

AN ORDINANCE REGULATING AND LICENSING ALL CONTRACTORS ENGAGED IN BUSINESS IN THE BOROUGH; INCLUDING BUT NOT LIMITED TO: GENERAL BUILDING CONTRACTORS, MOVING CONTRACTORS, DEMOLITION CONTRACTORS, ELECTRIC CONTRACTORS, PLUMBING CONTRACTORS, HEATING/AIR CONDITIONING CONTRACTORS, ETC.

Be it enacted and ordained by the Council of the Borough and it is hereby ordained and enacted as follows:

SECTION 1. DEFINITIONS.

1. General Building Contractor. Any person, firm or corporation qualified to erect a structure in its entirety or to add to, alter or repair an existing structure or any of its component systems, other than electrical, plumbing, air conditioning and heating, which are addressed below. A General Building Contractor is one who is held accountable for the work of all separate contractors and subcontractors employed by said General Building Contractor.

2. Moving Contractor. A Moving Contractor is any person, firm or corporation qualified and equipped to move any building or the contents of any building, including personal property and fixtures.

3. Demolition Contractor. A Demolition Contractor is any person, firm or corporation qualified and equipped to demolish any structure or portion thereof.

4. Electrical Contractor. An Electrical Contractor is any person, firm or corporation qualified to install, alter, or repair electrical wiring systems and fixtures in, on, and about a structure.

5. Plumbing Contractor. A Plumbing Contractor is any person, firm or corporation qualified to install, alter or repair any plumbing systems and fixtures in, on or about a structure.

6. Heating/Air Conditioning contractor. A Heating/Air Conditioning Contractor is any person, firm or corporation qualified to install, alter or repair any heating and/or air conditioning systems and fixtures in, on or about a structure.

7. Miscellaneous Contractors. All contractors not heretofore defined but intending to do work on, in or about a structure or property in the Borough. This shall not include an owner of a residential property in which he/she resides when he/she is performing such work on his/her own residential property. This shall apply to any owners of property within the Borough performing work on his/her own rental or business properties within the Borough.

8. Person. Person shall mean any individual person, corporation or partnership, or other form of organization.

9. Contracting Work. Contracting Work is any work performed to erect, add to, alter, repair or otherwise improve a structure, system or fixture.

SECTION 2. LICENSE REQUIRED.

1. Prior to commencing any activity which would be classified as Contracting Work within the Borough, every Contractor shall obtain a license for such activity as provided herein. No license shall be required under this Ordinance for any contract or performing charitable or gratis or free work within the Borough.

2. License Procedure. An application for a license pursuant to this Ordinance shall be made in a writing, signed by the applicant, and submitted to the Borough Secretary. The application, in the case of a firm or corporation, should be made by an officer, agent or member of the firm or corporation. A license may then be issued in the name of the person, firm or corporation but this license shall be valid and in effect only if the licensed individual is still a member, officer or agent of such firm or corporation.

3. The application shall contain the following:
- a) Full name and address of the person making the application or the full name and address of the firm or corporation on whose behalf the application is made:
 - b) The permanent address and telephone number of the firm or corporation on whose behalf the application is made;
 - c) A statement that the person applying for the license is at least eighteen (18) years of age and a citizen of the United States.
 - d) In the case of a partnership, the names, addresses and telephone numbers of all partners;
 - e) In the case of a firm or corporation, the name and address of the principal officer of the firm or corporation and the names and addresses of all officers and directors owning, or record or beneficially, five (5%) percent or more of the outstanding stock of any class of said corporation or five (5%) percent or more of the outstanding interest in said firm or partnership.
 - f) The classification for which the applicant seeks to be licensed.
 - g) Details as to the experience and qualifications in the classification of business or activity for which a license sought.
 - h) Statement of the amount of public liability insurance carried, the name and address of the carrier, and the declaration page showing coverage.
 - i) The application shall be accompanied by an indemnification agreement, approved by the Borough Solicitor, wherein the contractor indemnifies and holds harmless the Borough, its officials, agents, and employees of and from any damages caused by any negligence of the contractor performing his/her/its duties.
 - j) The application shall be accompanied by the payment of fees required under this Ordinance as set forth below.
 - k) The application shall be in writing on such printed forms as shall be prescribed and prepared by Borough Council, if any. Otherwise, any writing conforming to the requirements of this Ordinance will be sufficient.

- l) Requirements for any license under this Ordinance shall have at least three (3) years of actual, physical experience either as a superintendent, foreman, manager or full time employee in the field for which the license is requested. Proof of such experience and names/addresses of employers shall be provided with the application.
- m) The types of license issued under this Ordinance are defined above:
General building Contractor, Moving Contractor, Demolition Contractor, Electrical Contractor, Plumbing Contractor, Heating/Air Conditioning Contractor, Miscellaneous Contractor. A separate license shall be issued for each separate classification. In the case of a Miscellaneous Contractor, when the license is issued, it shall specify the type of work licensed and specifically state that it falls under the definition of Miscellaneous Contractor pursuant to this Ordinance.

4. Action on the license application.

- a) The issuance of licenses under this Ordinance shall be made by the Mayor.
- b) The Borough Council shall assist the Mayor by preparing and conducting any examinations and investigations necessary to determine qualifications and fitness of an applicant. The Borough Council may further investigate and hear all written or oral complaints against current holders of licenses or license applicants.
- c) A 3-day waiting period, not including weekends or holidays, shall be required between the submission of the application and the action on the application by the Mayor.
- d) During this 3-day waiting period, the Chief of Police shall investigate the information on the application, including, whether any person, partner or officer of the firm or corporation has been convicted of any crime, whether the person, partnership, firm or corporation is actually located at the temporary or permanent addresses provided in the application. The Chief of Police shall advise the Mayor of the results of this investigation, in writing.

e) Within five (5) business days of the submission of the application, the Mayor shall grant or deny the application. The Mayor has the right to disapprove of any application for the following reasons:

- 1) If any person named in that application has been convicted of a felony or misdemeanor.
- 2) If the Chief of Police has not been able to confirm the authenticity of the address provided on the application.
- 3) If the application is incomplete.
- 4) If the applicant has previously violated the terms of this Ordinance during the preceding 3-year period prior to this application.
- 5) If any information on the application is materially false or incorrect.
- 6) If it is determined that the applicant lacks sufficient experience or qualifications to qualify as a contractor in the classification of business or activity for which a license is sought.

5. License Fees.

Fees for the licensing under this Ordinance and for all renewals thereof, shall be as fixed by the Council from time to time by resolution of said Council.

6. License Term.

The term of each licensing under this Ordinance shall be for one year. This year shall be considered the calendar year during which the license is issued which expires on December 31. The full fee shall be payable for this license irrespective of the date of its issue.

7. Not Transferable.

Under no circumstances shall a license granted under this Ordinance be transferable.

SECTION 3. REVOCATION OF LICENSES.

1. The Mayor is hereby authorized to revoke or suspend licenses without the return of fees under the following circumstances;

- a. If any person named in the license is convicted of a felony or misdemeanor,
- b. If it is determined that the licensee has given false information on the license application.
- c. If it is determined that unsafe work is being performed and unsafe services sold to the public.
- d. If any provisions of this Ordinance are violated.
- e. The filing of a voluntary petition in bankruptcy by the licensee.
- f. Fraud, misrepresentation or other unjustified failure to perform the contract in the Borough which a license under this Ordinance is required.

2. Upon suspension or revocation of a license under this Ordinance, the license shall be surrendered to the Borough Council. Likewise, every holder of a license, upon retiring from the business for which the license in question was granted, shall notify the Mayor and/or Borough Council of such fact and at the same time surrender the license certificate for cancellation.

SECTION 4. ENFORCEABILITY OF ORDINANCE.

1. The Mayor of the Borough or any member of the Borough Council may file a complaint against any licensee, on his or her own initiative, or on the request of a citizen of the Borough. This complaint is to be filed with Borough Council and shall be in writing, signed by the appropriate official. The complaint shall contain a statement setting forth the facts relating to the alleged violation of this Ordinance.

