

ORDINANCE NO. 1297

AN ORDINANCE OF THE TOWN OF BERTHOUD, COLORADO, AMENDING CHAPTER 14 OF THE BERTHOUD MUNICIPAL CODE WITH RESPECT TO CONTRACTOR'S LICENSING REQUIREMENTS

WHEREAS, pursuant to C.R.S. Section 31-15-501, the Board of Trustees for the Town of Berthoud (the "Town") is authorized to regulate businesses that operate within the Town; and

WHEREAS, the Town desires to establish a contractor licensing program that provides standards for qualifying those in the contracting trade to perform work within the Town; and

WHEREAS, it is deemed to be in the interest of public health, safety and general welfare to revise the Municipal Code of the Town to adopt a program for contractor licensing to implements standards for qualifying contractors; and

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF BERTHOUD, COLORADO THAT THE FOLLOWING CHANGES ARE HEREBY INCORPORATED INTO THE MUNICIPAL CODE:

Section 1. Chapter 14 of the Berthoud Municipal Code is hereby amended with the addition of a new section 14.9 to read as follows:

14.9 – Building Contractors

14.9-1 Intent

The intent and purpose of this Article is to ensure that contractors doing business within the Town have the minimum qualifications and maintain adequate liability insurance to perform construction by issuance of a contractor's license as set forth herein.

14.9-2 General

Except as delegated to the Town Administrator herein, the Building Official shall administer the provisions of this Article. The Building Official may, with approval of the Town Administrator, adopt reasonable rules and procedures for such purposes.

14.9-3 Definitions

For the purposes of this Article, the following terms shall have the following meanings:

Building Code means the International Building Code and all related uniform codes, including, but not limited to, the International Fire Code, International Plumbing Code and National Electrical Code as adopted by the Town and codified in Chapter 11 of this Code, as the same may be amended from time to time.

Building Official means the Building Official appointed by the Town Administrator or, upon approval of the Town Administrator, the Building Official's designee.

Building permit means the permit required by the Building Code in Chapter 11 of this Code.

Code means the Berthoud Municipal Code.

Construction means the work, including the erection, alteration, demolition, movement, repair, or remodeling, of any building or structure, or portion thereof, requiring a building permit pursuant to Building Code and any work within the public ways or on any public facility in the Town.

Contractor means any person, firm, partnership, corporation, association, other organization, or any combination thereof that performs construction work within the Town, unless otherwise specified in this Article.

Contractor's license means the license issued to a contractor performing construction work within the Town.

Contractor's license type or Contractor type means the specific license that pertains to the type of work that is performed by the contractor. The type of license may include or exclude certain work that can be performed by the contractor.

Employee means a person who is employed by a contractor to perform construction work that is paid a wage or salary and is eligible for Colorado workers' compensation insurance and unemployment insurance benefits. A worker who qualifies as an independent contractor under Colorado law is not considered an employee of a contractor.

14.9-4 License Required

- (a) Prior to performing construction work in the Town, a contractor shall obtain a contractor's license, except as otherwise provided in this Article.
- (b) For any construction requiring a contractor's license, building permits shall only be issued to a property owner or to a contractor holding a contractor's license.

14.9-5 Contractor License Type

A contractor shall be issued the type and level of license that is applied for once all application requirements have been met and reviewed and approved by the Building Official and Town staff and shall only approve the contractor the ability to perform work as described in the Appendix A in this Article.

14.9-6 Exemptions

A contractor's license shall not be required for the following:

- (a) Construction that does not require a building permit.
- (b) Construction undertaken by the owner of a detached single-family dwelling and associated accessory buildings, or any unpaid persons performing work under the continuous supervision of the owner of such buildings, who personally performs construction on the dwelling and associated accessory buildings; provided that the owner commences construction of no more than one such dwelling within any 24-month period or is replacing a building destroyed or damaged. Prior to performing any such construction, the owner must demonstrate sufficient knowledge and proficiency required to perform said construction as determined by the Building Official.
- (c) Construction undertaken by a person performing work as a contractor's employee on behalf of and in the name of the contractor holding a contractor's license.

(d) Construction undertaken by a person performing work without pay or compensation of any kind who is supervised directly by a contractor holding a contractor's license.

14.9-7 Building Official issuance of contractor license; variance by Town Administrator

- (a) The Building Official shall have the authority to issue contractor's licenses and, subject to the right of appeal of any decision of the Building Official to the Town Administrator, determine all matters related to the suspension or revocation of any contractor's license.
- (b) The Town Administrator, in his or her discretion, is authorized upon appeal in specific cases to grant a variance from the terms of this Article where the strict application of any provision of this Article would result in extraordinary practical difficulties or cause undue hardship or where, upon any other substantial reasonable basis, the Town Administrator determines that a variance is warranted.

