

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend Chapter 43 of the Omaha Municipal Code, entitled "Building," to add new definitions to Section 43-72 to provide exemptions for the licensing and regulation of contractors; and to provide the effective date thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That Chapter 43 of the Omaha Municipal Code is hereby amended by adding new Definitions and changing one existing exemption in Section 43-72 Exemptions:

43-72(7) Repairs that are entirely non-structural, do not cost more than \$2000.00 and are exempt from all other building code requirements.

Routine Maintenance shall be any systematic repair work to an existing structure that is required to maintain a safe and habitable environment and is entirely nonstructural and has no effect on the Life Safety requirements of the Code. In addition to Items 1 through 10 above, it also includes patching of drywall and plaster, repair of storm doors, storm windows, existing window sash replacement, screens and broken glazing, replacement of door slab only, siding repair, concrete repair, deck board replacement.

Handyman Services shall be defined as anyone performing any work for hire that is exempt from permits as defined in 43-72.

Section 2. This Ordinance shall be in full force and effect one hundred and eighty days from and after its passage.

INTRODUCED BY COUNCILMEMBER

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APPROVED BY:

PASSED \_\_\_\_\_

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MAYOR OF THE CITY OF OMAHA DATE

ATTEST:

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CITY CLERK OF THE CITY OF OMAHA DATE

**Sec. 43-71. - Required.**

Except as specified in section 43-72 of this Code, no building or structure regulated by this Code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the building official.

(Ord. No. 33582, § 1(43-71), 6-27-95)

**Sec. 43-72. - Exemptions.**

A building permit shall not be required for the following:

1. Movable cases, counters and partitions not over five feet nine inches high.
2. Retaining walls which are not over six feet high measured from the bottom of the finished grade to the top of the wall, unless supporting a surcharge or impounding Class I, II, or III-A liquids.
3. Painting, papering, floor covering and similar work.
4. Temporary motion picture, television and theater stage sets and scenery.
5. Window awnings supported by an exterior wall of one- and two-family dwellings when projecting not more than 54 inches.
6. Swimming pools.
7. Repairs and alterations that are entirely nonstructural in nature and do not cost more than \$500.00 to complete.
8. Replacement of existing concrete or asphalt driveways and walks, provided that the area being replaced is no larger than that which previously existed.
9. New concrete or asphalt paving when the total area is less than 200 square feet and it is not located within the front yard setback.
10. Accessory buildings which are not larger than 75 square feet in floor area.

Unless otherwise exempted, separate plumbing, electrical and mechanical permits will be required for the above-exempted items. All of the above items must comply with the zoning ordinance and other pertinent ordinances even though they are exempt from building permit requirements.

Exemption from the permit requirements of this Code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Code or any other laws or ordinances of this jurisdiction.

(Ord. No. 33582, § 1(43-72), 6-27-95; Ord. No. 35988, § 5, 7-9-02)

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend Chapter 43 of the Omaha Municipal Code, entitled "Building," to add a new Article IX to provide for the licensing and regulation of general contractors; and to provide the effective date thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That Chapter 43 of the Omaha Municipal Code is hereby amended by adding a new Article IX, entitled "~~General-e~~Contractors," consisting of new sections numbered 43-271 through 43-289, reading as follows:

**Article IX. ~~General-e~~Contractors.**

**Sec. 43-271. Purpose.**

The purpose of this article is to provide for the licensing and regulation of ~~general~~ contractors doing construction work for hire in the city or within the city's three-mile extraterritorial jurisdiction of the city. The city council finds that the regulation and licensing of such ~~general~~ contractors would serve and protect public safety, health, and welfare.

**Sec. 43-272. License required.**

- (a) It shall be unlawful for any person to act as a ~~general~~ contractor, as defined in this article, in the city or within the three-mile extraterritorial jurisdiction of the city, without having first obtained a license to do so from the permits and inspections division. The prohibition contained in this subsection shall become effective commencing 6 months from the effective date of this ordinance.
- (b) In the case of a corporation, partnership, or other entity doing business as a ~~general~~ contractor, at least one executive officer or designated full time employee shall be required to hold the requisite license. Such officer or designated full time employee shall be liable to service of regular process, and shall be responsible for such entity's compliance with applicable laws.

