

CHAPTER 115: CONTRACTORS LICENSING

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§ 115.01 PURPOSE.

It is hereby declared to be the purpose, intent and policy of the Hobart Common Council and the Board of Public Works and Safety of Hobart, Indiana, that in order to safeguard the health, safety and public welfare of its citizens, the business of building construction and the persons engaged therein, as hereafter defined, shall be registered and licensed, as set forth herein.

(Ord. 97-18, § 1-1)

§ 115.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BOARD. The Contractors Board of Licensing and Registration.

BUSINESS ENTITY. A sole ownership, firm, partnership, limited partnership, corporation or any form of unincorporated enterprise, owned by 2 or more persons.

CONTRACTOR. Any business entity, or an officer, agent, representatives of such, who for compensation undertakes to, or submits bid to, or does himself or herself, or has done by others, construction repair, alteration, remodeling, addition to, subtraction from and improvement of structure and building, and/or manages all or any of the above items, and who is responsible for all contracting within the entire project.

LICENSE. A certificate issued by the city, through the Clerk-Treasurer's Office, which confers upon the holder the privilege to perform as a contractor or subcontractor within the City of Hobart.

MAINTENANCE PERSON. An individual who is employed on a permanent basis to keep the premises of a business establishment in good repair.

REGISTRATION. The act by which the city, through the Clerk-Treasurer's Office, confers upon a business entity the privilege to act as a plumbing contractor as herein defined, which registration shall be evidenced by a certificate of registration.

SPECIALTY CONTRACTOR OR SUB-CONTRACTOR. In addition to the foregoing, one who specializes in a particular branch of the building construction industry and who shall be licensed or registered and who shall be limited to the specific field of work practiced.
(Ord. 97-18, § 1-2)

§ 115.03 BOARD OF LICENSING AND REGISTRATION.

(A) *Generally.* One combined Board of Licensing and Registration is hereby created. This Board shall have general charge and responsibility of administering this chapter. The title of this Board is as follows: "City of Hobart Contractors Board of Licensing and Registration".
(Ord. 97-18, § 2-1)

(B) *Duties and policies.*

(1) *Organization and meetings.*

(a) No later than January 21 of each year, the Board shall hold an organizational meeting at which time a monthly meeting date and time, not earlier than 5:00 p.m., shall be adopted.

(b) All meetings of the Board shall be held at the Hobart City Hall.

(c) The Board shall be subject to all provisions of I.C. 5-14-1.5, commonly known as the Indiana Open Door Law.

(2) *Duties.* The Board shall, upon the verified complaint in writing of the city's Building Commissioner setting forth specifically the alleged wrongful action or acts complained of, investigate any action or business transaction of a licensee or certificate of registration holder and shall have the power to suspend or the revocation of a license or certificate of registration issued under the provisions of this chapter, if after a hearing affording due process to the licensee or certificate of registration holder, it shall find the holder to have engaged in any of the following prohibited acts or conduct:

(a) Willful and deliberate disregard of the applicable construction codes and ordinances of the City of Hobart, State of Indiana, or any rules promulgated pursuant thereto;

(b) Aiding or abetting any unlicensed entity, or its designated agent or representative, to evade the provisions of this chapter or rules and regulations promulgated pursuant thereto;

