

Ordinance No. 5928

**AN ORDINANCE TO AMEND THE DEADLINE TO OBTAIN
CONTRACTOR LICENSES BY AMENDING SECTION 15.04.140
OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City recently adopted ordinances setting forth standardized administrative procedures for the building code found in Chapter 15.04 of the Rapid City Municipal Code; and

WHEREAS, Section 15.04.140 includes provisions which require licensure of certain types of contractors who had not previously been required to obtain licenses from the City; and

WHEREAS, Section 15.04.140(N) requires contractors who had not previously been required to obtain a license to acquire a license within 120 days of the date of passage of Section 15.04.140; and

WHEREAS, 120 days from the date of passage of Section 15.04.140 is June 10, 2013; and

WHEREAS, the City and several contractors are collaborating on minor amendments to various provisions in Chapter 15.04, including the licensing requirements; and

WHEREAS the Common Council believes that the deadline for licensure should be extended so that all minor changes can be incorporated into the ordinance prior to licensure of these contractors; and

WHEREAS, the Common Council believes it to be the best interests of the City to extend the deadline for licensure of those contractors who had not previously been required to obtain City licenses to December 31, 2013; and

WHEREAS, this deadline extension is not intended to affect the licenses of those contractors who were required by city ordinance to obtain licenses prior to adoption of Chapter 15.04.

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Section 15.04.140 of the Rapid City Municipal Code be and hereby is amended to read as follows:

15.04.140 Contractor Licenses.

A. It shall be unlawful for any person to engage in any of the trades, business or occupations enumerated below in the city, or in any construction work pursuant to such trades, businesses or occupations in the city, without having first obtained a license from the city for the work authorized by such license.

B. General building contractor licenses are available for the following classes:

1. Class A, for construction of any and all types of structures;
2. Class B, for construction of detached single-family houses, attached single-family houses, and two-family dwellings, as defined by the U.S. Census Bureau; or
3. Class C, for construction of residential remodeling or additions not defined as Class A or B residential structures, for construction of garages, siding, roofing, concrete flatwork, drywall, and similar type work. A complete list of trades and activities that fall within Class C licenses is available on file with the Building Official.

C. The following trade licenses are available:

1. Class PC - Plumbing Contractor as provided in Chapter 15.24;
2. Class P – Plumber as provided in Chapter 15.24;
3. Class PA – Plumber’s Apprentice as provided in Chapter 15.24;
4. Class PW – Water Softening Contractor as provided in Chapter 15.24;
5. Class MC - Mechanical Contractor as provided in Chapter 15.26;
6. Class MI - Mechanical Installer as provided in Chapter 15.26;
7. Class MA - Mechanical Apprentice as provided in Chapter 15.26;
8. Class MAS – Appliance Specialist as provided in Chapter 15.26;
9. Class EC – Electrical Contractor as provided in Chapter 15.16;
10. Class EM – Master Electrician as provided in Chapter 15.16;
11. Class EJ – Journeyman Electrician as provided in Chapter 15.16;
12. Class EB – Class B Electrician as provided in Chapter 15.16;
13. Class EA – Apprentice Electrician as provided in Chapter 15.16;
14. Class GC – Gas Fitting Contractor as provided in Chapter 15.20;
15. Class GF – Gas Fitter as provided in Chapter 15.20;
16. Class GA – Gas Fitting Apprentice as provided in Chapter 15.20;
17. Class R - Roofing Contractor; and

18. Class S - Sign Contractor, defined as a proprietorship, partnership, firm or corporation who, for compensation, undertakes or offers to undertake the enlargement, alteration, repair, improvement, conversion or new construction of a sign for which a sign permit required.

D. Each applicant for every license and registration required by this title shall provide to the Community Planning and Development Services office the following information:

1. A completed application for the particular license desired available at the Community Planning and Development Services office;
2. A copy of the applicant's South Dakota excise tax license;
3. The applicant's address and phone number;
4. If available, the name, address, phone number, and email of an agent residing in South Dakota;
5. For firms required to file organizing or incorporating documents with the Secretary of State, proof that it is a validly existing legal entity authorized to transact business in South Dakota;
6. Payment of the application fee as set by resolution of the Common Council; and
7. If applicable, a copy of any equivalent state license.

E. Each applicant for a general building contractor license, and each applicant for a trade license that is a firm and not a natural person, shall designate on the application at least one construction supervisor who shall sit for the required examination, if applicable.

