

## Highland Planning and Development

### LICENSING OF BUILDING CONTRACTORS

#### § 210.085 PURPOSE.

It is hereby declared to be the purpose, intent, and policy of the Town Council of the Town of Highland, Lake County, In, that in order to safeguard the health, safety, and public welfare of its citizens, the business of building construction and the persons engaged therein as hereinafter defined shall be licensed as set forth herein.

( '83 Code, § 5-118) (Ord. 908, passed 11-12-84)

#### § 210.086 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONTRACTOR.** Any natural person who, for compensation, undertakes to, or submits bids to, or does himself, or has done by others, construction, repair, alteration, remodeling, addition to, subtraction from, and improvement of structures and buildings, moves, wrecks, or demolishes any structure, and/or manages all or any of the above items, and who is responsible for all contracting within the entire project.

**COUNCIL.** The Town Council of the Town of Highland, Lake County, Indiana.

**DESIGNEE.** The Building Inspector of the Town of Highland, Lake County, Indiana.

**LICENSE.** A certificate issued by the board or its designee, established pursuant to this subchapter which confers upon the holder the privilege to perform as a contractor.

**MAINTENANCE MAN.** A person who is employed on a permanent basis to keep the premises of a business establishment in good repair.

**PERSON.** A natural person, partner, partnership, limited partnership, or any form of unincorporated enterprise, owned by two or more persons, and as applied to "corporation" in addition to the corporations, including the officers, directors, and employees thereof.

**SPECIALTY CONTRACTOR.** One who specializes in a particular branch of the building construction industry, and who shall be licensed and limited to said specific field of work, including but not limited to landscapers and lawn maintenance services shall be included in the definition of specialty contractor.

( '83 Code, § 5-119) (Ord. 908, Passed 11-12-84; Am. Ord. 908A, passed 6-23-86)

#### § 210.087 ADMINISTRATION; BUILDING INSPECTOR.

The Town Council of the Town of Highland, Lake County, Indiana, shall have general charge and responsibility of administering this subchapter, and said administration responsibility is hereby delegated to the Council's designee, the Building Inspector.

( '83 Code, § 5-124 (Ord. 908, passed 11-12-84)

## Highland Planning and Development

### § 210-088 DUTIES AND POLICIES.

It shall be the duty and policy of the Council or its designee to:

- (A) Prescribe the form of licenses and issue same, provided that all such licenses, while in force, shall be under the supervision and control of the Council, by and through its designee, the Building Inspector.
- (B) Issue licenses as contractors and specialty contractors to any person who qualifies and complies with the provisions of this subchapter and pays the required license fee.
- (C) It shall be the responsibility of the Council or its designee, to adopt and promulgate rules and regulations for the conduct of its business consistent with the guidelines and provisions of this subchapter and do all things necessary to effect the provisions of this subchapter.  
( '83 Code, § 5-125) (Ord. 908, passed 11-12-84)

### §210.089 LICENSE APPLICATION.

- (A) Except as otherwise provided in this subchapter, any person over the age of 18 years, and any corporation which satisfies the further requirements of this subchapter shall be licensed by the Council or its designee.
- (B) Persons seeking to be licensed as a contractor or specialty contractor shall file a written application on a form to be provided by the Council or its designee, which shall contain such information as the board or its designee deems necessary to determine the qualifications and competency of the applicant.
- (C) The application, if filed on behalf of a firm, co-partnership, association, or corporation shall contain also the name of the person who actively will manage said business and be licensed. Where a license shall be issued, authority to transact business there under as a contractor or specialty contractor shall be limited to one person (officer) of such business to be designated in the application and names in the license. Each other person or employee of such business desiring to act as a contractor or specialty contractor in connection with the business of the firm, co-partnership, or corporation shall be required to take out a separate license.
- (D) All applications shall be signed by the applicant or its duly authorized officer and shall be accompanied by a recommendation as to the character and honesty of the applicant from two citizens of this county who are not related to the applicant, or in the case of a corporation, its officer, and who shall be owners of real estate in the county where the applicant proposes to actively engage in the contracting business.
- (E) Every application shall be accompanied by two recent photographs of the applicant, size 1 ½" x 2".
- (F) Upon the filing of an application, the Council or its designee may investigate the statements contained herein and, if any statements are found to be untrue, may refuse to examine or license the applicant.