**Sec. 43-273. ~~General-e~~Contractor defined.**

For purposes of this article, a "~~general-e~~"Contractor" is defined as any person or entity who contracts or works for hire with the owner or tenant of property to build, construct,

alter, repair, add to, subtract from, or otherwise improve any building or structure upon the said property, within the city or its three-mile extraterritorial jurisdiction. The term also applies to landlords and property owners performing work on property that they own but do not reside in. The term “**general** contractor” shall not include a tradesman licensed by the city who performs work within his or her licensed trade, or any subcontractor performing work under a contract with a licensed general contractor. With the following exceptions:

- (a) Work defined as routine maintenance in 43-72 is exempt from the requirements of this section.
- (b) Anyone performing work under the definition of Handyman Service in 43-72 is exempt from the requirements of this section.
- (c) Any organization that constructs new or renovates existing structures with a mostly volunteer labor force must have at least one person on their staff that is either a Licensed General Contractor or have a Licensed General Contractor as a board member acting as their license holder

–The five classes of **general** contractor licenses are as defined in the International Code Council (ICC) Contractor Certification Program

- (a) Class A – All work allowed by the adopted version of the International Building and International Residential Codes
- (b) Class B – All work allowed by the adopted version of the International Building and International Residential Codes up to 4 stories in height
- (c) Class C – All work as allowed by the International Residential Code
- (d) Class D – All work as Allowed by the International Residential Code as it pertains to additions and remodeling of single family residential structures.
- (e) Class E- All roofing, siding, replacement window and door, fence and deck contractors.

#### **Sec. 43-274. Application.**

An applicant for a license required by this article shall make a written application to the permits and inspections division on a form prepared and furnished by such division. Such application shall include, at a minimum, the applicant's street address, which should be considered to be the registered address if a license is issued; and the authorized testing agency's certification that the applicant has passed the test for the class of license the application is made for.

**Sec. 43-275. Qualifications.**

All applicants for a general contractor's license under this article shall meet the following qualifications:

- (a) The applicant shall have reached the age of majority in the state of Nebraska.
- (b) The applicant shall have successfully passed the ICC exam for the class they are seeking to obtain.

**Sec. 43-276. Application fee.**

An applicant for a license under this article shall pay a license fee ~~in the amount of \$300.00~~ for a three-year period in the following amounts:

Class A and B: \$300.00

Class C: \$200.00

Class D and E: \$100.00

**Sec. 43-277. Examination.**

- (a) The examination shall be conducted by a third-party testing agency which has been approved by the ICC for such purposes. The examination shall be of such a nature as to uniformly test the capabilities of all applicants for the same class of license. The examination shall be both practical and theoretical. Subjects tested by the examination shall include, but not be limited to, the following:

- (1) The applicant's knowledge of all provisions of this code, state law, and rules and regulations pertaining to building processes under the class of license applied for; and,
  - (2) The applicant's ability to design, direct and supervise building activities under the class of license applied for.

- (b) To pass the examination, the applicant must achieve a grade on the examination as determined by the ICC Contractor Certification Program

**Sec. 43-278. Issuance or denial.**

The permits and inspections division shall issue a license, of the class applied for, to a qualified applicant who has successfully passed the examination for such class of license.

**Sec. 43-279. Bond and insurance.**

Prior to issuance or renewal of a license under this article, the prospective license holder shall provide to the permits and inspections division and maintain in continuous effect thereafter, the following:

- (a) A certificate of insurance which provides combined coverage of bodily injury and property damage in a minimum amount of \$1,000,000.00 \$300,000.00.
- (b) A bond in the sum of \$10,000.00 with sufficient sureties, which shall be for the protection of the city against loss or damage by reason of carelessness or negligence of the license holder to properly execute and protect any and all work performed by him or her or work under his or her supervision during the period of such license.

**Sec. 43-280. Term.**

All original and renewal licenses issued under the provisions of this article shall expire on the third December 31<sup>st</sup> after the date of issuance

**Sec. 43-281. Renewal.**

A license issued under this article shall be renewed upon the license holder providing the permits and inspections division with (a) the required certificate of insurance, (b) proof of completion of 12 9 contact hours of continuing education from agencies certified through the ICC or college courses related to construction, (c) 3 classes provided by the City of Omaha Permits and Inspection Division and (d) the renewal fee for the class of license held. of \$ 300.00. Only original certificates from the approved agency will be accepted. Photocopies will not be counted toward this requirement. Failure to complete this requirement will require the applicant retake the exam and obtain a passing grade to renew the license.

**Sec. 43-282. Appeal procedure.**

Whenever any person has made application for any license provided under this article, and such application has been denied by the city, or whenever any license previously granted is not renewed, such applicant or such person whose license has not been renewed may appeal from such action of the city by filing an appeal with the building board of review in the manner provided in this chapter, within 15 days of the city's action.

**Sec. 43-283. Re-examination after failure.**

If an applicant for a license under this article has failed to pass the examination for the license applied for, the applicant may take another examination for that same license at such time as allowed by the testing agency.

