

ARTICLE IV. - ~~BUILDING CONTRACTORS AND SUBCONTRACTORS~~ — REGISTRATION

DIVISION 1. - GENERALLY

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

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~General building contractor~~ means a person established in the construction business who contracts with owners or occupants of property or buildings to construct, improve, repair or remodel the premises.

~~Subcontractor~~ means a person established in the construction business 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.

(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;~~

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(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

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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.

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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.

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~~(Code 1985, § 16-50)~~

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~~Cross-reference—Definitions generally, § 1-2:~~

~~Secs. 10-122—10-140.—Reserved.~~

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~~DIVISION 2.—LICENSE~~

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~~Sec. 10-141.—Prerequisites for issuance.~~

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Any applicant for a license to conduct a business or occupation as a general building contractor or building subcontractor, including, without limitation, plumbing, electrical, landscaping, plastering, heating, cooling, ventilating, painting, excavating, masonry, roofing and tiling, shall meet the requirements of this division before the issuance of a license.

~~(Code 1985, §§ 16-38, 16-44)~~

~~Sec. 10-142.—Bond.~~

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At the time of applying for a license referenced in section 10-141, the applicant shall submit evidence to the town manager or designee that he has obtained the bond required by IC 22-11-3.1 (IC 22-11-3.1-4 et seq.).

~~(Code 1985, §§ 16-39, 16-45)~~

~~Sec. 10-143.—Insurance.~~

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The applicant for a license referenced in section 10-141 shall submit evidence to the town of a valid public liability insurance policy. Such policy shall be an all-perils or umbrella policy of at least \$1,000,000.00. In addition, evidence of workers' compensation insurance shall be submitted to the town. The insurance shall be kept and maintained in force by the licensee during the term of the license acquired.

~~(Code 1985, §§ 16-40, 16-41, 16-46, 16-47)~~

~~Sec. 10-144.—Fee.~~

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The applicant for a license referenced in section 10-141 shall pay a license fee in the amount established by the town.

~~(Code 1985, §§ 16-42, 16-48)~~

~~Sec. 10-145.—Right of general building contractors to receive subcontractor's license.~~

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Any applicant who is licensed as a general building contractor, upon application and without payment of an additional fee, shall receive a license to conduct a business or occupation as a building subcontractor in the specialties designated by the applicant. The amounts and limits of the insurance kept

and maintained by such applicant for his general building contractor's license shall apply to and be held for the benefit of the town and others in connection with all licenses issued to such applicant. The insurance shall include a designation of the occupations for which the applicant is licensed.

(Code 1985, §§ 16-43, 16-49)

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~~Sec. 10-146. Issuance, suspension and revocation of license.~~

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- ~~(a) — Issuance of license : It shall be unlawful for any party to act as a general building contractor or subcontractor within the town unless the party so acting has been issued a license by the town and that license is current and in force.~~
- ~~(b) — Suspension or revocation of license : All licenses issued pursuant to the provisions of this division may be suspended or revoked by the town manager upon his finding of any one or more of the following conditions:
 - ~~(1) — Willful misrepresentation by the licensee or his agent in applying for the license~~
 - ~~(2) — Conviction of the licensee, or if a corporation, an officer or director, of any felony or misdemeanor criminal offense under the statutes of the State of Indiana.~~
 - ~~(3) — A violation of the Munster Town Code applicable to general contractors or subcontractors.~~
 - ~~(4) — Any other act or action on the part of the contractor or subcontractor which endangers the safety of parties contracting for the licensee's services or the general public.~~
 - ~~(5) — Other good cause.~~~~
- ~~(c) — Procedure. Prior to a suspension or revocation of a general building contractor or subcontractor's license, the licensee shall receive written notice of the basis for the requested suspension or revocation, and an opportunity for an administrative hearing to be conducted by the town manager within ten days of service of the notice. Following the administrative hearing, the town manager may revoke the contractor or subcontractor's license, suspend the license for a period of time a period, impose such conditions on the continued validity of the license as are reasonable and appropriate, or take other appropriate action. The town manager's order shall take effect immediately upon its issuance. In the event the licensee wishes to appeal the town manager's determination, a written request for appeal shall be filed with the town manager's office within ten days of the date of the town manager's decision. The appeal shall be to the town council, which shall place as a matter on its agenda at its first regular meeting following receipt of the notice of appeal and shall conduct such proceedings as it deems necessary to review the decision of the town manager. The town council may reverse, affirm or modify and affirm the decision of the town manager.~~
- ~~(d) — If the town manager determines that an emergency exists which endangers members of the public or may cause irreparable harm prior to an administrative hearing on revocation of a general contractor or subcontractor's license, the town manager may issue an order temporarily revoking the general contractor or subcontractor's license pending the administrative hearing set out above. In the event such order is issued, the general contractor or subcontractor shall cease all work within the town of manager until the administrative hearing is held. The order of the town manager shall be enforceable by the police department or any court of competent jurisdiction.~~