1. If the applicant is a natural person, that person may designate himself or an employee as construction supervisor.
2. If the applicant is a firm, it may designate an officer or employee of the firm as construction supervisor. A FIRM under this section is defined as a partnership, limited partnership, limited liability partnership, limited liability limited partnership, limited liability company, corporation or other legal entity.
3. An applicant may designate multiple construction supervisors, all of whom, upon successful completion of the examination, shall be listed on the license issued to the contractor.
4. No applicant may designate a construction supervisor who has already been designated as construction supervisor by another licensee, and no person or firm shall hold more than one license.

F. The Building Official shall have the right to require of an applicant proof of ability to perform satisfactorily in the business, trade or occupation for which the license or registration is applied for. Such proof of ability may be required to be evidenced in a fair and impartial manner by approved tests or by certification.

1. Before a general building contractor license may be issued, at least one designated construction supervisor shall be required to pass an examination as to his or her qualifications to perform building contracting. The examination shall be given under the direction of the Building Official. Any person who fails an examination shall not be eligible to take another examination until at least thirty (30) days have lapsed from the date of the last examination. Applicants shall pay the examination fee for each exam as set forth by resolution of the Common Council.

2. Before a trade license may be issued to a firm, at least one designated construction supervisor shall be required to pass an examination as to his or her qualifications to supervise the particular trade. The examination shall be given under the direction of the Building Official. Any person who fails an examination shall not be eligible to take another examination until at least thirty (30) days have lapsed from the date of the last examination. Applicants shall pay the examination fee for each exam as set forth by resolution of the Common Council.

3. Before a trade license may be issued to an individual, the applicant may be required to pass an examination as to his or her qualifications to perform the trade. The examination shall be given under the direction of the Building Official. Any person who fails an examination shall not be eligible to take another examination until at least thirty (30) days have lapsed from the date of the last examination. Applicants shall pay the examination fee for each exam as set forth by resolution of the Common Council. In lieu of the examination, the Building Official may accept proof that the applicant possesses a valid current license in the relevant trade issued by any other governmental agency giving an examination, the scope and character of which, in the discretion of the Building Official, is at least equal to those tests given by the city.

G. Every applicant for every license shall present to the Building Official for review a valid certificate of insurance at the time of application. It shall be the duty of every licensee to continually maintain valid liability insurance. The minimum required general aggregate liability shall be \$1,000,000 with \$300,000 fire damage and \$1,000,000 each occurrence.

H. The following exceptions do not require a license:

1. Employees of a general building contractor license if they are under the personal supervision of a construction supervisor.

2. A landlord personally performing work on property the landlord owns or manages when the landlord is acting as his or her own contractor, except work which would require a license under Chapters 15.16, 15.20, 15.24, and 15.26. A landlord may not build more than 1 single-family dwelling in a 3-year period without obtaining a contractor's license.

3. 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 not build more than one single-family dwelling in a three-year period without obtaining a contractor's license, provided he or she occupies the dwelling a minimum of one year after the final inspection is approved.

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

J. No licensee or landlord 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 work under this code outside his or her personal supervision. Any subcontractor working for a licensed contractor shall also be licensed.

K. It shall be the duty of each general building contractor or trade license that is a firm to immediately notify the Building Official in writing upon the designation of a new construction supervisor or the termination or separation of a designated construction supervisor listed on the contractor's license.

1. Upon the termination or separation of a designated construction supervisor, the general building contractor license shall expire ten (10) business days following such separation or termination unless:

- a. There is another construction supervisor listed on its license;
- b. The contractor immediately designates another construction supervisor who has passed the examination; or
- c. The license is extended as provided herein.

2. The contractor may, within ten (10) business days of any such termination or separation, request in writing from the Building Official an extension of its general building contractor license, and the Building Official shall grant an extension for a period not to exceed 30 days from the date of termination or separation.

