

ORDINANCE #3925

AN ORDINANCE AMENDING CHAPTER 122 REGULATION OF CONTRACTORS OF THE CITY OF KEWANEE CODE OF ORDINANCES, AND DECLARING THAT THIS IS ORDINANCE IS IN FULL FORCE AS PROVIDED BY LAW.

CHAPTER 122: REGULATION OF CONTRACTORS

Section

General Provisions

<u>122.000</u>	<u>Definitions</u>
<u>122.050</u>	<u>Required registration of contractors</u>
<u>122.060</u>	<u>Required registration for City Incentive Programs</u>
<u>122.070</u>	<u>Exception to registration</u>
<u>122.100</u>	<u>Roofing Contractors</u>
<u>122.210</u>	<u>Certificate of Registration</u>
<u>122.220</u>	<u>Revocation of Certificate of Registration</u>

Administrative Hearing

<u>122.240</u>	<u>Administrative hearing composition</u>
<u>122.245</u>	<u>Administrative hearing</u>

Inspections

<u>122.500</u>	<u>Permits and inspections</u>
<u>122.540</u>	<u>Certificate of inspection</u>
<u>122.550</u>	<u>Prima Facie Installation</u>
<u>122.560</u>	<u>Subsequent inspections</u>
<u>122.570</u>	<u>Records to be kept</u>
<u>122.580</u>	<u>Written reports</u>
<u>122.600</u>	<u>Notice of defective conditions</u>
<u>122.610</u>	<u>Liability</u>
<u>122.620</u>	<u>Appeals</u>

Penalty

<u>122.990</u>	<u>Penalty</u>
----------------	----------------

§122.000      DEFINITIONS.

CONTRACTOR. Contractor means any person engaged in business as a contractor, or working as a contractor in various trades. Contractor's work may include work performed by a Handyman but may also include work requiring a permit as required by the codes adopted by the City.

HANDYMAN. Handyman means any person undertaking in work not requiring a permit as set forth in the codes or adopted codes of the City. Such work may include but not limited to minor jobs such as installing trim, power washing and staining a deck, trash hauling, painting, minor dry rot repairs, furniture and cabinet assembly, fence repair, door replacement, minor window repair or minor siding repair or replacement and remodeling work that does not require plumbing, electrical, building, or other permits as required by the codes adopted by the City.

ROOFING CONTRACTOR. Roofing Contractor means any person engaged in the business of roofing which includes the stripping of roofing material, application of various types of roofing material and any other activities included with the trade of roofing.

§122.050      REQUIRED REGISTRATION OF CONTRACTORS.

Required. No person shall be a contractor, or engage in business as a contractor, or work as a contractor, without first having obtained a certificate of registration from the city as required by this chapter except for that of Electrical Contractor which shall follow the guidelines set forth in Chapter 151. Contractor shall include but not limited to: General, Concrete/Masonry, Plumbing, Roofing, Pools, Siding/Windows, Gutters, Demolition, Signs, or Mechanical. Any person engaged in the business of home repair and remodeling shall be considered a General Contractor and shall comply with the provisions set forth in the chapter.

All applications for a certificate of registration shall be reviewed by the Community Development Department. No certificate of registration shall be issued until the Community Development Department verifies the following qualifications.

- (A) Proof of License and/or registration. In any case where the Contractor's trade is governed at any level higher than that of the City and/or as required by law, the Contractor shall provide proof of licensing and/or registration as required and issued by the governing body for said trade.
- (B) Application for registration as a Contractor shall be made to the Community Development Department stating the name and address of the applicant. Said application shall be signed by the applicant and shall state that by signing said application that such person will perform all work in full and complete compliance with this chapter and all codes adopted by the City, and if any work done by such person shall not be in full and complete compliance