### Highland Planning and Development

- (G) Except as hereinafter provided, all individual applicants for a license as a contractor or a specialty contractor shall submit to and pass an oral and written examination conducted by the Council or its designee. The contents of the examination herein required shall be developed by the designee of the board and he shall, for each license category, test the current levels of skills required of persons to be licensed in said category.
- (H) Upon receipt of application and proof of fee payment as prescribed in this subchapter, it shall be the duty of the Council or its designee to set a date and notify applicant in writing as least five days before such examination.
- (I) Any applicant who fails to qualify for a license as a contractor or specialty contractor may be re-examined at the next succeeding date for examination. But, in any event, any applicant who fails to qualify for the examination on two successive attempts shall be ineligible for re-examination for one year subsequent to the date of his last examination.
- (J) Before a license is issued by the Council or its designee to any applicant, the Council or its designee shall require the applicant to file a bond with the County Recorder's Office in the amount of \$5,000. The bond shall be issued by a surety authorized to do business in Indiana, and be conditioned upon the faithful observance of the ordinances and laws of the County of Lake and State of Indiana relating to contracting and all rules and regulations promulgated thereunder.
- (K) Whenever any contractor's license issued under the provisions of this subchapter is revoked by the board or its designee, the Council or its designee shall deliver the bond of the offending licensee to the Town Attorney who shall institute proceedings to forfeit the bond.
- (L) Every license issued under the provisions of this subchapter shall expire at the end of each calendar year (December 31), and shall be renewed annually upon payment of the required renewal fees as a matter of right, if the applicant for renewal has not violated, during the preceding license period any of the provisions of this subchapter, or the rules and regulations promulgated pursuant thereto.
- (M) Applications for renewal shall be filed with the Council or its designee, on a form provided therefore, no later than 60 days prior to the expiration date of the licensee's current license. The application shall be accompanied by the required renewal fee. The Council or its designee, upon the receipt of the application for renewal and the required renewal fee, shall issue the license in the category said applicant has previously held, provided that he had not violated any of the provisions of this subchapter, or the rules and regulations promulgated pursuant thereto.
- (N) Upon receipt of an application for renewal by an applicant, who during the precedent licensed period, has violated any of the provisions of this subchapter or any rules promulgated by the Council or its designee, the board or its designee shall make such investigation as it deems necessary to determine the fitness of the applicant for renewal of his license. In the event the board or its designee determines after said investigation that a question exists as to whether the application hereunder consideration should be renewed, they or he shall so advise the applicant and he shall thereafter, within 30 days, show cause to the board or its designee why

### Highland Planning and Development

his license should be renewed. If, after hearing, the Council or its designee, determines that said applicant thereafter may seek remedies under the laws of the State of Indiana.

- (O) No license shall be renewed during any period a license is under citation by the Council or its designee, for violation of any of the provisions of this subchapter or any rules promulgated by the Council or its designee; however, the board or its designee, in their or his discretion, may temporarily extend the applicant's current license for a period or periods of time not to exceed 30 days, or until the act complained of shall be heard by the Council or its designee, and during any period of appeal provided for by this subchapter.
  - (P) The fees to be charged by and paid to the Council's designee by licensees for all licenses and renewals thereof shall be as follows.
    - (1) A filing fee of \$22.00 shall accompany an application for examination as a contractor;
    - (2) An additional fee of \$50.00 shall be required for the initial issuance of the license upon successful passage of the examination;
    - (3) A fee of \$50.00 shall be paid to the board or its designee for every annual renewal of a license.
  - (Q) All fees assessed by the board and collected by the Council's designee shall be paid into the office of the Clerk-Treasurer of the Town of Highland and shall be credited to the town's general fund.
  - (R) All construction work in progress on the effective date of passage of this subchapter shall be allowed to be completed without the issuance of a license.
  - (S) In the event a licensee shall have been convicted in this state or any other state of obtaining money under false pretenses, extortion, forgery, embezzlement, or criminal conspiracy to defraud, or other like offenses, and a duly certified or exemplified copy of the record in the proceeding is filed with the Council or its designee, the Council or its designee shall revoke the license issued to the licensee. In the event of the revocation or suspension of the license issued to any member of a co-partner, member, or members of the firm, association, or corporation shall be revoked unless, within the time fixed by the Council or its designee, where a co-partnership or association, the connection of the member or employee whose license has been suspended (or revoked), shall be severed and his interest in the co-partnership or association, or his employment thereby in the case of any employee, be terminated, and his share in its activities brought to an end, or where a corporation, the offending officer or employee shall be discharged and shall have no further participation in the corporation activities.
- ( '83 Code, § 5-126) (Ord. 908, passed 11-12-84; Am Ord. 1156, passed 10-23-00)

#### §210.090 ENFORCEMENT OFFICER.

- (A) *Appointment.* There is hereby created the position of assistant ordinance inspector. The person shall be appointed and employed by the Town Council and shall hold office at its pleasure. In all matter pertaining to the office, the inspector shall be answerable to the Town Council or its designate.

