

**CITY OF BOX ELDER
CONTRACTOR'S LICENSE
REGULATIONS**

ORDINANCE #479

EFFECTIVE 1/1/2009

REVISED BY ORDINANCE #496

EFFECTIVE 7/23/2010

CITY OF BOX ELDER ORDINANCE #479
CONTRACTOR'S LICENSE REGULATIONS

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**BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BOX ELDER
AS FOLLOWS:**

ARTICLE I – AUTHORITY AND ADMINISTRATION

SECTION 1 – PURPOSE AND REPEAL OF ORDINANCES #99, 103, AND 261.

Ordinance #479 is an ordinance regulating the licensing of contractors operating within the jurisdiction of the City of Box Elder. The Common Council of the City of Box Elder has deemed these regulations and controls to be reasonable and reasonably related to the needs of the residents of Box Elder and the reputable contractors doing business in the City's jurisdiction. Therefore, Ordinances #99, 103, and 261 of the Box Elder Municipal Code are hereby repealed in their entirety.

SECTION 2 – JURISDICTION.

This Ordinance shall govern all territory within the jurisdiction of the City of Box Elder, South Dakota for the purpose of promoting the health, safety, and general welfare of the community.

SECTION 3 – SEVERABILITY AND SEPARABILITY.

Should any Article, Section, Subsection, or Provision of this Ordinance be found to be or declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the Ordinance as a whole or any part thereof, other than the portion so declared to be invalid or unconstitutional.

ARTICLE II – DEFINITIONS

For the purposes of this Ordinance, and in order to carry out the provisions and intentions as set forth herein, certain words, terms, and phrases are to be used and interpreted as defined hereafter. Words used in the present tense shall include the future tense; words in the singular number include the plural; and words in the plural number include the singular; the word "person" includes a firm, partnership, or corporation as well as an individual; the term "shall" is always mandatory and not discretionary; and the word "may" is permissive.

CITY: The City of Box Elder, South Dakota.

COMMISSION: The Planning & Zoning Commission of the City.

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CONTRACTOR: Any person who is engaged in the act of construction or excavation or in the supervision of construction or excavation on any real property within the jurisdiction of the City.

CONSTRUCTION: Includes, but is not limited to, concrete, masonry, carpentry, excavation, or building trade work (which includes electrical, plumbing, roofing, painting, remodeling, siding, and rough framing) for new construction, alteration, addition, repairs, or demolition of structures, streets, sidewalks, pavement, or utilities or any items within the jurisdiction of the City that require either the issuance of a building, demolition, or grading permit or that is subject to inspection by the City.

COUNCIL: The Common Council of the City.

ARTICLE III – LICENSE REQUIREMENTS

SECTION 1 – CONTRACTOR'S LICENSE REQUIRED.

- A. It shall be unlawful for any person to begin, conduct, carry on, engage in, or act as a Contractor, without first having had issued to him a valid Contractor's License.
- B. Except as otherwise provided herein, no person shall undertake, or offer to undertake, construction without first having had issued to him a valid Contractor's License.
- C. An electrician, plumber, or other state-licensed Contractor shall furnish to the Planning Department satisfactory evidence of his license with the State of South Dakota before a Contractor's License can be issued.
- D. No licensed Contractor shall allow their name to be used by any other person directly or indirectly, either to obtain a building permit or to perform work outside their personal supervision. A Contractor's License is not assignable and shall be valid only for the Contractor in whose name it is issued.
- E. Any person, except those exempted by Paragraph F.1. (below), doing business as a subcontractor shall be construed as engaged in the business of construction for which a Contractor's License is required by this Ordinance.
- F. The following are exempt from the above Contractor's License requirements:
 - 1. Employees or bona fide subcontractors of a Contractor licensed in accordance with this Ordinance when they are under the direction and control of that Contractor. Bona fide subcontractors shall provide the Planning Department with a completed Excise Tax Exemption Slip within

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forty-eight (48) hours of a request by City staff or shall be deemed to be in violation of this Ordinance.

2. A property owner acting as his own Contractor for work to be done on property which he occupies in his own home or will occupy in his own home.
3. A landlord or his agent for work to be done on his residential property when the landlord or agent is acting as his own Contractor.

SECTION 2 – CONTRACTOR'S LICENSE APPLICATION.

- A. Any person who is required by this Ordinance to possess a Contractor's License shall first submit an Application to the Planning Department.
- B. A Contractor's License Application shall consist of an application form provided by the Planning Department, a Contractor's License Application Fee, proof of liability insurance, a copy of the applicant's South Dakota Excise or Sales Tax License, a copy of the appropriate state license (if required for the work to be performed), and, if necessary, a Late Application Fee.
- C. The applicant must provide evidence to the Planning Department of at least two (2) years of applicable experience in a construction trade as part of his Application.
- D. Upon receipt of a complete Contractor's License Application, the applicant shall be provided a receipt for the Application Fee(s) by the City. Said receipt shall be considered a temporary Contractor's License, subject to approval by the Commission.
- E. The Commission shall review each Contractor's License Application at the next Commission meeting that will be held more than seven (7) days (inclusive) after the issuance of the temporary Contractor's License. The Commission may approve the Contractor's License Application upon finding that the Application is complete and meets the requirements of this Ordinance.
- F. The Planning Department shall issue a Contractor's License to the applicant within fourteen (14) days (inclusive) of Commission approval of the Application.
- G. Denial of a Contractor's License Application by the Commission may be appealed to the Council. The appeal must be in writing and submitted to the City Finance Office within ten (10) days (inclusive) of the date of the denial. The Application Fee(s) shall be refunded to the applicant by the City within

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thirty (30) days of the date of the denial if no appeal is filed or if the denial is upheld by the Council.

