

ORDINANCE 1888

AN ORDINANCE AMENDING CHAPTER 10 ARTICLE IV OF THE MUNSTER MUNICIPAL CODE

WHEREAS, the Town Council of the Town of Munster is the municipal legislative body of the unit; and

WHEREAS, The Town of Munster, its Staff, and consultants have reviewed and recommended various changes to the Munster, Indiana Code regarding contractor registration; and

WHEREAS, based on those recommendations, the Munster Town Council has conducted a public hearing after due notice as required by law on the proposed amendments; and

WHEREAS, The Town of Munster, after said public hearing and after due deliberation, has concluded that amendments to Chapter 10 – Businesses, Article IV, §§ 10-121 through 10-148 are appropriate; and

WHEREAS, The Munster Town Council deems it to be in the best interest of the general health, safety, and welfare of the citizens of the Town of Munster to amend Chapter 10 – Businesses, Article IV §§ 10-121 through 10-148 of the Munster Code of Ordinances;

Now, therefore, be it **ORDAINED** by the Town Council of the Town of Munster, Lake County, Indiana as follows: Chapter 10 – Businesses, Article IV, §§ 10-121 through 10-148 of the Munster Code of Ordinances, is hereby repealed and deleted in its entirety and replaced with the following:

ARTICLE IV. – CONTRACTOR REGISTRATION

DIVISION 1. - GENERALLY

Sec. 10-121. - Contractors and subcontractors/specialty contractors.

(a) Contractor registration. This section, and all ordinances supplemental or amendatory hereto, shall be known as the “Requirements for the registration and listing of contractors and subcontractors/specialty contractors in the Town of Munster, Indiana” and be cited as such.

(b) Purpose. The purpose of this section is to provide for central information and record keeping of contractor and subcontractor/specialty contractor performance in the hope that minimum standards will be encouraged for the protection of life, health, environment, public safety and general welfare to

users of contractors and subcontractors/specialty contractors in the performance of construction, alteration, repair, moving, wrecking and demolishing of any structure.

(c) Administration. The Chief Building Inspector is hereby authorized and directed to administer and enforce all provisions of this section.

(d) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CONTRACTOR. Any person, except a licensed architect or registered professional engineer, who in any capacity other than as the employee of another for wages as the sole compensation, undertakes to construct, alter, repair, move, wreck, or demolish any structure. The term includes general contractor, subcontractor or specialty contractor, but does not include a person who furnishes materials or supplies.

SUBCONTRACTOR/SPECIALTY CONTRACTOR. A person who makes an agreement to perform a limited segment of the construction, improvement, repair or remodeling of the premises. This includes agreements with a general contractor or property owner.

(e) Requirements for registration. It shall be unlawful for any person to engage in the business or act in the capacity of a contractor or subcontractor/specialty contractor within the town without having registered and submitted the following:

(1) An application form indicating the name, address and legal business status of the contractor or subcontractor/specialty contractor to the Chief Building Inspector. If the contractor or subcontractor/specialty contractor is a corporation, the name and address of the resident agent is required. Area of expertise shall be stated on the application. The areas of expertise shall include by not be limited to the following:

- (A) General contractor;
- (B) Carpentry/Framing;
- (C) Mechanical;
- (D) Electrical (solar);
- (E) Plumbing;
- (F) Masonry;
- (G) Concrete;
- (H) Insulation/Fire blocking;
- (I) Drywall/Plaster;
- (J) Weather protection (roofing, siding, doors, windows, etc.);

(K) Excavation/Demolition;

(L) Landscaping/Lawn maintenance/Tree service; and

(M) Snow plowing.

(2) Each contractor and subcontractor/specialty contractor shall submit a certificate of insurance in the minimum amounts of \$1,000,000 bodily injury and property damage and workers' compensation in the maximum amount required by state law.

(3) Each contractor and subcontractor/specialty contractor shall submit a bond in the amount of \$5,000 to provide an assurance that they will comply with the ordinances and regulations of the Town of Munster. This bond shall be filed with the Lake County Recorder.

(4) Upon presentation of the above requirements the Clerk-Treasurer shall furnish the contractor and subcontractor/specialty contractor with a registration receipt.

Sec. 10-122. – Fees, payment; issuance of permits; homeowners.