### Highland Planning and Development

- (B) *Oath and bond.* The assistant ordinance inspector shall be resident of the town. Before and such ordinance inspector shall enter upon his/her duties, he or she shall be required to take and subscribe an oath of office and shall file an individual bond in the minimum amount established by I.C. 5-4-1, conditioned upon the faithful performance of his duties with such premium on said bond to be paid by the town. Said bond may be executed with any recognized surety company authorized to do business in the state. The bond, as well as his oath, shall be filed in the office of the Clerk-Treasurer.
- (C) *Duties and powers.* It shall be the duty of the assistant ordinance inspector to investigate complaints regarding ordinance violations, issuing such warning citations, valid citations or letters as warranted, following the progressive disciplinary process. In addition, the assistant ordinance inspector shall receive instructions from the Chief Inspector concerning municipal codes to be enforced and shall assist the Chief Inspector in the administration of the building and construction code and such other matters as the Chief Inspector may from time to time direct which may include but not be limited to visual inspection and patrol to check for municipal code violations, unlicensed contractors, undocumented construction projects, unregistered businesses, public nuisances, and portable sign violations.
- (D) *Additional duties and records.* The assistant ordinance inspector shall keep a careful and accurate record of all warning citations, valid citations, issued letters and such other work product as may be generated in consequence of his duties. The assistant ordinance inspector shall provide such information as may be necessary to support the town prosecuting attorney in court hearings and such other enforcement proceedings as may be undertaken.
- (E) *Prohibited interests.* It shall be unlawful for the assistant ordinance inspector to engage in the business or crafts over which he may have regulatory authority, in the Town of highland, nor shall he have any direct financial interest in any such concern inside the Town of highland at any time while holding the office of assistant ordinance inspector.
- (F) *Fees and fines.* All fees and fines collected in conjunction with the duties and powers of the assistant ordinance inspector shall be paid into the proper fund of the Town of Highland.
- (G) *Compensation and qualifications.* The assistant ordinance inspector should have a knowledge and understanding of the town codes and their applications. The assistant ordinance inspector shall be paid on an hourly basis according to the grade and rate established and in force and effect in the most recent wage and salary ordinance as passed by the Town Council from time to time. The assistant ordinance inspector shall carry out his duties as may be needed and as directed by the Chief Inspector. Any change in the Compensation or any change in the position sufficient to affect the compensation of the position shall only be effective upon proper action and authorization of the Town Council.  
( '83 Code, § 5-126.1) (Ord. 1004, passed 7-25-94)

#### §210.091 VIOLATIONS.

The Council or its designee may, upon their own motion, and shall, upon the verified complaint in writing of any person setting forth specifically the wrongful act or acts complained of, investigate and action or business transaction of any licensee and shall have the power to suspend, or revoke a license issued by the Council or its designee under the provisions of this subchapter, if after due proceedings, as

### Highland Planning and Development

herein provided, it shall find the holder to have been guilty of the performance or attempt to perform any of the following prohibited acts or conduct.