(Code 1985, § 16-59(b), (c); Ord. No. 1285, 6-13-2005)

State Law reference — ~~Revocation by president, IC 36-5-4-11.~~

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~~Sec. 10-147. Proficiency testing for electrical subcontractors.~~

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(a) — In addition to all other requirements for the issuance of a license to conduct business in the Town of Munster as an electrical subcontractor a party applying for such license shall be required to pass an electrical proficiency test prepared and administered by the Munster Building Department.

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(b) — The proficiency test prepared and administered by the Munster Building Department shall be designed to test the applicant's knowledge of basic electrical principles as well as knowledge of provisions of the Indiana Electrical Code.

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(c) — The Munster Building Department shall adopt and maintain policies and procedures for the administration of the electrical proficiency test and determination of a passing score to insure that the test is fairly, effectively, and consistently administered.

(Ord. No. 1494A, 9-27-2010)

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Sec. 10-148. — Limited criminal background check.^[2]

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(a) — Prior to the issuance of any license as a general building contractor or subcontractor, the town shall conduct a limited criminal background check pertaining to the applicant.

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(b) — The applicant shall be charged a fee for the town to perform a limited criminal background check, the amount of which shall be established by the town to reflect the cost of performing the background check.

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(c) — The limited background check shall be conducted by the Munster Building Department and Police Department. All materials obtained shall be maintained as confidential records by the Munster Police Department and the Town of Munster.

(d) — In lieu of the requirements of paragraphs (a), (b), and (c) the applicant may submit an authenticated copy of a criminal 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 Munster Police Department.

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(e) — No license as general building contractor or subcontractor shall be issued to any applicant whose limited background check reveals within ten years prior to the application a conviction of a crime involving fraud, misrepresentation or deceit, a conviction as a sexual predator, or a conviction of any felony.

(f) — Any applicant who is denied a license as a result of the limited criminal background check may appeal the denial by making written application for an administrative hearing before the Munster Town Manager, or his designee. The written request for administrative hearing must be received by the town within ten days of the denial of the license request. The town manager shall hold the administrative hearing with 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 license should be issued notwithstanding the criminal history of the applicant.

(g) — In reaching a decision to affirm, to modify, or to reverse the denial of the requested license, the town manager shall consider and weigh the following matters:

(1) — Whether the applicant has repaid or reimbursed the affected party for a loss sustained.

(2) — Whether the applicant has reestablished a record of good conduct and good business ethics.

(3) — Whether the conviction involved a single event, or serial events.

(4) — Whether the applicant shows financial ability to conduct the business seeking license.

(h) — To the extent allowed by law, the proceedings of hearing, review and decision shall remain confidential.

(i) — For purposes of this section, the "applicant" is hereby defined as:

~~(1) —The business entity conducting or operating the business; and~~

~~(2) —The president, owner or chief executive officer of the business; and~~

~~(3) —The treasurer or chief financial officer of the business.~~

~~(j) —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 license as a general building contractor or subcontractor.~~

~~(Ord. No. 1511, 1-24-2011)~~

~~Footnotes:~~

~~—(2)—~~

~~**Editor's note**— Ord. No. 1511, adopted Jan. 24, 2011, supplied provisions to be added to this Code as § 10-147. Inasmuch as there were already provisions so designated, the provisions have been redesignated as § 10-148 at the discretion of the editor.~~

~~Secs. 10-149—10-170. —Reserved.~~