14.9-8 Forms; fees; validity

- (a) The Building Official shall prepare a contractor licensing application, which shall contain, among other potential requirements, the items required in Section 14.9-9, and is subject to approval of the Town Administrator. The Building Official shall prepare all forms necessary to satisfy the provisions of this Article, which are subject to approval of the Town Administrator.
- (b) Prior to issuance of a contractor's license, the applicant shall complete the contractor licensing application.
- (c) The contractor shall pay a non-refundable fee of \$100.00, due, and payable with the submission of the contractor licensing application, which fee shall be applied to offset the Town's costs associated with regulating the Building Code and administering the contractor licensing program.
- (d) A contractor's license is valid for a period of one year from the date of issuance and may be renewed by payment of a renewal fee in the amount of \$100.00.
- (e) A contractor who performs construction prior to obtaining a contractor's license shall, in addition to the other remedies set forth in this Article, be required to pay an investigation fee in an amount equal to, and in addition to, the license fee, which fee shall be paid before a contractor's license may be issued.
- (f) The fee established herein may be adjusted from time to time by a resolution of the Board of Trustees.

14.9-9 Application for contractor's license

Prior to being issued any contractor's license, the applicant shall complete a contractor licensing application containing, among other potential requirements, the following information:

- (a) The applicant's business name, the names of all principals of the contractor, a current mailing address and telephone number.
- (b) Contractor's licenses for each subcontractor with whom the applicant is associated or with whom the contractor will be working in the Town.
- (c) A written summary documenting the applicant's relevant experience with at least three separate construction projects and identifying an owner, general contractor, architect, professional engineer, or other person involved in each construction project, who has personal knowledge of the applicant's responsibilities on said projects.
- (d) A copy of all contractor's licenses issued by any other governmental authority.
- (e) A signed statement by the applicant acknowledging the obligations associated with the contractor's license.

(f) Certificates of insurance setting forth the insurance maintained by the applicant for work performed within the Town, including, but not limited to, workers' compensation, builder's risk insurance and general liability coverage.

14.9-10 Application for contractor's license competency requirements

Prior to being issued a contractor's license, the applicant shall provide proof of competency in one of the following manners:

- (a) The applicant shall provide documentation to the town that the individual who is performing or overseeing the work has successfully passed the exam as listed in the Appendix A that correlates to the respective contractor's license type that the applicant is applying for; or
- (b) The applicant shall provide documentation that it has received a comparable contractor's license from a municipality or other government agency that has the same or higher application requirements.

14.9-11 Responsibilities of contractor

The contractor shall be responsible for all construction performed pursuant to a building permit, which work will be completed without substantial departure from the drawings and specifications filed and approved by the Town, subject to approved changes. The contractor shall observe the following standards:

- (a) The contractor shall obey all notices and orders issued by the Town Administrator or the Building Official or their designees.
- (b) The contractor shall observe generally accepted safety standards.
- (c) The contractor shall maintain liability insurance and workers' compensation insurance as set forth in the contractor's application. Upon request, proof of insurance shall be provided to the Building Official.
- (d) Upon request, the contractor shall identify all subcontractors performing construction and contracting with the contractor.
- (e) The contractor shall maintain a current address and contact telephone number with the Building Official.
- (f) The contractor shall not proceed with construction until after the issuance of a building permit, and any other required permits, and shall obtain the required inspections and authorizations to proceed with the work authorized under the permit(s).
- (g) If a contractor is released from or abandons construction, the contractor shall immediately notify the Building Official in writing. No further work shall be done on a construction project until the Building Official is notified in writing of the intended resumption by an owner, or a different contractor entitled to obtain a building permit.

14.9-12 Disciplinary procedures, violations, and penalties

- (a) When the Building Official determines that a contractor has committed a violation of this Article, the Building Code or the Code, the Building Official may order a suspension or revocation of the contractor's license.
- (b) Notification of the suspension or revocation shall be in writing and shall be delivered to the contractor by certified mail to the contractor's last known address, as contained on the contractor's application or as set forth in a written notice submitted subsequent to submission of the contractor's application, or by personal delivery to the contractor or to the contractor's representative at a construction project, and shall be effective within three days of mailing or upon personal delivery. The notification shall state in reasonable detail the essential facts and

reasons for said action and shall advise the contractor of the right to submit a written appeal to the Town Administrator within fifteen (15) days from the notice's effective date, setting forth in detail the basis of the appeal.

