

ORDINANCE NO. _____

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

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

5 Section 1. That Chapter 43 of the Omaha Municipal Code is hereby amended by adding a
6 new Article IX, entitled “~~General~~ eContractors,” consisting of new sections numbered 43-271
7 through 43-289, reading as follows:

8 **ARTICLE IX. ~~GENERAL~~ CONTRACTORS**

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

10
11 The purpose of this article is to provide for the licensing and regulation of ~~general~~
12 contractors doing construction work for hire in the city or within the city’s three-mile extraterritorial
13 jurisdiction of the city. The city council finds that the regulation and licensing of such ~~general~~
14 contractors would serve and protect public safety, health, and welfare.

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

16
17 (a) It shall be unlawful for any person to act as a ~~general~~ contractor, as defined in this
18 article, in the city or within the three-mile extraterritorial jurisdiction of the city, without having first
19 obtained a license to do so from the permits and inspections division. The prohibition contained in
20 this subsection shall become effective commencing six months from the effective date of this
21 ordinance.

22 (b) In the case of a corporation, partnership, or other entity doing business as a ~~general~~
23 contractor, at least one executive officer or designated full-time employee shall be required to hold
24 the requisite license. Such officer or designated full-time employee shall be liable to service of
25 regular process, and shall be responsible for such entity’s compliance with applicable laws.

26 **Sec. 43-273. ~~General~~ eContractor defined.**

27 (a) For purposes of this article, a “~~general~~ contractor” is defined as any person or entity who
28 contracts with the owner or tenant of property to build, construct, alter, repair, add to, subtract from,
29 or otherwise improve any building or structure upon the said property, within the city or its three-
30 mile extraterritorial jurisdiction. ~~The term also applies to landlords and property owners performing~~
31 ~~work on property that they own but do not reside in.~~ The term “~~general~~ contractor” shall not include
32 any of the following:

- 1 (1) ~~a~~ A tradesman licensed by the city who performs work within his or her licensed
2 trade, or any subcontractor performing work under a contract with a licensed ~~general~~
3 contractor.
- 4 (2) A person performing work defined as routine maintenance in section 43-72.
- 5 (3) A person performing work under the definition of “handyman services” in section
6 43-72.
- 7 (4) Any organization that constructs new or renovates existing structures with a mostly
8 volunteer labor force. Such organization shall have at least one of the following: (a)
9 at least one person on their staff who is a licensed contractor holding a Class “C” or
10 above license, (b) a licensed contractor holding a Class “C” or above license serving
11 as a board member acting as their license holder, or (c) a volunteer licensed
12 contractor holding a Class “C” or above license working on the building site
13 providing oversight and mentoring for the work crew.
- 14 (b) The five classes of ~~general~~-contractor licenses are as defined in the International Code
15 Council (ICC) Contractor Certification Program:
- 16 (a) Class A – All work allowed by the adopted version of the International Building
17 Code ~~and International Residential Codes.~~
- 18 (b) Class B – All work allowed by the adopted version of the International Building
19 Code ~~and International Residential Codes~~ up to 4 stories in height.
- 20 (c) Class C – All work as allowed by the International Residential Code.
- 21 (d) Class D – All work as allowed by the International Residential Code as it pertains to
22 additions and remodeling of ~~single one-~~ and two-family residential structures.
- 23 (e) Class E – All residential roofing, siding, replacement window and door, fence and
24 deck contractors as allowed by the International Residential Code.

25 **Sec. 43-274. Application.**

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

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

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

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

6 **Sec. 43-276. ~~Application~~ License fee.**

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

9 Class A and B: \$300.00

10 Class C: \$200.00

11 Class D and E: \$100.00

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

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

18 (1) The applicant's knowledge of all provisions of this code, ~~state law,~~ and rules and
19 regulations pertaining to building processes under the class of license applied for;
20 and,

21 (2) The applicant's ability to ~~design,~~ direct and supervise building activities under the
22 class of license applied for.