3. No contractor may be issued a new permit during the period where no construction supervisor is listed on its license.

L. Except as provided below, all general building contractor licenses and trade licenses issued under the provisions of this chapter are valid for two years. Renewal applications shall be filed sixty days prior to expiration of the license. Licensees failing to renew their applications prior to expiration have a 60-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 60-day grace period shall be required to reapply for a new license, meeting all requirements of this code including passing an examination and paying all required fees. No renewal license may be issued until the licensee has completed the requirements for continuing education. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office

is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

M. All plumbing contractor licenses, plumber licenses, plumber's apprentice licenses, and water softening contractor licenses are valid for one year. Renewal applications shall be filed sixty days prior to expiration of the license. Licensees failing to renew their applications prior to expiration have a 60-day grace period during which to renew before the license lapses. Licensees who fail to renew their license by the date of expiration or within the 60-day grace period shall be required to reapply for a new license, meeting all requirements of this code including passing an examination and paying all required fees. No renewal license may be issued until the licensee has completed the requirements for continuing education. No partial payment shall be received by the Finance Office for any license or registration fee, and the Finance Office is hereby prohibited from receiving any sum less than the amount required by the terms of the provisions pertaining to the particular contractor license applied for. The amount of the license fee will be determined by resolution of the Common Council.

N. Upon adoption of this chapter, the Building Official will honor existing licenses until they expire, at which time the licensee must comply with all requirements of this chapter prior to obtaining a license. If, when this chapter is adopted, an individual is performing work which did not require a license prior to adoption, but for which this chapter now requires a license, any such individual has ~~120 days~~ until December 31, 2013 in which to obtain a license before the Building Official will consider that individual to be operating without a license in violation of this chapter.

O. Upon receipt of a license approved by the Building Official, the Finance Officer shall issue a license to the applicant.

P. Proof of continuing education hours must be submitted by the applicant at the time of any license renewal application under this chapter. The continuing education requirement for license renewal of general building contractor licenses and trade licenses is as follows:

1. Six hours per license period for general building contractor licenses, sign contractors, roofing contractors, and licenses issued under the mechanical code found in Chapter 15.26.
2. For licenses pursuant to the electrical code and the plumbing code, per the requirements of the State of South Dakota.

Q. The class topics for continuing education shall include, but are not limited to:

1. Requirements of the building codes;
2. Local amendments to the Rapid City Code;
3. State of South Dakota Amendments; or

4. Requirements for codes for any of the trades such as electrical, plumbing, mechanical, fire alarm, fire sprinkler, fencing, concrete, signs, lawn sprinkler, right-of-way, asbestos, drywall, roofing and excavation.

R. It shall be the duty of every person receiving a license or registration pursuant to this article to exhibit any such license or registration upon request of a law enforcement officer or a duly appointed representative of the city.

S. If the particular license requires a construction supervisor, the construction supervisor must be on the jobsite for the purposes of personally overseeing and directing the work. The construction supervisor must be available to employees supervised and to city inspectors, and the construction supervisor is able to and does determine that all work performed is in compliance with this code and all city ordinances, rules, regulations, and state law.

T. All subcontractors must be licensed under this section, unless an exception applies. If a subcontractor is not licensed in violation of this section, the subcontractor and any general contractor are subject to sanctions as provided in this code.

U. It shall be within the discretion of the Building Official to suspend, revoke or refuse to issue or renew the license of any person who has been doing work without a permit as required by § 15.04.150.

V. It shall be within the discretion of the Building Official to suspend, revoke, or refuse to issue or approve any general building contractor or trade license if the Building Official finds the following:

1. Suspension, revocation or refusal to renew is in the public interest; and
2. Based upon evidence presented, the applicant or licensee:
 - a. Has filed an application for a license which is incomplete in any material respect or contains one or more statements which are false or misleading;
 - b. Has engaged in any fraudulent, deceptive, or dishonest act or practice in the performance of building contracting and/or the trade;
 - c. Has violated any applicable provision of this section, the Adopted Construction Codes, Rapid City Municipal Code, or state regulation or law;
 - d. Fails to maintain the requirements of licensure, including insurance, excise tax license or current phone and address as required by this chapter;
 - e. Fails to provide copies of records in his or her possession related to a matter under review;
 - f. Fails to pay fees in a timely manner;

g. Fails to respond to a lawful order or directive of the Building Official or the Building Board of Appeals; or

h. Fails to possess a valid state license for the particular trade, if such a license is required by state law.

W. A licensee who is the subject of a review by the Building Official shall cooperate fully with the Building Official. Cooperation includes, but is not limited to:

1. Responding fully and promptly to questions raised by the Building Official;
2. Providing copies of records in the person's possession relative to the matter under review, as requested by the Building Official; and
3. Appearing at conferences or hearings scheduled by the Building Official.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)