- (c) Upon appeal, the Town Administrator shall have the power to affirm the suspension or revocation and take any other disciplinary action when the Town Administrator determines that the contractor has committed any of the following:
 - (1) Knowing or deliberate disregard of this Article, the Building Code, or the Code.
 - (2) Failure to comply with any lawful requirement of the Building Official.
 - (3) Misrepresentation of a material fact in obtaining a building permit or a contractor's license.
 - (4) Employing subcontractors to perform construction for which a contractor's license is required under this Article when such workers are neither employees nor exempt as defined under this Article.
 - (5) Requesting repeated inspections when such inspections reveal that the work performed by the contractor fails to comply with the Building Code and such repeated noncompliance occurs in a manner or to an extent that demonstrates that the contractor either is negligent, not providing adequate supervision or not qualified to perform or supervise the work.
- (d) When the Town Administrator suspends a contractor's license, the Town Administrator shall state the period and conditions of the suspension.
- (e) When the Building Official revokes a contractor's license and the contractor does not file an appeal, or when the Town Administrator revokes a contractor's license pursuant to Subsection (c) above, the contractor shall not be granted another contractor's license without approval of the Town Administrator. After revocation, the Town Administrator, in deciding whether to approve a new contractor's license, shall determine whether the contractor has demonstrated that any previous governmental disciplinary action has resulted in the rehabilitation of the contractor to good and disciplined character for lawful conduct as a contractor.
- (f) Appeal from a Town Administrator decision shall be pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (g) In addition to the suspension or revocation of a contractor's license as provided herein, any person violating any of the provisions of this Article shall be subject to the penalties set forth in Section 20.2 of the Code.

Appendix A

Contractor Type	Description*	Testing Requirement	Fee***
Commercial Contractor - A	Performs new construction and additions of commercial buildings	ICC – G11	\$100.00
Commercial Contractor - B	Performs Tenant Finishes and Remodels, swimming pool spa of Commercial Buildings	ICC – G12	\$100.00
Residential Contractor - A	Performs new construction and additions of residential one- and two-family homes and townhouses.	ICC – G13	\$100.00
Residential Contractor - B	Reforms residential basement finishes, remodels and accessory buildings, swimming pool/spa.	ICC – F46	\$100.00
Residential Contractor - C	Performs residential construction for decks, sheds, carports, pergolas, reroofs and small interior remodeling/handyman projects.	Local	\$100.00

Trade Contractor	Performs work in the licensed trade – Roofing, Mechanical, plumbing, electrical and solar**	State License or Equivalent	\$100.00
Sign Contractor	Erection and installation of commercial signs.	Local	\$100.00

* Contractor may perform work of any lower license type within their respective class of Commercial or Residential

** Fee is not charged for Electrical or Plumbing Contractors per State Statutes.

*** Fee is subject to adjustment in accordance with Section 14.9-8.

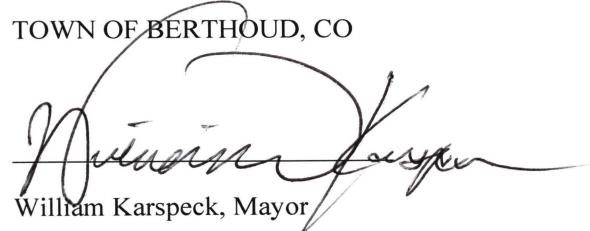
Section 2. Severability. Should any one or more sections or provisions of this Ordinance or of any of the primary or secondary codes adopted by reference be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or the codes adopted by reference hereby, the intention being that the various sections and provisions are severable.

Section 3. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 4. Effective Date. Except as otherwise expressly provided herein, the provisions enacted by this Ordinance shall become effective at 12:01 a.m. on January 1, 2022.

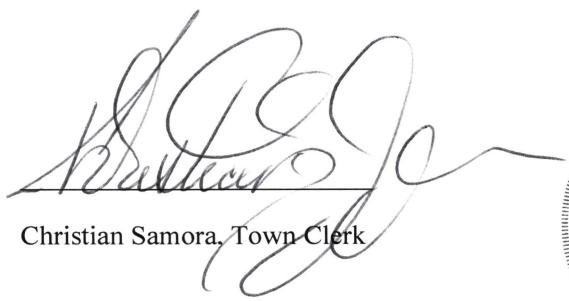
READ, APPROVED, ADOPTED and ORDERED PUBLISHED IN FULL at a regular meeting of the Board of Trustees of the Town of Berthoud, Colorado this 9th day of November, 2021.

TOWN OF BERTHOUD, CO



William Karspeck, Mayor

Attest:

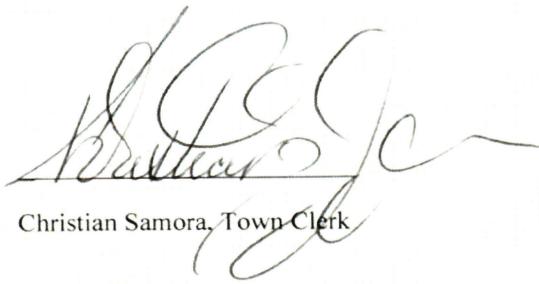


Christian Samora, Town Clerk



Approved as to form:

Erin M. Smith, Town Attorney



Christian Samora, Town Clerk



Approved as to form:



Erin M. Smith, Town Attorney