

ORDINANCE NO. 5673

AN ORDINANCE TO ESTABLISH A RESIDENTIAL ROOFING CONTRACTOR LICENSE BY AMENDING SECTION 15.13.150 OF THE RAPID CITY MUNICIPAL CODE.

WHEREAS, the State of South Dakota has given municipalities the general police power to promote the health, safety, morals, and general welfare of the community; and

WHEREAS, the State of South Dakota has given municipalities the power to regulate buildings and construction; and

WHEREAS, the City has previously not required persons engaged in the performance of residential roofing for compensation to first obtain a license; and

WHEREAS, the Common Council of the City of Rapid City deems it to be in the City's best interest to require that that persons engaged in the performance of residential roofing for compensation first obtain a residential roofing contractor's license.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 15.13.150 of the Rapid City Municipal Code be amended to read as follows:

15.13.150 IRC Chapter 1, Section R115 Residential Contractor Licenses—Added.

IRC Chapter 1, Section R115 Residential Contractor Licenses, is hereby added to read as follows:

SECTION R115
RESIDENTIAL CONTRACTOR AND RESIDENTIAL ROOFING CONTRACTOR
LICENSES

R115.1 Definitions.

For the purposes of this chapter, the following definitions shall apply.

A. EMPLOYEE. A person whose compensation for construction work is reported by the employer on an Internal Revenue Service W-2 Form and is also otherwise considered an employee under applicable law.

B. RESIDENTIAL BUILDING CONTRACTING. The enlargement, alteration, repair, improvement, conversion or new construction of any 1-family or 2-family dwelling, or any accessory building or structure associated with a 1-family or 2-family dwelling for which a building permit is required.

C. RESIDENTIAL BUILDING CONTRACTOR. A proprietorship, partnership, firm or corporation, who for compensation undertakes or offers to undertake residential building contracting.

D. RESIDENTIAL ROOFING CONTRACTING. The alteration, repair or improvement of the roof of any 1-family or 2-family dwelling for which a building permit is required.

E. RESIDENTIAL ROOFING CONTRACTOR. A proprietorship, partnership, firm or corporation, who for compensation undertakes or offers to undertake residential roofing contracting.

R115.2 License required.

A. It is unlawful for any person or persons representing or operating under the auspices of a firm or corporation to conduct, carry on or engage in the business of residential contracting work or residential roofing contracting work, or act in the capacity of a residential contractor or residential roofing contractor, without first being approved by the Rapid City Residential Contractor Board and having had issued to them a valid residential contractor's license or residential roofing contractor's license by the Rapid City Finance Officer.

B. The following are exceptions.

1. Employees or bona fide subcontractors of a person licensed in accordance with this chapter when they are under the direction and control of that person;

2. Persons engaged in other construction trades for which licenses are required by the city when that person is performing work commensurate with the respective license;

3. A dwelling owner for work to be done on his or her property which he or she occupies as his or her own home or will occupy as his or her own home and when the property owner is acting as his or her own contractor;

4. A landlord for work to be done on his or her property when the landlord is acting as his or her own building contractor; and

5. A homeowner who builds, constructs, alters, repairs, adds to or demolishes any building or structure or any portion thereof that constitutes the owner's residence or a building or structure accessory thereto that is intended for the owner's personal use. An owner may build not more than 1 single-family dwelling in a 3-year period without obtaining a contractor's license, provided he or she occupies the dwelling a minimum of 1 year after the final inspection is approved.

C. The holder of a residential building contractor's license may undertake residential roofing contracting without the requirement for a separate residential roofing contractor's license.

R115.3 License application.

A residential contractor license or residential roofing contractor license shall be issued to every proprietorship, partnership, firm or corporation who makes application for the license, pays the required application fee, meets the requirements as stated in this chapter, and successfully passes the examination conducted by the Board of Residential Contractors;

provided, however, that, the Board may approve the issuance of the license to any person who makes application therefore, pays the required fee, meets the requirements and presents to the Board a valid current residential contractor license or a valid current residential roofing contractor license issued to him or her by any other governmental agency giving an examination, the scope and character of which, in the opinion of the Board, is at least equal to that given by the Residential Contractor Board.

A. *Person or persons responsible for license.* Each residential contractor license or residential roofing contractor license issued to a proprietorship, partnership, firm or corporation shall be the responsibility of the owner or owners of the proprietorship, partnership, firm or corporation.

B. *License use restricted.* No licensed residential building contractor or licensed residential roofing contractor shall allow his or her name to be used by any other person directly or indirectly, either to obtain a building permit or to perform residential building contracting or residential roofing contracting outside his or her personal supervision.

C. *License term renewal.* All residential building contractor licenses issued under the provisions of this chapter shall expire on December 31 of every third year, beginning on December 31, 1994. All residential roofing contractor licenses issued under the provisions of this chapter shall expire on December 31 of every third year, beginning on December 31, 2013. All renewal fees shall be paid on or before December 31 of each successive triennial year. No license may be issued until the designated construction supervisor has completed the requirements for continuing education in subsection J. of this section. Licenses not renewed by the date of expiration shall not be renewed until the applicant has submitted and passed an examination and has paid the examination fees.

D. *Examination.* Before a residential building contractor's license or residential roofing contractor's license may be issued, the contractor shall be required to submit to and pass an examination as to his or her qualifications and fitness to perform residential building contracting or residential roofing contracting, respectively. The examination shall be given under the direction of the Rapid City Residential Contractor's Board. Any applicant who fails to pass the examination shall not be eligible to take another examination until at least 30 days have lapsed from the date of the last examination. Applicants shall pay the examination fee for each exam given.