2. Upon the filing of the complaint, the Secretary of Borough Council shall issue a notice in writing sent to the licensee at his last known address by certified, U.S. Mail, directing the licensee to file a written answer within twenty (20) days after service of the notice.

3. Failure of the licensee to file a written answer to Borough Council within twenty (20) days after service shall be deemed an admission of him of the facts contained in the complaint and the license of the licensee who has failed to answer may be revoked without further notice.

4. In the event that the licensee shall file a written answer, a hearing shall be scheduled on the complaint. Notice of the hearing will be served no less than ten (10) days prior to the date fixed for the hearing. This hearing shall be held before the Borough Council and Council shall make all findings of fact and law considering the complaint.

5. At the hearing, the official making the initial complaint, any citizen aggrieved, and the licensee each have the right to appear personally or by counsel and to cross-examine witnesses and produce witnesses and evidence. A certified court reporter shall be present at the expense of the licensee and a complete transcript shall be presented to the Council at no cost if an appeal of the decision of the Council is taken.

6. Any licensee aggrieved by any action of the Borough Council taken pursuant to this Ordinance shall have the right to appeal to the Court of Common Pleas. These appeal rights shall be governed by the applicable provisions of Pennsylvania law, including the Borough Code.

SECTION 5. ADVERTISING.

1. No person, partnership, firm or corporation which is not the holder of a valid contractor's license from the Borough shall falsely represent that he/she hold such a license, not shall such person use, in advertising, the words, "license contractor", or any words of similar meaning or import which can be gleaned to mean a licensed contractor by the Borough.

2. Any person who knowingly makes such a false statement is in violation of this Ordinance.

SECTION 6. RENEWAL OF LICENSE.

1. An license issued under this Ordinance may be renewed, without further examination or investigation, provided that a written application for renewal, attaching a copy of the current license, is accompanied by the renewal fees prescribed from time to time by Resolution of Borough Council and further provided that the application for renewal is filed by November 15, prior to the December 31 date blocking the expiration date of the existing license.

Licenses not renewed by November 15, shall be deemed to have expired on December 31 and shall, at the discretion of the Mayor and Borough Council, be subject to the application, examination, investigation and fees requirements provided hereunder for new applicants.

SECTION 7. PENALTY FOR VIOLATION.

Any person who violates any provision of this Ordinance shall have committed a summary offense. Upon conviction, the person shall be subject to fine not exceeding \$300.00 per offense, plus costs of prosecution. Each day's violation of any provision of this Ordinance shall constitute a separate offense.

SECTION 8. SEVERABILITY.

The portions of this Ordinance shall be severable. If any action or portion thereof shall be held to be unconstitutional, illegal, or otherwise invalid, such decision shall not affect the validity of the remaining portion of this Ordinance.

SECTION 9. APPEALS.

1. Any persons whose application is denied by the Mayor or whose license is revoked or suspended by the Mayor or Borough Council, may appeal such action to the Borough Council in writing to be signed by the licensed person or licensed applicant and filed with the Secretary of the Borough within ten (10) days of receiving notice of the appealable action.

2. Borough Council shall conduct a public hearing at the next scheduled monthly meeting of the Borough Council. This provision and this Ordinance shall serve as written notice to the person that the hearing will take place at the next scheduled monthly meeting of the Borough Council. No further notice to the appellant is required. The Mayor shall not participate in the making of any decision on the appeal but shall be permitted to testify or present evidence.

3. All previous resolutions or ordinances of Borough Council are inconsistent herewith and are hereby superseded.

This is a sample ordinance. We suggest that it be modified, as appropriate, to fit the needs of your borough. We also suggest that all proposed ordinances be reviewed by your solicitor. Although these are samples of ordinances which have been adopted by other municipalities, the Association cannot assume responsibility for ensuring their legality. We are pleased to provide this service free of charge to our members. If we can be of further assistance, please do not hesitate to contact us: **PENNSYLVANIA STATE ASSOCIATION OF BOROUGHES**, 2941 North Front Street, Harrisburg, PA 17110. 717-236-9526.