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

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

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

28 (b) A person may apply for a "grandfather" license without taking the exam, within one
29 year of the effective date of this ordinance, subject to the following conditions:

- 1 (1) An applicant for a grandfathered E Class license shall provide an application on a
2 form provided by the permits and inspection division. The applicant shall provide
3 proof of one year of completed projects including contact information, job address,
4 permit history and the applicant's scope of responsibility. The application shall also
5 include a \$500.00 non-refundable application fee.
- 6 (2) An applicant for a grandfathered B, C, or D Class license shall provide an application
7 on a form provided by the permits and inspection division. The applicant shall
8 provide proof of projects completed within the past five years, with the project
9 name, address, owner's name and contact information, designer's name, permit
10 history and scope of work performed. The application shall also include a \$2,500.00
11 non-refundable application fee to cover the cost of investigation, research and
12 verification of the information.
- 13 (3) No Class A license will be issued without the applicant passing the Class A test.
- 14 (4) The planning director and/or his/her designated representative shall decide whether a
15 grandfathered license should be issued, and make the final determination of the class
16 of license to be issued, after reviewing the facts above and a face-to-face interview
17 with the applicant. The class of license issued may or may not be the class applied
18 for.
- 19 (5) If approved, the grandfathered contractor shall perform only the work permitted
20 under that class of license under which he/she is authorized.

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

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

- 25 (a) A certificate of insurance which provides combined coverage of bodily injury and
26 property damage in a minimum amount of: Class A and B \$1,000,000.00; Class C
27 \$500,000.00; Class D and E \$300,000.00.
- 28 (b) ~~A bond in the sum of \$10,000.00 with sufficient sureties, which shall be for the~~
29 ~~protection of the city against loss or damage by reason of carelessness or negligence~~
30 ~~of the license holder to properly execute and protect any and all work performed by~~
31 ~~him or her or work under his or her supervision during the period of such license. A~~
32 corporate surety bond in the penal sum of not less than \$10,000.00 conditioned that
33 the applicant shall, in all material by him/her furnished and in all work by him/her
34 done and performed within the jurisdictional area of the city, strictly comply with the
35 code and ordinances of the city related thereto as now existing or hereafter enacted.

1 (c) Said bond shall be executed by a qualified surety company licensed to do business in
2 the state. Said bond, before being accepted by the permits and inspections division,
3 shall be approved as to form by the city law department, and shall further be
4 conditioned, among other things, to indemnify the city against any lawsuits brought
5 or judgments obtained against the city, or any of its officials, employees or the board,
6 and to hold the same harmless from any costs or expenses occasioned by any injury
7 or casualty happening to any person, persons or property, real or personal, either
8 directly or indirectly through them by his/her or their employees.

9 (d) The bond for an individual holding a contractor license or in his/her own behalf shall
10 name said individual. The bond for an individual holding a license on behalf of a
11 firm or corporation shall name both the individual and the firm or corporation as
12 principals.

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

14 All original and renewal licenses issued under the provisions of this article shall expire on
15 the third December 31st after the date of issuance.

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

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

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

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

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

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

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

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

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

8 (a) A licensed ~~general~~-contractor may apply for an inactive license. Upon such
9 application and payment of any applicable renewal fees, the city shall grant such a person an inactive
10 ~~general~~-contractor's license. The holder of an inactive ~~general~~-contractor's license shall not engage
11 in any ~~general~~-contractor activities for which a license is otherwise required under this code.

12 (b) The bond and insurance requirements of this article shall not be required as
13 prerequisites for the issuance, maintenance, or renewal of an inactive ~~general~~-contractor's license.

14 (c) The holder of an inactive ~~general~~-contractor's license may make application to the
15 city for a reactivation of his or her status as an active ~~general~~-contractor's license holder. The city
16 shall activate such license upon providing proof of current continuing education credit and payment
17 of the applicable renewal fees and the filing of a current certificate of insurance under the provisions
18 of this article.

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

20 In case of ~~the death or incapacity or separation from employment~~ of the holder of a valid
21 ~~general~~-contractor's license, who is a sole proprietor, majority stockholder of a corporation, or an
22 employee of a firm or corporation, the city may issue a temporary license for such holder's business
23 for a period of not more than 12 months. Such license shall be issued only to a person who meets the
24 qualifications stated in section 43-275, is an owner, or employee of the said business, and has not
25 successfully passed the required examination. An extension of the said term of a temporary license
26 may be authorized only by the building board of review, upon a showing of special hardship or
27 difficulty.

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

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

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

1 Notwithstanding the provisions of this article, a person may build, construct, alter, repair, add
2 to, subtract from, or otherwise improve a building or structure upon a property which he or she owns
3 ~~and resides on~~, without holding the license otherwise required for such activity under this article.
4 Such person shall obtain all required permits and inspections, pay all required permit fees, and
5 otherwise comply with all other requirements of this code in conducting such building activity. A
6 property owner may construct or act as a ~~general~~ contractor for one new home on vacant land owned
7 by the property owner in a ~~ten~~-five-year period without having to obtain the required contractors
8 license. A homeowner/property owner may not obtain permits in their name and use unlicensed
9 contractors to perform the work on their property. Work defined as routine maintenance or
10 handyman services under section 43-72 are exempt from this article.

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

12 (a) Any license issued under this article may be revoked or suspended by the planning
13 director or his/her designated representative for any of the following causes, after notice to the
14 license holder;

- 15 1. A consistent pattern of code violations after written notice to the license holder and
16 reasonable opportunity to cure; or
- 17 2. A persistent pattern of failure to obtain required building permits; or
- 18 3. Fraud in obtaining a license.

19 (b) The planning director or his/her designated representative may schedule a hearing to
20 revoke or suspend a license upon receipt of information indicating any of the above causes. Written
21 notice of the charges and of the date, time and place of a hearing to consider the revocation or
22 suspension shall be sent to the license holder, at his or her address as registered with the city.
23 Charges brought to the attention of the permits and inspections division by citizens will be reviewed
24 for violation of building and life safety provisions of the code only. Workmanship issues and
25 contractual issues that are not part of the code will not be considered.

26 (c) Following notice and a hearing, if the planning director or his/her designated
27 representative shall find based on the charges and the evidence, that the license holder has been
28 guilty of any of the causes stated in this section, then the planning director or his/her designated
29 representative may revoke the license holder's license, suspend the license for a period of up to 24
30 months, or reprimand the license holder. Otherwise, the planning director or his/her designated
31 representative may dismiss the charges or decline to take action against the license holder's license.

32 (d) A license holder aggrieved by the decision of the planning director or his/her
33 designated representative may appeal such decision to the building board of review as provided in
34 this chapter. The building board of review shall hold a hearing at which the city and the license
35 holder may present evidence. The board may affirm, modify, or reverse the decision based on
36 evidence provided.

1 (e) Further appeal from the building board of review decision may be made to the district
2 court in an error proceeding as provided under section 43-67.

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

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

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

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

INTRODUCED BY COUNCILMEMBER

APPROVED BY:

MAYOR OF THE CITY OF OMAHA DATE

PASSED _____

ATTEST:

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

DEPUTY CITY ATTORNEY DATE

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(1) Moveable cases, cabinets, countertops and partitions not over five feet nine inches tall.

43-72(6) Swimming pools except fences and pool accessory structures over 75 square feet.

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, which is 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 fifteen days from and after its passage.

INTRODUCED BY COUNCILMEMBER

ORDINANCE NO. _____

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APPROVED BY:

PASSED _____

MAYOR OF THE CITY OF OMAHA DATE

ATTEST:

CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

DEPUTY CITY ATTORNEY DATE

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