to determine compliance with the applicable codes. Upon determining that the plans reviewed comply with the applicable codes, the private provider shall prepare an affidavit or affidavits on a form adopted by the commission certifying, under oath, that the following is true and correct to the best of the private provider's knowledge and belief:

(a) The plans were reviewed by the affiant, who is duly authorized to perform plans review pursuant to this section and holds the appropriate license or certificate.

(b) The plans comply with the applicable codes.

(7)(a) No more than 30 business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official shall issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 30-day period, the permit application shall be deemed approved as a matter of law, and the permit shall be issued by the local building official on the next business day.

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 30-day period, the 30-day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to

dispute the deficiencies pursuant to subsection (13) or to submit revisions to correct the deficiencies.

(c) If the permit applicant submits revisions, the local building official has the remainder of the tolled 30-day period plus 5 business days to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be issued by the local building official on the next business day.

(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 5 business days to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(8) A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes. The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider's duly authorized representative. The duly authorized representative must be an employee of the private provider entitled to receive unemployment compensation benefits under chapter 443. The contractor's contractual or legal obligations are not relieved by any action of the private provider.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may visit the building site as often as necessary to verify that the private provider is performing all required inspections. A deficiency notice must be posted at the job site by the private provider, the duly authorized representative of the private provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is found. After corrections are made, the item must be reinspected by the private provider or representative before being concealed. Reinspection or reaudit fees shall not be charged by the local jurisdiction as a result of the local jurisdiction's audit inspection occurring before the performance of the private provider's inspection or for any other administrative matter not involving the detection of a violation of the building code or a permit requirement.

(10) Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the local building official. The form must be signed by the provider or the provider's duly authorized representative. These inspection records shall reflect those inspections required by the

applicable codes of each phase of construction for which permitting by a local enforcement agency is required. The private provider, before leaving the project site, shall post each completed inspection record, indicating pass or fail, at the site and provide the record to the local building official within 2 business days. The local building official may waive the requirement to provide a record of each inspection within 2 business days if the record is posted at the project site and all such inspection records are submitted with the certificate of compliance. Records of all required and completed inspections shall be maintained at the building site at all times and made available for review by the local building official. The private provider shall report to the local enforcement agency any condition that poses an immediate threat to public safety and welfare.

(11) Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the local building official, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider's knowledge and belief, the building construction inspected complies with the approved plans and applicable codes. The statement required of the private provider shall be substantially in the following form and shall be signed and sealed by a private provider as established in subsection (1):

To the best of my knowledge and belief, the building components and site improvements outlined herein and inspected under my authority have been completed in conformance with the approved plans and the applicable codes.

(12) No more than 2 business days after receipt of a request for a certificate of occupancy or certificate of completion and the applicant's presentation of a certificate of compliance and approval of all other government approvals required by law, the local building official shall issue the certificate of occupancy or certificate of completion or provide a notice to the applicant identifying the specific deficiencies, as well as the specific code chapters and sections. If the local building official does not provide notice of the deficiencies within the prescribed 2-day period, the request for a certificate of occupancy or certificate of completion shall be deemed granted and the certificate of occupancy or certificate of completion shall be issued by the local building official on the next business day. To resolve any identified deficiencies, the applicant may elect to dispute the deficiencies pursuant to subsection (13) or to submit a corrected request for a certificate of occupancy or certificate of completion.

(13) If the local building official determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, if the official determines that the noncompliance poses an immediate threat to public safety and welfare, subject to the following:

(a) The local building official shall be available to meet with the private provider within 2 business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion.

(b) If the local building official and private provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, if one exists, which shall consider the matter at its next scheduled meeting or sooner. Any decisions by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter.

(c) Notwithstanding any provision of this section, any decisions regarding the issuance of a building permit, certificate of occupancy, or certificate of completion may be reviewed by the local enforcement agency's board of appeals, if one exists. Any decision by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter, which shall consider the matter at the commission's next scheduled meeting.

(14) For the purposes of this section, any notice to be provided by the local building official shall be deemed to be provided to the person or entity when successfully transmitted to the facsimile number listed for that person or entity in the permit application or revised permit application, or, if no facsimile number is stated, when actually received by that person or entity.

(15)(a) A local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section.

(b) A local enforcement agency, local building official, or local government may establish, for private providers and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure requirements of ¹paragraph (1)(g) and the insurance requirements of subsection (16).

(c) This section does not limit the authority of the local building official to issue a stop-work order for a building project or any portion of the project, as provided by law, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

(16) A private provider may perform building code inspection services on a building project under this section only if the private provider maintains insurance for professional liability covering all services performed as a private provider. Such insurance shall have minimum policy limits of \$1 million per occurrence and \$2 million in the aggregate for any project with a construction cost of \$5 million or less and \$2 million per occurrence and \$4 million in the aggregate for any project with a construction cost of over \$5 million. Nothing in this section limits the ability of a fee owner to require additional insurance or higher policy limits. For these purposes, the term "construction cost" means the total cost of building construction as stated in the building permit application. If the private provider chooses to secure claims-made coverage to fulfill this requirement, the private provider must also maintain coverage for a minimum of 5 years subsequent to the performance of building code inspection services. The insurance required under this subsection shall be written only by insurers authorized to do business in this state with a minimum A.M. Best's rating of A. Before providing building code inspection services within a local building official's jurisdiction, a

private provider must provide to the local building official a certificate of insurance evidencing that the coverages required under this subsection are in force.

(17) When performing building code inspection services, a private provider is subject to the disciplinary guidelines of the applicable professional board with jurisdiction over his or her license or certification under chapter 468, chapter 471, or chapter 481. All private providers shall be subject to the disciplinary guidelines of s. [468.621](#)(1)(c)-(h). Any complaint processing, investigation, and discipline that arise out of a private provider's performance of building code inspection services shall be conducted by the applicable professional board.

(18) Each local building code enforcement agency may audit the performance of building code inspection services by private providers operating within the local jurisdiction. Work on a building or structure may proceed after inspection and approval by a private provider if the provider has given notice of the inspection pursuant to subsection (9) and, subsequent to such inspection and approval, the work shall not be delayed for completion of an inspection audit by the local building code enforcement agency.

(19) The local government, the local building official, and their building code enforcement personnel shall be immune from liability to any person or party for any action or inaction by a fee owner of a building, or by a private provider or its duly authorized representative, in connection with building code inspection services as authorized in this act.

History.--s. 17, ch. 2002-293; s. 106, ch. 2005-2; s. 11, ch. 2005-147; s. 1, ch. 2005-216; s. 6, ch. 2006-65; s. 6, ch. 2007-187.

¹**Note.**--Redesignated as paragraph (1)(i) by s. 6, ch. 2007-187.