**Sec. 43-284. Reciprocal license.**

An applicant holding a valid ~~general~~ contractor's license from another jurisdiction, which was based on the applicant's passage of the same or similar examination as that administered by the city, shall be exempt from the examination required in this article. In such an event, if the applicant is otherwise qualified, a general contractor's license of the type corresponding to the examination that was passed, shall be issued upon payment of the required fee.

**Sec. 43-285. Inactive license.**

- (a) A licensed general contractor may apply for an inactive license. Upon such application and payment of any applicable renewal fees, the city shall grant such a person an inactive general contractor's license. The holder of an inactive general contractor's license shall not engage in any general contractor activities for which a license is otherwise required under this code.
- (b) The bond and insurance requirements of this article shall not be required as prerequisites for the issuance, maintenance, or renewal of an inactive general contractor's license.
- (c) The holder of an inactive general contractor's license may make application to the city for a reactivation of his or her status as an active general contractor's license holder. The city shall activate such license upon providing proof of current Continuing Education Credit and payment of the applicable renewal fees and the filing of a current certificate of insurance under the provisions of this article.

**Sec. 43-286. Temporary license.**

In case of the ~~death or~~ incapacity or separation from employment of the holder of a valid ~~general~~ contractor's license, who is a sole proprietor, majority stockholder of a corporation, or an employee of a firm or corporation, the city may issue a temporary license for such holder's business for a period of not more than 12 months. Such license shall be issued only to a person who meets the qualifications stated in section 43-275, is an owner, or employee of the said business, and has not successfully passed the required examination. An

extension of the said term of a temporary license may be authorized only by the building board of review, upon a showing of special hardship or difficulty.

**Sec. 43-287. Duties of license holder.**

It shall be unlawful for any licensed ~~general~~ contractor to perform any ~~general~~ contractor work within the city or its three mile extraterritorial jurisdiction unless he or she possesses each required permit for such work, containing the name of the ~~general~~ contractor authorized to do the work. The license holder shall supervise, and shall be responsible for, all work performed under his or her license. All licenses issued under the provisions of this article shall be non-transferrable.

**Sec. 43-288. Work by homeowners.**

Notwithstanding the provisions of this article, a person may build, construct, alter, repair, add to, subtract from, or otherwise improve a building or structure upon a property which he or she owns and resides on, without holding the license otherwise required for such activity under this article. Such person shall obtain all required permits and inspections, pay all required permit fees, and otherwise comply with all other requirements of this code in conducting such building activity. A property owner may construct or act as a ~~general~~ contractor for one new home on vacant land owned by the property owner in a ~~10~~ 5 year period without having to obtain the required contractors license. A homeowner/property owner may not obtain permits in their name and use an unlicensed contractor~~s~~ as defined in 43-273 to perform the work on their property.

**Sec. 43-289. Revocation and suspension.**

- (a) Any license issued under this article may be revoked or suspended by the Planning Director or their designated representative for any of the following causes, after notice to the license holder;
1. A consistent pattern of code violations after written notice to the license holder and reasonable opportunity to cure; or
  2. A persistent pattern of failure to obtain required building permits; or
  3. Fraud in obtaining a license.

The Planning Director or their designated representative may revoke or suspend a license upon receipt of information indicating any of the above causes. Written notice of the revocation or suspension shall be sent to the license holder, at his or her address as registered with the city. Charges brought to the attention of the permits and inspections division by citizens will be reviewed for negligence of building and life

safety provisions of the code only. Workmanship issues and contractual issues that are not part of the code will not be considered.

(b) Following notice if the Planning Director or their designated Representative shall find based on the charges and the evidence, that the license holder has been guilty of any of the causes stated in this section, then the Planning Director may revoke the license holder's license, suspend the license for a period of up to 24 months, or reprimand the license holder. Otherwise, the Planning Director may dismiss the charges or decline to take action against the license holder's license.

(b) A license holder aggrieved by the decision of the Planning Director may have such decision reviewed by the Building Board of Review at which time both sides will present evidence to support their case. The board may concur, overturn or dismiss charges based on evidence provided.

(c) Further appeals may be made to the district court in an error proceeding as provided under section 43-67.

(d) A person whose license has been revoked shall not be granted a new license for a period of 2 years thereafter, and shall be required to pass an examination for such new license.

**Sec. 43-290. Working without license.**

A person performing work regulated by this section without the required license will be required to complete the requirements for the class of license they are applying for and be accessed a fee of four times the regular fee. These requirements shall be in addition to any criminal penalties that may be applicable

Section 2. This Ordinance shall be in full force and effect ~~fifteen~~ fifteen days from and after its passage.

INTRODUCED BY COUNCILMEMBER

APPROVED BY:

MAYOR OF THE CITY OF OMAHA DATE