

Ordinance 17-029

An Ordinance Amending Chapter 22 of the Ordinances of the City of Brookings and Providing Procedures for the Licensing of Residential Contractors in the City of Brookings.

Be It Ordained by the City of Brookings that Chapter 22 of the Code of Ordinances of the City of Brookings be amended to include the following article:

I.

Article VIII. Residential Contractor's License

Section 22-520. – Definitions.

The following words, terms and phrases, when used in this Article VIII, shall be defined, except where the context clearly indicates a different meaning, as follows:

City: The City of Brookings, South Dakota.

Employee: a person whose compensation for construction work is reported by the employer on an Internal Revenue Service W-2 Form, and who is also otherwise considered an employee under South Dakota law.

Residential Building Contracting: the enlargement, alteration, repair, improvement, conversion or new construction of any 1 or 2 family dwelling, or any accessory structure associated with a 1 or 2 family dwelling.

Residential Building Contractor: a sole proprietorship, partnership, firm, limited liability company or corporation which, for compensation, undertakes or offers to undertake residential building contracting.

Section 22-521: License Required

1. It is unlawful for any person or persons representing or operating as a sole proprietorship, partnership, firm, limited liability company or corporation, to conduct, carry on or engage in the business of residential contracting work or acting in the capacity of a residential contractor without having first been issued a valid residential contractor's license by the city. For the purposes of this section, any residential building contracting work performed within the licensing jurisdiction of the City that requires a building permit would also require a residential contractor's license. This work includes, but is not limited to concrete work, masonry, carpentry, all building trade contracting including roofing, remodeling, siding, rough framing; all phases of new construction, alteration, additions; repair or demolition of structures; and excluding those activities exempted by the following section.
2. The following are exempt from the licensing requirements:
 - a. Employees of a person licensed in accordance with this chapter when they are under the direction and control of a person or company who holds a residential contractor's license issued by the City.

- b. Persons engaged in the following construction trades: mechanical, plumbing and electrical, when that person is performing work consistent with that building trade and applicable City or State license.
- c. A dwelling owner for work to be done on their property which they occupy as their own home or will occupy as his or her own home and when the property owner is acting as their own contractor. A dwelling owner may not build more than one (1) single family dwelling in a three (3) year period without obtaining a residential contractor's license, unless they occupy the dwelling a minimum period of one (1) year after the final inspection is approved.
- d. A landlord for work to be done on the landlord's property when the landlord is acting as their own contractor.
- e. A residential developer for work to be done on their property when the residential developer has hired licensed contractors to complete all permitted work.

Section 22-522: License Application Procedure

A residential contractor license shall be issued to every proprietorship, partnership, firm, limited liability company or corporation who makes application for the license, pays the required application fee and meets the requirements as stated in this chapter. The office of the City Clerk is authorized to issue a residential contractor's license provided the provisions of this chapter are satisfied. The City Clerk may refer any licensing issues to the City Manager for review prior to approval or rejection.

- (a) *Person or persons responsible for license.* Each residential contractor license issued to a sole proprietorship, partnership, firm, limited liability company or corporation shall be the responsibility of the owner or manager of the sole proprietorship, partnership, firm, limited liability company or corporation.
- (b) *License use restricted.* No licensed residential building contractor shall knowingly allow their name to be used by any other person directly or indirectly, either to obtain a residential contractor license or to perform residential building contracting which is not conducted by the licensed residential contractor or under the supervision of the licensed residential contractor.
- (c) *License term renewal.* All licenses issued under the provisions of this chapter shall expire on December 31 of every year.
- (d) *Liability Insurance.* Liability insurance shall be required of every residential contractor. Every applicant for a residential contractor's license shall present to the Building Services Administrator for their review a valid certificate of insurance at the time of application. It shall be the duty of every residential contractor to continually maintain valid liability insurance. The minimum required general liability insurance shall be Five Hundred Thousand Dollars (\$500,000) for each occurrence.
- (e) *Worker's compensation insurance.* In accordance with South Dakota State law, proof of worker's compensation insurance shall be verified prior to issuance of a residential contractor's license.
- (f) *Proof of excise tax number.* Applicants for a residential contractor's license shall be required to supply their excise tax number.

Section 22-523: Fees

The initial fee, as well as the annual renewal fee for a residential contractor's license shall be established by resolution of the City Council. All licenses shall be effective when issued and shall terminate December 31st in the year for which issued. The license fee charged shall be paid on the basis of a full year. However, if the license is not renewed prior to the expiration date and the contractor has a job in progress, the license fee will be double the fee established by resolution of the City Council.

Section 22-524: Enforcement

1. Any person who commences any residential building work for which a permit is required by this code without first having obtained a license shall, if subsequently permitted to obtain a permit, pay an additional license fee as established by the City Council. This provision shall not, however, apply to emergency work when it is proven to the satisfaction of the City Clerk that the work was urgently necessary and that it was not practical to obtain a license before the commencement of the work.
2. The City of Brookings may suspend, revoke, refuse to issue or renew a license in the following events:
 - a) In its discretion, it is in the public interest; and
 - b) Based upon substantial evidence, the applicant or licensee:
 - c) Has filed an application for a license that is incomplete in any material respect or contains false or misleading statements; or
 - d) Has engaged in any fraudulent, deceptive or dishonest act or practice; or
 - e) Has violated any applicable provisions of the building codes, city ordinances, rule or regulation or State law.
 - f) Fails to file with the City the required certificates of insurance or hold a valid certificate of insurance.

Section 22-525: Notice of Violation

1. The building official may suspend or revoke any license if obtained through nondisclosure, misstatement or misrepresentation of a material fact or if a licensee violates any of the provisions of this article.
2. Before a license may be suspended or revoked, the licensee shall receive notice in writing enumerating the charges against it and shall be entitled to a hearing by the Board of Appeals.
3. Should any licensee or applicant for a license under this chapter be aggrieved by the action of the building official, they may, within ten (10) days of the decision, appeal such decision by filing a written request for such appeal with the City Manager for review by the Board of Appeals. Upon review, the Board of Appeals may affirm, modify or reverse the action of the building official and may order for good cause the issuance of a license. The decision of the Board of Appeals shall be based upon the evidence produced at the hearing. A person whose license has been revoked shall not be permitted to apply until one year after the date of revocation.
4. A licensed contractor who is the subject of an investigation shall cooperate fully with the City in its investigations. Cooperation includes, but is not limited to:
 - (a) Responding fully and promptly to questions;
 - (b) Providing copies of records relative to the matter under investigation; and

(c) Appearing at conferences or hearings as scheduled.

Section 22-526 – 22-535: Reserved

II.

Any or all ordinances in conflict herewith are hereby repealed.

First Reading:	November 28, 2017
Second Reading and Adoption:	December 12, 2017
Published:	December 15, 2017

CITY OF BROOKINGS

Keith W. Corbett, Mayor

ATTEST:

Shari Thornes, City Clerk