E. *Liability insurance.* Liability insurance shall be required of every residential contractor and every residential roofing contractor. Every applicant for a residential contractor's license or residential roofing contractor's license shall present to the building official for his or her review a valid certificate of insurance at the time of application. It shall be the duty of every residential contractor and every residential roofing contractor to continually maintain valid liability insurance. The minimum required general aggregate liability shall be \$300,000 with \$50,000 fire damage and \$300,000 each occurrence.

F. *Worker's compensation insurance.* In accordance with South Dakota state law, proof of worker's compensation insurance shall be verified prior to the issuance of a license.

G. *Proof of excise tax number.* Applicants for a residential contractor's license and residential roofing contractor's license shall be required to supply their excise tax number.

H. *South Dakota address and phone number.* Applicants for a residential contractor's license and residential roofing contractor's license shall be required to furnish the name, address and phone number of an agent residing in South Dakota.

I. *Continuing education.* The requirement for triennial renewal is 1 hour of attendance for every year the license is in effect, at a code class approved by the Building Inspection office. The class topics shall include, but are not limited to:

1. Legal requirements of the code;
2. Local amendments to the code;
3. Requirements for group R occupancies; and
4. Requirements for group U occupancies: and
5. Roofing requirements.

R115.4 License application fees.

A. Each person applying for a residential contractor's license or residential roofing contractor's license shall pay to the city's Finance Officer an initial fee of \$200. The license is valid for 3 years. The triennial renewal fee shall be \$100.

B. 1. A person may put his or her residential contractor's license or residential roofing contractor's license under inactive status; however, during that time, he or she may not work as such a residential building contractor within the city.

2. The license application fee and continuing education requirement for inactive status shall be the same as active status, \$200 initial fee and \$100 renewal fee every 3 years, and 1 hour of continuing education every year.

R115.5 Rapid City Residential Contractor Board.

There is established the Board of Residential Contractors, and shall be henceforth entitled the Rapid City Residential Contractor Board. The Board shall consist of 5 members from the residential construction industry, the Building Official or his or her designee. Two members of the Board shall serve for a term of 1 year and 3 members shall serve for a term of 2 years. The members shall be appointed by the Common Council, in January, at its first regular meeting. The members of the Board, except for city staff, shall serve without compensation for the service. The Building Official or his or her designee shall serve as a nonvoting member.

A. Powers and duties of the Board.

1. The Rapid City Residential Contractor Board is authorized to adopt such rules and regulations as shall become necessary with the approval of the Common Council. The Rapid City ~~Residential~~ Contractor Board shall notify all license holding residential contractors and all license holding residential roofing contractors of the proposed rules and regulations within 60 days prior to the delivery of the rules and regulations to the Common Council.

2. The Board shall hold meetings, as necessary, for transaction of business and for examination of applicants, as heretofore provided for in this chapter; to examine all such applicants as to their knowledge of the rules and regulations governing residential building work, and to determine the qualifications and fitness of the applicants for executing the class of work covered by the license applied for; and to grant licenses as applied for and renewals thereof to those applicants who shall show proper qualifications.

3. The purpose of the Residential Contractor Board is to protect the public health, safety and welfare, and to guard against incompetent or dishonest contractors providing unsafe, unstable or short-lived products or services. Board procedures should always be fair and reasonable. Special care should be taken to insure that new or small volume builders can obtain a license without hardship.

B. Violations and penalties.

1. Any person who shall commence any residential building work for which a permit is required by this code without first having obtained a permit therefore shall, if subsequently permitted to obtain a permit, pay double the permit fee fixed by this section for the work; provided, however, that, this provision shall not apply to emergency work when it shall be proved to the satisfaction of the administrative authority that the work was urgently necessary and that it was not practical to obtain a permit therefore before the commencement of the work. In ~~all~~ such cases, a permit must be obtained as soon as it is practical to do so, and if there be an unreasonable delay in obtaining the permit, a double fee as herein provided shall be charged.

2. It shall be within the discretion of the Residential Contractor Board to revoke a license of any residential contractor or residential roofing contractor who has been doing work without a permit. It shall also be within the discretion of the Residential Contractor Board to revoke any residential contractor's license or any residential roofing contractor's license if the Board receives three complaints within a two year time period on structures that do not comply with the minimum standards of the building code under which the structure was built.

a. Should any licensee, or applicant for license, under this chapter be aggrieved by the action of the Rapid City Residential Contractor Board, he or she may, within 10 days, apply to the Common Council for a review of the action. Upon the review, the Common Council may affirm, modify or reverse the action of the Residential Contractor Board and may order for good cause the issuance of a license.

3. The issuance or granting of a permit or approval of plans and specifications shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this code. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid, except insofar as the work or use which it authorizes is lawful.

4. The issuance or granting of a permit or approval of plans shall not prevent the administrative authority from thereafter requiring the correction of errors in the plans and specifications or from preventing construction operations being carried on thereunder when in violation of this chapter or of any other ordinance or from revoking any certificate of approval when issued in error.

5. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine, not to exceed \$100, or by imprisonment in the county jail, not to exceed 30 days, or by both fine and imprisonment. Upon written notice by the Building Official, each separate day or any portion thereof during which any violation of this chapter continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

6. A licensed contractor who is the subject of an investigation by the Board shall cooperate fully with the Board in its investigation. Cooperation includes, but is not limited to:

- a. Responding fully and promptly to questions raised by the Board;
- b. Providing copies of records in the person's possession relative to the matter under investigation, as requested by the Board; and
- c. Appearing at conferences or hearing scheduled by the Board.

(Ord. 5473 (part), 2009)

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)

First Reading:
Second Reading:
Published:
Effective: