



CITY OF RAPID CITY

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Community Planning & Development Services

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MEMORANDUM

To: Chairman and Members of the Legal and Finance Committee

From: Brad Solon, Building Official

Date: December 6, 2011

Subject: Implementation of Roofing Permits Amendments

In August 2010 the City received a complaint from a roofer that work was being done on a house along St. Patrick Street that was not in compliance with the Rapid City Municipal Code. This was confirmed a City building inspector and the owner/roofer was instructed to correct the deficiency even though a roofing permit was not required at the time. The city ordinance states that re-roofing work must be done in compliance with the building code regulations regardless of whether a roofing permit is required. This matter was brought before the City Council and an ordinance amendment was passed to require roofing permits in September 2010. Staff began issuing roofing permits in November 2010. City Council also amended the ordinance to require a license for roofing contractors concurrently with the amendment to require a roofing permit. Since the fall of 2010 the City has been approving roofing permits and has issued many licenses for roofing contractors.

Here are some facts regarding the roofing permits and the issuance of contractor licenses. These numbers do not include commercial roofing and reroofing.

- From September 2010 to May 2011 (prior to the hail storms) 170 reroofing permits were issued and \$11,702.75 in permit fees was collected.
- From June 2011 through November 2011 (after the hail storms) 2,146 roofing permits were issued and \$174,027.47 in permit fees has been collected.
- From September 2010 through November 2011 50 Residential Roofing Contractor Licenses were issued and \$10,000 has been collected.
- The average cost of a roofing permit is about \$81.
- Since June 2011 staff did approximately 1,547 inspections on residential roofing.
- Since June 2011 homeowners obtained 204 roofing permits.



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OPPORTUNITY

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Benefits of Roofing Permits

- A homeowner is not required to have a contractor's license to obtain a building permit for a roof. A City Roofing Contractor License requires liability insurance, Workman's Compensation Insurance, if applicable, a South Dakota Excise Tax number, contractor's contact information, and the contractor must pass an exam administered by the Building Services Division. The City and Contractor Board have the ability to revoke the license if the contractor is found to be performing work that does not meet the City ordinances. A licensed contractor in good standing is able to demonstrate to a homeowner that they are eligible to apply for the roofing permit and perform the construction according to the City requirements. Homeowners can also check with City Staff to see if the contractor they want to hire is licensed with the City.
- A permit is required for a homeowner to do their own roofing. The permit and inspections are designed to protect the homeowner if it becomes necessary for them to make an insurance or warranty claim. Insurance companies will resolve claims on damaged roofing provided the roof was installed correctly. Many insurance companies won't pay a claim to correct deficiencies. If the roof is done correctly the first time, then the insurance might cover the installation. Also, many homeowners don't have "code upgrade" insurance.
- Shingle manufacturers provide a warranty on their products. If a roof is improperly done either by not installing the shingles correctly or if the roof does not meet the local code, the warranty will be voided. This would be a problem for an owner that attempts to file a warranty claim against the manufacturer if the roof was not done per the manufacturer's instructions or if the roof was installed in conflict with the local code.
- Inspections are being done when the roof is stripped of the old shingles and the new underlayment is applied. The inspection can reveal any deficiencies when the ice shield and underlayment are installed. Staff is also following up on a final inspection, and any other roofing inspections that the applicant requests.
- The current adopted city code allows for the permit holder to file an affidavit for roofing that is done on weekends, nights, or holidays. Often the weather doesn't cooperate and this affidavit allows permit holders to continue working even though an inspector is not available.
- Requiring the permit and performing the inspection provides assurances that the installation was done correctly and limits the opportunity for a contractor to cheat and not install the ice shield.
- Owners can easily obtain a permit and re-roof their own house.
- With regard to new construction the building permit is issued for the entire structure including the roof rather than requiring a separate permit for the roof. Some roofing contractors have complained that when roofing is done on a new house without a separate roofing permit, the roofing is not done per code or per the shingle manufacturer's instructions. A separate permit for roofing on new construction would require the same compliance as a re-roofing permit for previously constructed residence.

