

PRELIMINARY DRAFT FOR PROPOSED ORDINANCE 10-35 FOR CONTACTO

**BE IT FURTHER ORDAINED** by the City of Watertown that new Chapter 12.06 be added as follows:

Chapter 12.06  
Residential Contractors License.

- 12.0601      **Definitions.**
- 12.0602      **License required.**
- 12.0603      **License Application.**
- 12.0604      **License application fees.**
- 12.0605      **Violations & Penalties.**

12.0601      **Definitions.**

For the purpose 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.

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

**12.0602 License required.**

A. It is unlawful for any person or persons representing or operating under the auspices of a sole proprietorship, firm or corporation to conduct, carry on or engages in the business of residential contracting work or act in the capacity of a residential contractor, without Building Permit, and first having been issued a valid residential contractor's license by the City of Watertown. For the purposes of this Chapter, the following non-exclusive list of activities shall be considered residential contracting: cement or concrete work, masonry, carpentry, excavation; all building trade contracting including roofing, remodeling, siding, rough framing; all phases of new construction, alteration, additions; repair or demolition of structures; and all other projects requiring a permit within the licensing jurisdiction of the City of Watertown; and excluding those activities exempted by this Chapter.

B. The following are exempt from the licensing requirements:

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 or state 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 not build 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.

**12.0603 License Application.**

A residential contractor license shall be issued to every proprietorship, partnership, firm or corporation who makes application for the license, pays the required application fee, and meets the requirements as stated in this chapter. The Building Official is authorized to issue a

residential contractor's license provided the provisions of this chapter are met or may elect to refer any decision on issuance to the City Council.

- A. Person or persons responsible for license. Each residential 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 shall knowingly 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 outside his or her personal supervision.
- C. License term renewal. All licenses issued under the provisions of this chapter shall expire on December 31 of every year.
- D. Liability Insurance. Liability insurance shall be required of every residential contractor. Every applicant for a residential 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 to continually maintain valid liability insurance. The minimum required general liability shall be \$1,000,000 each occurrence.
- E. 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.
- F. Proof of excise tax number. Applicants for a residential contractor's license shall be required to supply their excise tax number.

#### **12.0604 License application fees.**

Each person applying for a residential contractors' license shall pay to the city's Administrative Official the fee as established by Resolution of the City Council.

#### **12.0605 Violations & Penalties.**

A.

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.
2. It shall be within the discretion of the Administrative Official to revoke a license of any residential contractor who has been doing work without a permit. It shall also be within the discretion of the Administrative Official to revoke any residential contractor's license if a complaint is received regarding construction

that fails to comply with the minimum standards of the building codes or ordinances.

3. Should any license or applicant for license, under this chapter be aggrieved by the action of the Administrative Official, he or she may, within 10 days, appeal such decision by filing a written request for such appeal with the Building Official for review by a Hearing Board. Upon the review, the Hearing Board may affirm, modify or reverse the action of the Administrative Official and may order for good cause the issuance of a license.

Section: HEARING BOARD.

(a) A Hearing Board shall be appointed as needed for arbitration of differences between the Administrator and Contractors on matters concerning interpretation and execution of the provisions of this ordinance.

(b) The Hearing Board shall consist of three (3) alderpersons appointed by the Mayor and/or the City Council President.

(c) Any arbitration agreement concluded by the Hearing Board must comply with all applicable State and Federal regulations.

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 hereunder 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 \$200, or by imprisonment in the county jail, and 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 shall cooperate fully in its investigation. Cooperation includes, but is not limited to:
  - a. Responding fully and promptly to questions;
  - b. Providing copies of records relative to the matter under investigation; and
  - c. Appearing at conferences or hearings scheduled.