- with the ordinances of the city that such person will, upon notice from the Building Official or any Inspector performing inspections for the city as provided by the City Code of Ordinances, complete such work in accordance with the ordinances of the City. Such application shall also be accompanied by a certificate of an insurance company authorized to do business in the state, certifying that such applicant has in full force a public liability and property damage insurance policy with limits of not less than \$300,000.00 public liability; and \$50,000.00 property damage. Such certificates shall be maintained in current status at all times, and if the certificate of insurance should lapse the applicant shall receive no more permits for electrical work until such certificate is restored in full force.
- (C) Initial registration applications shall be accompanied by an application fee of \$50.00. Such application fee shall be valid so long as the applicant is registered, provided his valid certificates of insurance are kept on file with the city clerk. Subsequent applications for annual renewal shall be accompanied by a fee of \$25.00. Certificates of registration may be revoked for cause upon the recommendation of the Building Department pursuant to §122.220 - §122.450.

#### §122.060 REQUIRED REGISTRATION FOR CITY INCENTIVE PROGRAMS

Any person performing work involving a City Incentive Program of any sort shall register as a Contractor pursuant to this chapter, except that residential property owners performing their own work on their own residence need not register as a Contractor.

#### §122.070 EXCEPTION TO REGISTRATION

Those engaged in business and meeting the definition of a Handyman shall not be required to register as a contractor; however, in a case where the Building Official has gathered enough information supporting that such person is performing work that would qualify the same as a Contractor, whether by the type of work being performed, the value of the work being performed in excess of \$15,000.00, or the size or scope of work being performed, the Building Official shall notify such person in writing that they must register as a Contractor and comply with the requirements for the same. Such notice shall include all details, reasoning or evidence to support the Building Official's findings.

When any person engaged in business as a Handyman receives notice from the Building Official stating they must register as a Contractor, they may, within five days after receiving such written notice and the reasons therefor, petition the City Manager for a review of such findings by filing a petition with the City Manager. Upon receipt of the petition, the City Manager shall at once proceed to determine whether said work being performed qualifies them as a Handyman or as a Contractor, and shall make a decision in accordance with his or her findings. The person receiving such notice shall have opportunity to appear before the City Manager and to submit evidence.

#### §122.100 ROOFING CONTRACTORS

- (A) The Illinois Roofing Industry Licensing Act (ILCS Ch. 225, Act 335) is adopted by reference.

- (B) Permit. The City Clerk shall issue a permit to any person acting as a roofing contractor within the City of Kewanee. The form of the permit shall be determined by the City Manager and at a minimum shall contain the roofing contractor's name, address, telephone number, State of Illinois Certified roofing license number, the date of issue, and the fee paid.
- (C) Qualification. Per ILCS Ch. 225, Act 335, § 11(7) the only qualification that is required by the City Clerk prior to issuing a permit is the exhibition of current evidence of a State of Illinois roofing license.
- (D) Permit fee. To conform with the State of Illinois licensing fee, the City of Kewanee permit fee will be due biennially. If an applicant for an initial permit applies for the permit during the second half of the biennial period, the applicant shall only be required to pay one-half of the amount for the biennial permit fee. The biennial permit fee is \$30, which is due on the last day of every odd numbered year during the month of July, but no later than July 30. Permits renewed after the due date shall be assessed a 10% late fee.
- (E) Like the state statute, nothing in this chapter shall be construed to require a person who performs roofing or waterproofing work to their own property, or for no consideration, to obtain a permit as a roofing contractor. This applies to city employees who are conducting roofing work as city employees on city property.
- (F) Penalty. Any person, or firm, who performs any roofing work contrary to the provisions of this section; or any person or firm, who performs any roofing work without first obtaining a license from the State of Illinois as specified in ILCS Ch. 225, Act 335; or any person or firm who performs any roofing work without having first obtained a City of Kewanee Roofing Contractor Permit, shall be deemed to be in violation of the provisions of this section. Violations of this section are punishable under § 10.99 of this code.