- (A) Wishful or deliberate disregard of the applicable construction codes and ordinances of the Town of Highland, State of Indiana, or any rules promulgated pursuant thereto;
- (B) Aiding or abetting any unlicensed person to evade the provisions of this subchapter or rules and regulations promulgated thereto;
- (C) Knowingly combining or conspiring with unlicensed persons with the intent to evade the provisions of this subchapter or rules and regulations promulgated thereto;
- (D) Acting in the capacity of a contractor under any license issued hereunder except in the name of the licenses as set forth on the issued license;
- (E) Diversion of funds or property received from prosecution or completion of a specified construction project or operation, whereas a result of the diversion, the contractor is or will be unable to complete or fulfill the terms of his obligation t contract;
- (F) In the case of a contractor being adjudicated a bankrupt, or the making by a contractor of a composition with creditors or the appointment of a receiver of the licensee's business;
- (G) Paying compensation in money or other valuable considerations to any person other than a licensed contractor of rendering services or doing any act required by this subchapter to be performed by a licensed contractor holding a licensee;
- (H) No violation of any provisions of this subchapter by an agent or employee of any licensed contractor shall be grounds for the suspension or revocation of the license of the employer. For the purpose of the preceding sentence, a course of dealing shown to have been consistently followed by an employee shall constitute prima facie evidence of knowledge on the part of the employee;
- (I) Any person aggrieved by any action by the board or its designee in suspending, revoking, or failing to renew a license may seek judicial review thereof;
- (J) The record of the board or its designee, or a duly certified copy thereof, shall be admissible in any proceedings at law or in equity in any court of competent jurisdiction in this or any other state in which the applicant or licensee charged or under investigation is a party, and where the issues involved in the proceedings are pertinent to the inquiry before the board or its designee, and the verdict or judgment of the court in any action at law or the decree of the court in any proceeding in equity shall be prima facie evidence of the facts at issue in the proceedings and necessarily adjudicated therein;
- (K) The verdict in any prosecution in a court of record of this or any state in which the applicant licensee charged shall have been the defendant, shall be conclusive as to the facts charged and at issue in such prosecution;
- (L) After the revocation of any license, no new license shall be issued to the same licensee within a period of at least one year subsequent to the date of the revocation;

## Highland Planning and Development

- (M) Whenever a new license is issued by the board or its designee, to any person whose license has been previously revoked, the issuance shall be treated as an initial issuance and the applicant shall be required to pay the fees, and, in the case of contractors, shall be required to submit to the examination required of all other initial applicants.  
( '83 Code, § 5-131) (Ord. 908, passed 11-12-84) Penalty, see § 210.999

### § 210.092 EXCEPTIONS AND EXCLUSIONS.

This subchapter does not apply to:

- (A) An authorized employee of the United States, the State of Indiana, County of Lake, or any Political subdivision thereof, so long as the employee does not hold himself out for hire and is acting within the scope of his employment;
- (B) Public utilities, where construction, maintenance, and development work performed by their own forces and incidental to their business;
- (C) The owner occupant of a dwelling of a two or less residential unit when said owner occupant is installing, altering, or repairing said residential unit;
- (D) Any construction, alteration, improvement, or repair of improvements located on any site and project where state and federal law supersedes this subchapter;
- (E) Any individual who is employed or acts as a maintenance man at his place of employment.  
( '83 Code, § 5-132) (Ord. 908, passed 11-12-84)

### § 210.093 LIMITATIONS ON TOWN.

Nothing in this subchapter shall limit the power of the Town of Highland to regulate the quality and character of work performed by contractors throughout the enforcement of building codes and inspections.

( '83 Code, § 5-133) (Ord. 908, passed 11-12-84)

### §210.094. RENEWAL.

Any person actively engaged in the contracting business for a period of one year prior to or on the effective date of this subchapter shall be issued a license without the requirement of taking an examination if such person makes application to the board or its designee and furnishes adequate proof of his entitlement to be licensed in the category in which he makes application, and pays the fees required by this subchapter.

( '83 Code, § 5-134) (Ord. 908, passed 11-12-84)

### §210.095 LEGAL PROCEEDINGS.

Where in any proceeding before the Council or its designee, any contractor or witness shall fail or refuse to attend a request issued by the Council or its designee, or appearing, shall refuse to testify or shall refuse to provide any information or data, the production of which is called for by the Council or its designee,

## Highland Planning and Development

shall constitute legal action to be taken by the Council or its designee, and shall be enforced by any court of this state.

('83 Code, § 5-135) (Ord. 908, passed 11-12-84)

### **§ 210.096 AUTHORIZATION.**

The Council or its designee is hereby authorized and empowered to adopt, fix, and establish all rules and regulations necessary for the proper administration of the provisions of this subchapter.

('83 Code, § 5-136) (Ord. 908, passed 11-12-84)

### **§ 210.097 INSURANCE.**

Liability insurance in the amount not less than \$100,000 per occurrence, and property damage insurance in an amount not less than \$50,000 per occurrence, shall be required of each applicant. A certificate or copy of the insurance policy shall be filed with the Council or its designee by the licensed general and specialty contractor as herein provided.

('83 Code, § 5-136) (Ord. 908, passed 11-12-84)