Reasons to eliminate the permits and license requirement:

- The current permit and license does not require a code compliance bond. The City has no financial surety to assist a homeowner with the correction of roof that was installed incorrectly. Homeowners are left with taking the contractor to court to gain compliance as the loss of a contractor's license would not help the owner with the financial costs associated with repairing or replacing a roof that was not installed correctly.
- The frequency and scope of a hailstorm event is not predictable and can cause widespread damage that is beyond the permitting and inspection capacity of the existing staff. For example a storm that damages 9,000 roofs would require 18,000 inspections in a short period of time.
- Requiring roofing permits and inspections takes time away from staff with regard to other permits, inspections and licenses. Staff would be able to perform more thorough inspections on the thousands of other permits issued.
- Some contractors won't cooperate. Contractors circumvent the inspections or permits, to cheat on the affidavits, or roof without a permit or a license.
- A thorough final inspection is not being performed, and improper installation results in other code violations, such as damage to the electrical service, damage to plumbing and mechanical venting or damage to the structure. A dislodged mechanical or plumbing vent could cause substandard conditions inside the house.
- As of December 6, 2011, about 570 roofs were not yet inspected. Many of these permits are not yet expired by limitation since they were issued in the summer. The follow-up and enforcement of permits that were not inspected will be time consuming and frustrating to a homeowner where a deficiency is involved.
- The ordinance does not currently require a subcontractor to be licensed. Thus many roofs are not completed by the permit holder. Many contractors are "pawning off" corrections or violations to the subcontractors.
- No ordinance can prevent the "fly-by-night" contractor or the local contractor from bilking a customer. A contract for services between the two parties must stay between the two parties involved.
- Since June 2011 homeowners obtained 204 roofing permits. Many of those same homeowners hired an unlicensed subcontractor to do the roofing and then later complained to staff that the subcontractor was not licensed when they needed assistance. An ordinance should require a subcontractor hired by the homeowner to be licensed.
- Staff expects that we will receive numerous complaints in the next year regarding roofs that were not installed properly. Staff will be following up on complaints where a permit was issued and inspections were performed.

Aside from the unfortunate event of three hailstorms within a few weeks and having 6,000-9,000 roofs damaged, staff believes there is good reason to require a permit and a license. Any licensed holder or owner can obtain the permit and the average permit cost is only about \$81 and covers the two inspections. Local contractors generally favor the implementation of the permit and license requirement because out-of-town contractors are subject to the same regulations as local contractors. Licensing contractors, requiring permits and performing inspections provides some protection for homeowners. Staff can easily handle the normal amount of roofing being done (170 permits from May 2010 to November 2011) and the Contractor Board, Finance Department and Inspection Staff can handle a reasonable number of contractor license applications. Furthermore the affidavit is a reasonable solution for roofing on holidays and weekends so long as the affidavit program is not being abused.

Conversely, by eliminating the permit and license requirement, a homeowner will not have any protection against a dishonest or unlicensed contractor or subcontractor, and local contractors and subcontractors will be forced to do business where there is no enforcement of the local code or of manufacturer's instructions. As previously stated, no ordinance will prevent a dishonest contractor from doing work, nor will it prevent a homeowner from making a bad decision.

The Rapid City Residential Contractor Board discussed these matters at length in 2011. The Board is currently recommending the license requirement be made more restrictive and to bring forward an ordinance amendment to require licensing or registration for subcontractors. Also, City Council will most likely see more Roofing Contractor License revocation appeals.

Staff recommendation: Staff recommends that the roofing permit and the license requirement be left in place and to wait for the recommendations from the Rapid City Residential Contractor Board. Staff firmly believes that the catastrophic nature of the hailstorms were the main problem and not the implementation of the ordinance amendments.

Please contact Building Official, Brad Solon, with questions.