(Ord. 3012, passed 11-3-95; Am. Ord. 3146, passed 3-23-98; Am. Ord. 3219, passed 7-12-99)

§122.210      CERTIFICATE OF REGISTRATION

Upon receipt of an application for contractor registration, verification of qualifications and the presentation of proof of financial responsibility as required in section §122.050, the Community Development Department shall register the applicant as a contractor and shall issue to such applicant a certificate of registration authorizing such applicant to engage in such business for a period from the date of issuance of such certificate of registration to and including December 31 of the year in which such certificate is issued. Such certificate of registration shall be renewable from year to year without proof of eligibility unless said proof is required by law. For registrations that have expired for a period of six months or longer, the Community Development Department may require the applicant to re-establish proof of eligibility for registration as set forth in this chapter. Such certificate shall not be transferable. The Community Development Department shall keep a suitable record of such registration.

§122.220      REVOCAION OF CERTIFICATE OF REGISTRATION.

Such certificate may be revoked at any time by an administrative hearing, if the holder thereof violates any ordinance of the city relating to services provided, material or equipment, or is responsible for any services provided or installation of any materials which is a hazard to life or property. Such revocation shall extend for a period not to exceed 30 days, and thereafter the same may be set aside and the certificate of registration may be reinstated upon application made for that purpose and after satisfying any requirements resulting from the administrative hearing.

§122.240 ADMINISTRATIVE HEARING COMPOSITION.

The administrative hearing shall be scheduled and conducted by a hearing officer whose authority and limitations are as follows:

- (A) Authority of the hearing officer. The hearing officer shall have all of the authorities granted to her/him under common law relative to the conduct of an administrative hearing, including the authority to:
- (1) Preside over City hearings involving Contractor Registrations;
  - (2) Administer oaths;
  - (3) Hear testimony and accept evidence that is relevant to the case;
  - (4) Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
  - (5) Rule upon objections in the admissibility of evidence;
  - (6) Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing; and
  - (7) Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.
- (B) Hearing officer. The Mayor, with the advice and consent of the City Council, is hereby authorized to appoint a person to hold the position of hearing officer for each hearing on Contractor Registrations that shall come before the City. In making said selection, the following information should be considered, at a minimum:
- (1) The individual's ability to comply with the job description as set forth herein; and
  - (2) The individual must be an attorney licensed to practice law in the State of Illinois and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

§122.245 ADMINISTRATIVE HEARING.

The system of administrative hearings for the determination of revocation of the Certificate of Registration of a Contractor shall be initiated by the Building Official after a thorough investigation of a complaint received from a resident or the Inspector for the City. The Inspector shall provide the Building Official with a written report outlining the complaint and section of the Code that the Contractor has allegedly violated. An administrative hearing shall be held to adjudicate and determine whether the Contractor's certificate of registration should or should not be revoked; and, what testing, if any, shall

be required prior to the Contractor's registration being reinstated upon application made for that purpose to the Building Official.

- (A) Record. The City shall ensure that all hearings are attended by a certified court report and a transcript of all proceedings shall be made by said certified court report and a copy be provided to the Contractor within twenty-eight (28) days of the date of the administrative hearing.
- (B) Procedures. The City and the Contractor shall be entitled to representation by counsel at said administrative hearing and present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.
- (C) Evidence. The Illinois Rules of Evidence shall apply to the extent practicable unless, by such application, the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her or his affairs. Such determination shall be in the sole discretion of the Hearing Officer. The Hearing Officer must state on the record her or his reason for that determination.
- (D) Final Determination. A written determination by the Hearing Officer of whether the Certificate of Registration of the Contractor shall be revoked or not; and, what testing, if any, shall be required prior to the Contractor's registration being reinstated upon application made for that purpose, shall constitute a final administrative determination for the purpose of judicial review under the common law writ of certiorari.
- (E) Burden of Proof. At any administrative hearing, the City shall have the obligation and burden of proof to establish that the Certificate of Registration of the Contractor should be revoked. The standard of proof in all hearing conducted under this Ordinance shall be by the preponderance of the evidence.
- (F) Administrative Records. All records pertaining to the administrative process shall be held in a separate file under the Contractor's name with the City.