- (c) Knowingly combining or conspiring with an unlicensed or non-registered business entity or its duly authorized agent or representative with the intent to evade the provisions of the chapter or rules and regulations thereto;
- (d) Acting in the capacity of a contractor under any license issued hereunder except in the name of the licensee as set forth on the issued license;
- (e) Diversion of funds or property received from prosecution or completion of a specified construction project or operation where, as a result of the diversion, the contractor is or will be unable to complete or fulfill the terms of his or her obligations or contract;
- (f) In the case of a contractor being adjudicated a bankrupt, or the making by a contractor of a composition with creditors, or the appointment of a receiver for the licensee's business;
- (g) Paying compensation in money or other valuable consideration to any business entity or its duly authorized agent or representative other than a licensed or registered contractor for rendering services or doing any act required by this chapter to be performed by a licensed contractor holding a valid license or certificate of registration;
- (h) No violation of any provisions of this chapter by an agent or employee of any licensed or registered contractor shall be grounds for the suspension or revocation of the license of the employer. For the purpose of the preceding sentence, a course of dealing shown to have been consistently followed by an employee shall constitute prima facie evidence of knowledge on the part of the employer;
- (i) Any business entity or its designated agent or representative aggrieved by an action by the Board in suspending, revoking or failing to renew a license or certificate of registration may seek judicial review thereof;
- (j) The record of the Board or a duly certified copy thereof shall be admissible in any proceedings at law or in equity in any court of competent jurisdiction in this or any other state in which the applicant, licensee, or certificate of registration holder charged or under investigation is a party, and where the issues involved in the proceedings are pertinent to the inquiry before the Board and the verdict or judgment of the court in any proceeding in equity shall be prima facie evidence of the facts at issue in the proceedings and necessarily adjudicated therein;
- (k) The verdict in any prosecution in a court of record of this or any state in which the applicant licensee, or certificate of registration holder shall have been the defendant, shall be conclusive as to the facts charged and at issue in the prosecution;
- (l) After the revocation of any license or certificate of registration, no new license or certificate of registration shall be issued to the same licensee or certificate of registration holder within a period of at least 1 year subsequent to the date of revocation;
- (m) Whenever a new license or certificate of registration is issued by the Board to any business entity whose license or certificate of registration has been previously revoked, the issuance shall be treated as an initial issuance and the applicant shall be required to pay the fee, and in the case of contractors, shall be required to submit to the examination required of all other applicants;

(n) When any business entity, or a duly authorized agent or representative of such, acts as a contractor without first obtaining a license as provided herein, or any individual who continues to act as a contractor after his or her license or certificate of registration has been suspended or revoked, the Building Commissioner or his or her duly appointed representative may in the name of the Hobart Building Department bring actions in the Circuit or Superior Courts of Lake County, Indiana, for mandatory and injunctive relief in the enforcement of, and to secure compliance with any order or orders made by the Building Commissioner, and any such action for mandatory injunctive relief may be jointed with an action to recover the penalties provided in this ordinance;

(o) Any person or entity violating any provision of this chapter or refusing a lawful order issued by the Building Commissioner, or his or her duly appointed representative, shall be fined in a sum not less than \$10, nor more than \$300. Each day of the unlawful activity shall constitute a separate offense;

(p) Any business entity or duly authorized agent or representative which fails to renew its license or certificate of registration and continues to act as a contractor after the same has expired shall be fined in accordance with the provisions set forth herein; and

(q) Any person who acts as a contractor without first obtaining a license, as provided herein, shall be fined in a sum not to exceed \$2,500, as determined by proceedings before the Hobart Contractors Board of Licensing and Registration.

(3) *Findings of fact.* The Board shall make findings of fact regarding suspension or revocation of a license and shall have the power to revoke a contractors license by a majority vote of the Board.
(Ord. 97-18, § 2-2)

(C) *Board composition.* The Contractors Board of Licensing and Registration shall consist of 7 members to be appointed as follows:

(1) The city's Engineer of the city shall, by virtue of his or her position, serve as a voting member and as the Chairperson.

(2) The Hobart Common Council shall appoint 1 member from the Hobart Common Council to serve on this Board.

(3) The Chairperson of the Hobart Plan Commission shall by virtue of his or her position serve as member of the Board.

(4) Three citizen members, representative of the building construction industry and residents or business owners within the city, shall be appointed by the Common Council.

(5) One citizen member, representative of the building construction industry who is a resident or business owner within the city, shall be appointed by the Mayor.

(6) All Board members shall be entitled to vote on all matters properly before the Board, unless the member declares a conflict of interest.

(Ord. 97-18, § 2-3)

§ 115.04 LICENSE APPLICATION.

(A) Except as otherwise provided in this chapter, any business entity which seeks to conduct business in the city as a contractor or speciality (sub) contractor, including HVAC contractor, is required to be licensed and/or registered by the city. Each business entity which satisfies all requirements of this chapter shall be issued a license and/or certificate of registration by the city, through the Clerk-Treasurer's Office.

(B) A business entity seeking to be licensed and/or registered as a contractor or specialty (sub) contractor, including HVAC contractor, shall file a written application on a form to be provided by the city's Engineer's Office.