(1) Upon presentation of the requirements to the Chief Building Inspector, and provided that the contractor or subcontractor/specialty contractor is not otherwise in violation of this or any other town code, the Clerk-Treasurer shall furnish the contractor and subcontractor/specialty contractor with a registration receipt upon payment of the initial registration fee of \$100. This fee shall apply to all registrations expired greater than five years.

(2) No person shall engage in the business of contracting or subcontracting/specialty contracting in the town without first procuring from the Clerk-Treasurer a receipt evidencing payment of the registration fees prescribed in this section. The Chief Building Inspector shall not issue building permits to anyone except a duly registered contractor or subcontractor/specialty contractor or their duly authorized representative or agent under the provisions of this section.

(3) Building permits shall be granted to actual homeowners who are undertaking to do the work or construction themselves on their own homes or structures on the premises on which they reside. However, this exclusion shall not be available more than once every five years when applied towards construction of a new one- or two-family residence.

(4) All contractors and subcontractors/specialty contractors seeking to do business under a new or different name shall be required to submit a new application form and pay the initial registration fee. The Chief Building Inspector may deny the issuance of a new registration until all outstanding violations and citations against the contractor or subcontractor/specialty contractor have been resolved.

Sec. 10-123. – Limited background check.

(1) Prior to the initial issuance of a registration as a general contractor or subcontractor/specialty contractor, the town shall conduct a limited background check pertaining to the applicant. This shall apply to registration renewal submittals for registration expired greater than five years.

- (2) The applicant shall be charged a fee for the town to perform a limited background check, the amount of which shall be established by the town to reflect the cost of performing the background check.
- (3) The limited background check shall be conducted by the Community Development Department. All materials obtained shall be maintained as confidential records by the town.
- (4) In lieu of the requirements of the preceding paragraphs, the applicant may submit an authenticated copy of a background check pertaining to the applicant conducted within the year prior to the application which conforms to the standards of a limited background check conducted by the Community Development Department.
- (5) No registration as general contractor or subcontractor/specialty contractor shall be issued to any applicant whose limited background check reveals within ten years prior to the application of conviction of a crime involving fraud, misrepresentation or deceit, a conviction as a sexual predator, or a conviction of any felony.
- (6) Any applicant who is denied a registration as a result of the limited background check may appeal the denial by making written application for an administrative hearing before the Town Manager or his/her designee. The written request for administrative hearing must be received by the town within ten days of the denial of the registration request. The town manager shall hold the administrative hearing within 30 days of receipt of applicant's appeal. Hearing shall be conducted informally, and applicant shall be entitled to present any information which the applicant believes establishes good cause why the registration should be issued notwithstanding the criminal history of the applicant.
- (10) It is intended that this section be supplemental and additional to other ordinances and regulations determining who and on what terms a party or person shall receive a registration as a general contractor or subcontractor/specialty contractor.

Sec. 10-124. – Duration; renewal; fees.

A registration shall be for a period of one year between January 1 and December 31 or for the remainder thereof, whichever is shorter. Upon the expiration of any registration issued under this section, the contractor or subcontractor/specialty contractor will be required to reapply for a new registration. When renewing the registration, the registrant shall again provide the Chief Building Inspector with a new registration form, a copy of the bond recorded with Lake County and with a certificate of insurance as specified in this section. Registrants paying their registration renewal fee annually shall pay a fee of \$50.

Sec. 10-125. – Complaint record.

The Chief Building Inspector will accept written complaints against listed contractors and subcontractors/specialty contractors and shall maintain such complaints in a file to be kept for five (5) years. These records shall be open to the public.

Sec. 10-126. – Notice of violation; fine; service.

Failure of a contractor or subcontractor/specialty contractor to comply with this section shall result in a written notice of the failure served on the contractor by the Chief Building Inspector. The notice shall state that the contractor must comply with this section within 48 hours of the notice. The notice shall state that a fine of up to \$2,500 shall be imposed upon the failure to comply with the notice. Failure to comply with the Chief Building Inspector's notice of non-compliance shall result in a fine of up to \$2,500. Service under the terms of this section shall be effective upon the posting of the notice in First Class mail addressed to the business address of the contractor. No listing issued under the provision of this section shall be assignable or transferable.

Sec. 10-127. – Revocation.

The Chief Building Inspector shall have the authority to temporarily suspend or permanently revoke the registration of any contractor or subcontractor/specialty contractor who the Chief Building Inspector determines to have committed one or more of the following acts or omissions:

- (1) Deliberate misrepresentations of any material fact, fraud, or deceit in obtaining a contractor registration.
- (2) Gross negligence or gross incompetence while engaged in the business of acting in the capacity of a contractor or subcontractor/specialty contractor.
- (3) Aiding, abetting, or knowingly combining with an unregistered person with the intent to evade the provisions of this section.
- (4) Abandonment without legal excuse of any construction project or operation engaged in or undertaken by the registrant as contractor or subcontractor/specialty contractor.
- (5) Diversion of funds or property received for a specified purpose, and for the purpose and prosecution or completion of any construction project or operation, and the application or use of such funds for any other project or operation, obligation, or purpose with intent to defraud or deceive creditors or the owners.
- (6) Willful and deliberate violations of the building laws of the State of Indiana and the Town of Munster.
- (7) Willful departure from or disregard of plans and specifications in any material respect, without the consent of the person entitled to have the construction or operation completed.
- (8) The doing of any willful or fraudulent act by the registrant as contractor or subcontractor/specialty contractor because of which another is substantially injured.
- (9) Failure in any substantial respect to comply with the provisions of this section.

(10) Disregarding a stop work order which has been issued for violation of ordinances or building codes or laws; provided, when a contract has been executed or commenced, the contractor or subcontractor/specialty contractor may proceed nevertheless to complete such contract on the condition that he or she will make the necessary adjustments and repairs.

(11) Any other reason not set forth herein that the Chief Building Inspector determines justifies a suspension or revocation of a contractor's registration.

Sec. 10-128. – Appeal.

A contractor or subcontractor/specialty contractor may appeal a decision of the Chief Building Inspector to suspend, or revoke said contractor's registration to the Town Manager.

Sec. 10-129. – Revocation procedure.

The Town Manager shall be authorized to conduct hearings on all appeals.

(1) When a hearing is requested by a contractor or subcontractor/specialty contractor on charges brought under this section, the Town Manager shall set the time and place when such hearing shall be held. The contractor or subcontractor/specialty contractor shall be present for such hearing and may be represented by counsel.

(2) At hearing the Town Manager shall determine if a contractor, subcontractor or specialty contractor is in violation of the terms of this section and the Town Manager shall have the power to suspend such contractor, subcontractor or specialty contractor registration for a definite period, to revoke such registration, or to issue an order against such contractor, subcontractor or specialty contractor to correct the violation, fixing a reasonable time within which such correction shall be made or accomplished and, upon compliance with such order, the Town Manager may dismiss such charge. If the contractor does not correct such violation within the time required by the previous order, the Town Manager shall have the authority to extend such time for correction of the violation or shall have the right to suspend such registration for a determinative period or may revoke the contractor or subcontractor/specialty contractor registration without any further right to hearing by registrant.

(3) After revocation of a contractor or subcontractor/specialty contractor registration, such registration shall not be renewed, and no new registration shall be issued to the same registrant or contractor or subcontractor/specialty contractor registration holder within a period of at least one-year after the date of revocation. After the expiration of the one-year period, a registration shall only be issued upon proper documentation showing that all violations, acts, or omissions for which the registration was revoked have been corrected and that compliance with all conditions imposed by the decision of the revocation has been met.

(4) Any contractor who is aggrieved by the decision of the Town Manager may further appeal as allowed by the laws of the State of Indiana.

(5) Whenever a new contractor or subcontractor/specialty contractor registration is issued to any applicant whose contractor or subcontractor/specialty contractor registration has previously been revoked, the issuance shall be treated as an initial registration.

Secs. 10-130—10-170. - Reserved.

ORDAINED and **ADOPTED** this _____ day of _____, 2022 by a vote of _____ in favor and _____ opposed.

**TOWN COUNCIL OF THE TOWN OF
MUNSTER, LAKE COUNTY, INDIANA**

**Chuck Gardiner
Council President**

ATTEST:

**Wendy Mis
Clerk-Treasurer**