- H. The amount of the Contractor's License Application Fee, Renewal Fee, and the Late Application Fee shall be set by resolution of the Council.

SECTION 3 – TERMS OF THE CONTRACTOR'S LICENSE.

- A. The Contractor shall physically possess his Contractor's License at all times while performing work within the jurisdiction of the City.
- B. It shall be the duty of all Contractors to comply with all ordinances relating to the construction of buildings or other structures, to the construction of streets or sidewalk pavements, and all laws, regulations, or ordinances pertaining to the activities engaged in by the Contractor.
- C. The Contractor's License shall remain in force and effect until its expiration date, unless cancelled, revoked, or suspended.
- D. A Contractor's License, except Licenses which have been cancelled or revoked, may be renewed upon application to the Planning Department and payment of the required Renewal Fee. Renewal Fees shall be paid within thirty (30) days of the expiration of the Contractor's License.
- E. No Contractor's License may be renewed more than thirty (30) days after the expiration date of such License.
- F. The Commission may cancel, revoke, or suspend any Contractor's License if said Contractor: shows incompetence or lack of knowledge in matters relevant to such License; obtained a Contractor's License by fraud or deception; has engaged in any fraudulent, deceptive, or dishonest act or practice; fails to respond to a lawful order or directive of a City Building Official; fails to maintain the required Public Liability and Workers Compensation Insurance or; fails to perform. If a Contractor's License is cancelled or revoked another Contractor's License shall not be granted to the Contractor for at least twelve (12) months from the date of such cancellation or revocation. The Commission may suspend a Contractor's License for up to six (6) months as an alternative to cancellation or revocation. Such cancellation, revocation, or suspension may be in addition to penalties imposed for violation of this Ordinance.
- G. The action to cancel, revoke, or suspend a Contractor's License by the Commission may be appealed to the Council. The appeal must be in writing and submitted to the City Finance Office within ten (10) days (inclusive) of the date of the Commission action.

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- H. Contractor's Licenses are not transferable from one person to another and the lending of any License or the obtaining of permits under the License by or for any other person shall be deemed cause for revocation of the Contractor's License.
- I. Contractors are required to maintain Public Liability Insurance with not less than three hundred thousand dollars (\$300,000.00) for damages caused by injury to one person and not less than one million dollars (\$1,000,000.00) for damages caused by injury to more than one person in one accident and not less than three hundred thousand dollars (\$300,000.00) property damage for one accident with an aggregate of not less than one million dollars (\$1,000,000.00) for accidents in one year. Public Liability Insurance shall be maintained during the term of the Contractor's License.
- J. Contractors are required to maintain Workers Compensation Insurance on their employees. Failure to provide evidence of Workers Compensation Insurance to the Planning Department within forty-eight hours of a request shall be grounds for revocation or suspension of the Contractor's License.

ARTICLE IV – VIOLATIONS AND PENALTIES

- A. A violation of any provision of this Ordinance or any amendment thereto, or failure to perform any act required hereunder, is a Class II Misdemeanor. In addition to any fine or penalty assessed by the court, any violator found guilty shall pay all court costs and expenses involved in the case. A finding or plea of guilty shall be grounds for immediate revocation or suspension of the violator's Contractor's License.
- B. Any Contractor (except those Contractors whose Contractor's License has been cancelled, revoked, or suspended) discovered by City staff to be engaged in construction within the jurisdiction of the City without a valid Contractor's License shall be given twenty-four (24) hours from the time of discovery to submit a complete Contractor's License Application to the Planning Department to avoid being found in violation of this Ordinance and shall stop work until the Application is accepted by the Planning Department. Contractors whose Contractor's License has been cancelled, revoked, or suspended who are discovered by City staff to be engaged in construction shall be subject to a Cease and Desist Order to stop work immediately and shall be deemed to be in violation of this Ordinance.
- C. Any Contractor described in 4.B. (above) who submits a complete Contractor's License Application to the Planning Department between twenty-four (24) and forty-eight (48) hours of discovery shall be subject to the imposition of a Late Application Fee as part of the Contractor's License Application.

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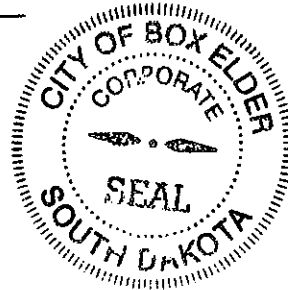
D. Any Contractor described in 4.B. (above) who does not submit a complete Contractor's License Application to the Planning Department within forty-eight (48) hours of discovery shall be subject to a Cease and Desist Order to stop work immediately and shall be deemed to be in violation of this Ordinance.

BE IT FURTHER ORDAINED by the Common Council of the City of Box Elder, that this Ordinance, as revised, shall become effective on July 1, 2010.

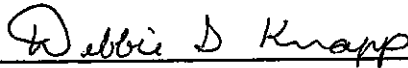
CITY OF BOX ELDER



Mayor Alfred Dial



ATTEST:



Finance Officer Debbie Knapp

(SEAL)

P&Z Public Hearing: September 22, 2008 & April 26, 2010
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