(C) The application shall be filed on behalf of the business entity and shall also contain the name of the individual owner, officer or employee who will manage the business. In the event that the named manager shall cease to act in that capacity, within 30 days the business entity must notify the city and submit an application that names another individual as the manager. Each additional individual owner, officer or employee of the business desiring to act as a contractor or specialty (sub)contractor on behalf of the business enterprise shall submit a separate application; but, shall not be required to pay an additional license or registration fee. In the event that the individual ceases to be associated with the business entity, his or her license or certificate of registration shall become null and void.

(D) The application shall be signed by the applicant or its duly authorized officer.

(E) The application shall be accompanied by 2 recent photographs of the applicant (size 1-1/2 inches x 2 inches).

(F) Upon the filing of the application, the city's Engineer may investigate (or direct the investigation by his or her staff) the information on the application and, in the event any false information has been knowingly or willfully stated, may refuse to examine, and may direct the Clerk-Treasurer to refuse to register the applicant.

(G) Except as provided in this chapter, all applicants shall pass a written examination regarding matters pertinent to the category of license requested.

(H) (1) Before a license or certificate of registration is issued by the Clerk-Treasurer to any applicant, the Board shall require the applicant to show proof he or she has obtained a unified license bond as provided in I.C. 22-11-3.1-2.

(2) This unified license bond is in lieu of any other bond for this type of work required by the City of Hobart and the bond must be in an amount equal to \$5,000.

(3) The unified license bond shall be held for compliance with the ordinances, statutes and regulations governing business in the City of Hobart and the State of Indiana.

(4) The unified license bond shall be filed with the county's Recorder.

(I) Whenever any contractor's license or certificate of registration issued under the provisions of this chapter is revoked by the Board, the Clerk-Treasurer shall deliver the bond of the offending licensee to the city's Attorney of the City of Hobart, Indiana, who shall institute proceedings to forfeit the bond.

(J) All licenses are for a term beginning January 1 and ending December 31 of the same calendar year. A license issued by the City of Hobart is valid until the contractor to whom the license was issued fails to perform any work under that license for a period of 5 years in which case the license expires. However, a contractor may not perform any work under a license in a subsequent calendar year prior to payment of the annual renewal fee in accordance with division (N) below.

(K) If a contractor who is issued a license by this city allows his or her license to expire, he or she will be required by the city to reapply for a new license.

(L) Upon receipt of an application for renewal by an applicant, who during the preceding licensed or registered period has violated any of the provisions of this chapter or any rules promulgated by the Board, the Board shall make such investigation as it deems necessary to determine the fitness of the applicant for renewal of his or her license or certificate of registration. In the event the Board determines after the investigation that a question exists as to whether the application hereunder consideration should be renewed, they shall so advise the applicant and he or she shall, thereafter, within 30 days show cause to the Board why his or her license or certificate of registration should be renewed, they shall so notify the applicant and the applicant thereafter may seek remedies under the laws of the State of Indiana.

(M) No license or certificate of registration shall be renewed during any period a licensee or registrant is under citation by the Board for violation of any of the provisions of this chapter; however, the Board, at its discretion, may temporarily extend the applicant's current license or registration for a period, or periods of time, not to exceed 30 days, or until the act complained of shall be heard by the Board, and during any period of appeal provided for by this chapter.

(N) The fees to charged by and paid to the Clerk-Treasurer by licensees or registrants for all licenses and certificates of registrations and renewals thereof shall be as set out in the Fee Schedule of this code.

(O) All fees assessed by the Common Council shall be paid in the Clerk-Treasurer's office, City of Hobart, Indiana, and shall be credited to the city's General Fund.

(P) (1) In the event a licensee or certificate holder shall have been convicted in this state or any other state of obtaining money under false pretenses, extortion, forgery, embezzlement or criminal conspiracy to defraud, or other like offenses, and a duly certified or exemplified copy of the record in the proceeding is filed with the Board, the Board shall vote to revoke the license or certificate of registration issued to the licensee/registrant holder.

(2) In the event of the revocation or suspension of the license issued to any member of a co-partnership, association or corporation, or an employee thereof, the license issued to the other co-partner, member or members of the firm, association or corporation shall be revoked unless within the time fixed by the Board, where a co-partnership or association, the connection of the member or employee whose license has been suspended (or revoked) shall be severed and his or her interest in the co-partnership or association, or his or her

employment, thereby, in the case of an employee, be terminated, and his or her share in its activities brought to an end, or where a corporation, the offending officer or employee shall be discharged and shall have no further participation in the corporate activities.