#### § 122.500 PERMITS AND INSPECTIONS.

The adoption of this chapter or any subsequent ordinance relating to such standards and specifications, rules and regulations, and fees, the provisions hereof or thereof shall at once become operative and thereafter no equipment or materials shall be installed or altered except upon a permit first issued by the Community Development Department. The Community Development Department shall issue permits for all cases where application shall have been made in accordance with the provisions of this chapter or any amendments thereto. The appropriate inspector shall inspect all such work and installations or alterations in this city, and shall require that it conform to the standards and specifications applicable thereto.

§ 122.540 CERTIFICATE OF INSPECTION.

Upon the completion of the work, installation or alteration of equipment and/or materials in any building, except industrial manufacturing concerns, it shall be the duty of the person, firm or corporation installing or altering the same to notify the Community Development Department, who shall schedule with the appropriate inspector or cause the work to be inspected within a reasonable time after such notice is given; and if such work, installation or alteration of equipment and/or materials is found to be fully in compliance with this chapter and does not constitute a hazard to life and property, he shall issue to such person, firm or corporation for delivery to the owner a certificate of inspection.

§ 122.550 PRIMA FACIE INSTALLATION.

No certificate of inspection shall be issued unless the work, installation or alteration of equipment is in strict conformity with the provisions of the ordinances of this city and the state. However, compliance with the regulations as laid down from time to time in the State Plumbing Code or other codes adopted by the City, unless in conflict with such ordinances or statutes, shall be prima facie evidence of proper installation or alteration.

§ 122.560 SUBSEQUENT INSPECTIONS.

The provisions for inspection or work authorized by the permits issued in accordance herewith shall not be construed as prohibiting the inspection of any work, installation or alteration of equipment now or hereafter installed whenever the Inspector shall determine that the public safety requires it.

§ 122.570 RECORDS TO BE KEPT.

The Community Development Department shall keep complete records of all permits issued and inspections made and other official work performed under the provisions of this chapter.

§ 122.580 WRITTEN REPORTS.

It shall be the duty of the Community Development Department to make a monthly written report to the City Manager, which report shall include the number of permits issued, number of inspections, and the amount of fees collected for such permits.

§ 122.600 NOTICE OF DEFECTIVE CONDITIONS.

Where any work, installation or alteration of equipment or materials are found to be in a dangerous or unsafe condition, the Building Official, required Inspector or Fire Chief shall at once notify in writing the person, firm or corporation owning, using or operating the same, specifying wherein the same is dangerous or unsafe and such person, firm or corporation shall, within the time specified in said notice, make such repairs or changes as may be necessary to place such work, installation or alteration of equipment, devices and materials in a safe condition.

§ 122.610 LIABILITY.

This chapter shall not be construed to relieve from, or lessen, the responsibility or liability of any party owning, operating or controlling any electric wiring, electrical devices, electric material, plumbing apparatus, HVAC apparatus, structures or any other work inspected by the City for damages to person

or property caused by any defect therein, nor shall the city or any of its Inspectors be held as assuming any such liability by reason of the inspection authorized herein.

§ 122.620 APPEALS.

When any Inspector for the City, Building Official or Fire Chief condemns all, or any part of any work performed for which a permit has been issued, the owner or his agent may, within five days after receiving written notice of such condemnation and the reasons therefor, petition the City Manager for a review of such findings by filing a petition with the City Manager. Upon receipt of the petition, the City Manager shall at once proceed to determine whether said installation complies with the ordinances of the city with respect thereto, and shall make a decision in accordance with his or her findings. The owner, occupant and all persons interested shall have opportunity to appear before the City Manager in support of, or in opposition to the petition, and to submit evidence.

§ 122.990 PENALTY.

The provisions of § 10.99 shall apply to this chapter.