(Ord. 97-18, § 3-1)

§ 115.05 TESTING PROCEDURES.

(A) The city's Engineer, with input from the Board, within 10 days of the date of final passage and adoption of this chapter, shall prepare and submit a draft of a test in each of the following classifications. The test shall include the substantive areas and cover material contained in the code specified herein:

- (1) General contractor license:
 - (a) Based on state building codes; and
 - (b) Covers:
 1. State building codes;
 2. Management and labor requirements;
 3. Safety requirements; and
 4. Legal requirements.
- (2) Residential contractor license:
 - (a) Based on state's One and Two Family Building Code; and
 - (b) Covers:
 1. One and Two Family Building Code;
 2. Management and labor requirements;
 3. Safety requirements; and
 4. Legal requirements.
- (3) Specialty (sub)contractor license, including HVAC contractor license:
 - (a) Based on applicable local and state codes; and
 - (b) Covers:
 1. State and local codes;

2. Management and labor requirements;
3. Safety requirements; and
4. Legal requirements.

(B) The City Engineer shall review and revise the draft tests as he or she deems necessary to accomplish the stated intent of the provisions of this chapter. The city's Engineer's determination of the appropriateness of the test shall be conclusive.

(C) The test shall be administered in the city's Engineer's office each business day, upon receipt of a complete application. The city's Engineer shall grade each test and notify the applicant in writing within 5 business days whether the test was passed. Any applicant who fails to qualify for a license as a contractor or specialty contractor shall not be eligible for re-examination for a period of 30 days. Any applicant who fails the second attempt shall not be eligible for re-examination for 1 year subsequent to the date of the last failure.

(Ord. 97-18, § 3-2)

§ 115.06 EXCEPTIONS; EXCLUSIONS.

This chapter does not apply to the following:

(A) An authorized employee of the United States, the State of Indiana, County of Lake or any political subdivision thereof, so long as the employee does not hold himself or herself out for hire and is acting within the scope of his or her employment;

(B) Public utilities, where construction, maintenance and development work performed by their own forces and incidental to their business;

(C) The owner-occupant of a dwelling of 2 or less residential units when the owner-occupant is installing, altering or repairing the residential unit;

(D) Any construction, alteration, improvement or repair of improvements located on any site and project where state and federal law supersedes this chapter; and

(E) Any individual who is employed or acts as a maintenance person and provides maintenance work only at his or her place of employment.

(Ord. 97-18, § 4-1)

§ 115.07 REGISTRATION; ENFORCEMENT.

(A) Nothing in this chapter shall limit the power of a political subdivision to regulate the quality and the character of work performed by contractors through the enforcement of building codes and inspections.

(B) State licensed plumbers and well diggers shall be required by the City of Hobart to pay a fee as prescribed by this chapter for a certificate of registration empowering the aforementioned contractors to perform work in the City of Hobart, Indiana, license shall only be renewed in person with verification of identification. (Ord. 97-18, § 5-1)

§ 115.08 IDENTIFICATION.

Every contractor's license shall be displayed at the contractor's principal business office or place of employment. All licensed contractor vehicles used in the City of Hobart shall be clearly identified with the name of the contractor's firm or corporation on the vehicle. (Ord. 97-18, § 6-1)

§ 115.09 LEGAL PROCEEDINGS.

During any proceeding before the Board, should any contractor or witness fail or refuse to attend a request issued by the Board or should any representative appearing, refuse to provide any information or data, the production of which is called for by the Board shall constitute grounds for the Board, by majority vote, to revoke the license. (Ord. 97-18, § 7-1)

§ 115.10 INSURANCE.

Property damage and personal injury insurance forms shall be filed with the Hobart Clerk-Treasurer's Office by the licensed contractor. The limits for such policies are \$500,000 per occurrence with a yearly aggregate coverage of \$1,000,000. (Ord. 97-18, § 9-1)

§ 115.11 RIGHT TO APPEAL.

Any person or contractor shall have the right to appeal any order of the Board, first to the Board of Public Works and Safety and then to the Fire Prevention and Building Safety Commission of Indiana, in accordance with the provisions of I.C. 22-13-2-7 and I.C.4-21.5-3-7. (Ord. 97-18, § 10-1)

§ 115.12 EFFECTIVE DATE.

These provisions shall become effective 10 days after their final passage and adoption. (Ord. 97-18, § 11-1)

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