

ORDINANCE NO. 609-16

AN ORDINANCE SETTING FORTH BUILDER'S OR CONTRACTOR'S LICENSE REQUIREMENTS FOR THE CITY OF NORTH NEWTON, KANSAS AND REPEALING ORDINANCE NO. 413.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NORTH NEWTON, KANSAS:

SECTION I. BUILDER OR CONTRACTOR DEFINED.

- a. A builder or contractor for purposes of this ordinance shall be any person, firm, partnership, corporation, association, or any combination thereof, who undertakes with or for another to build, construct, alter, repair, add to or wreck any building or structure, or any portion thereof; or any sidewalk, driveway entrance or structure to any street; or any advertising sign, panel, poster or billboard, within the city, for which a permit is required, for a fixed price, fee, percentage, or other compensation other than wages; or who advertises or otherwise represents to the public to have the capacity or ability to undertake to build, construct, alter, repair, add to or wreck any building or structure or any portion thereof; or who builds, constructs, alters, adds to or wrecks any building or structure either on his or her own or other property for purpose of speculation. This definition shall include plumbers, gas fitters, electricians and other specialized occupations that are subject to the uniform Block Test.
- b. A builder or contractor, as defined, shall not mean or include:
 - (1) Any subcontractor working under the supervision of a general contractor; or
 - (2) Any owner or his or her authorized agents or employees making ordinary repairs to his, her or its own building or structure not involving the structural parts of the building for which a permit is not required or on which a builder or contractor, as defined, is not required, employed or engaged to perform; or
 - (3) Any property owner personally performing any improvements, alterations or building construction within or upon his or her own residence and intended for his or her own personal use and permanent occupancy; provided, the owner shall satisfy the building official as to his or her ability to perform such work secure a permit, pay required fees, do work in accordance with this

article, and apply for an inspection and receive approval. Personal building construction by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no artisan or skilled laborer shall be employed to assist him or her in any way on such work except a builder or contractor licensed by the city;

- (4) Any person engaged in construction work not involving a total cost of greater than \$1,000, exclusive of labor.

SECTION II. BUILDER'S OR CONTRACTOR'S LICENSE REQUIRED; BUILDING PERMITS; UNLAWFUL ACTS.

- a. Each builder or contractor shall before entering upon any building or construction work subject to regulation by city laws, apply to the city clerk or designee, for a builder's or contractor's license and receive the same as hereinafter provided and have in his or her possession a valid license authorizing him, her or it to engage in the trade or occupation of a builder or contractor in the city.
- b. No permit for any building or construction work shall be issued for any such work to be performed by a builder or contractor, as defined, who has not first obtained a license upon making a proper application and payment of the license fee as required.
- c. It shall be unlawful for any person, firm, company, association or corporation to enter into a contract or agreement with another so as to bring himself, herself, or itself under the definition of builder or contractor herein, or to perform any work as a builder or contractor or any work under a contract for any work involving the construction, wrecking or moving of any building, without first having obtained a builder's or contractor's license issued by the city.

SECTION III. LICENSING FEES. Fees for builder and contractor licenses shall be established by classification as follows:

- a. Class A - A Class A contractor's license shall entitle the holder thereof to construct for, and to perform any act as a contractor, as defined in this section, for the building, remodeling or repairing of any structure or addition thereto that is permitted by the title. The annual fee shall be \$100.00.
- b. Class B - A Class B contractor's license shall entitle the holder thereof to contract for or to perform any act as a contractor, as defined in this section, but which is limited to construction and remodeling of commercial buildings and single or multiple dwelling residential buildings not exceeding three stories in height. The annual fee shall be \$75.00.

- c. Class C - A Class C contractor's license shall entitle the holder thereof to contract for and to perform any act as a contractor, as defined in this section, but limited to remodeling and repairs or improvement of one, two or three family residences not exceeding two stories in height and nonstructural commercial remodeling. The annual fee shall be \$50.00.
- d. Class D - A Class D contractor's license shall entitle the holder thereof to contract for and to perform any act as a contractor, as defined in this section, but which is limited to remodeling and repairs on one to four family residences including but not limited to reroofing, foundation repair and interior partitions. The annual fee shall be \$25.00.
- e. Class E - A Class E contractor's license shall entitle the holder thereof to contract for and to perform any act as plumbers, gas fitters, electricians and other specialized occupations that are subject to the uniform Block Test which is limited to a stand alone contractor for building, remodeling or repairing of any structure or addition. The annual fee shall be \$50.00.

SECTION IV. INSURANCE. A contractor shall procure and maintain a liability insurance policy a minimum in the amount of \$100,000 for the death or injury of any one person and \$300,000 for the death or injury of any number of persons in any one accident and \$50,000 for property damage in any one accident. Such policies of insurance shall be issued by some insurance company authorized to do business in the State of Kansas. A contractor may qualify as to the insurance requirements by filing a certificate with the city clerk executed by the agent of such company stating that the required policy of insurance has been issued by such company for the purpose required by this article and that such insurer will not cancel the policy except upon giving 30 days notice in writing to the city; and that the certificate shall be filed for an annual period beginning January 1 and ending December 31 of such year. Said holder of a builder's or contractor's license shall also procure and maintain worker's compensation insurance when required by state law.

SECTION V. SUBSTITUTE PROVISIONS. The Governing Body of the City of North Newton, Kansas, is hereby authorized to adopt by Resolution a schedule of any new license fees to be imposed, which any new license fees would go into effect upon passage of such Resolution.

SECTION VI. ISSUANCE OF LICENSE.

- a. Application for a builder's, contractor's (whether general or limited) or a house wrecker's or mover's license shall be made to the city clerk's office. Information required shall be the name of the applicant, the applicant's place of business in the city (and home office if a nonresident), and whether engaged in general contracting,

limited contracting, or house wrecking or moving work. Such license shall be issued by the city clerk or designee upon the payment of the fees as required in Section III above; receipt of proof of insurance as required in Section IV above; and upon proof that said builder or contractor holds a valid builder's or contractor's license of comparable class from a city with a population greater than that of the city, or proof that said builder or contractor has passed the state of Kansas Block Test applicable to their occupation and appropriate to the category for which the license is being granted.

- b. All builder's and contractor's licenses shall be recorded in the office of the city clerk and shall be nontransferable.
- c. All contractor licenses shall expire on the last day of December and shall be renewed annually by payment of the annual fee. Fees shall not be prorated.

SECTION VII. LICENSE SUSPENSION; APPEAL; UNLAWFUL ACTS.

- a. The license of any builder or contractor may be suspended temporarily, for a period of not to exceed 30 days at any one time, by the building official upon his or her own motion or upon a complaint of the city building inspector. Notice shall be given in writing to such builder or contractor giving reasonable notice of a time of hearing of the complaint or the matter alleged against such builder or contractor involving any one or more of the following:
 - (1) Misrepresentation of a material fact by applicant in obtaining a license;
 - (2) Use of license to obtain a building permit for another;
 - (3) Failure or neglect to observe conditions of permit authorizing encumbering of streets or sidewalks for safety of public;
 - (4) Performance of any building or construction work without a permit where one is required by law; or
 - (5) Willful disregard of any violation of the building and constructions laws, or failure to comply with any lawful order of the city building inspector.
 - (6) Failure to maintain current proof of such insurance shall be cause for the revocation of such license.

- b. At the hearing the building official shall determine if any of the above listed items have been violated. If the building official finds that there has been a violation, the license shall be revoked.
- c. Any licensee may within 15 days of the building official's decision appeal in writing to the governing body from any order of the building official suspending his or her license for its final decision thereon. The governing body may upon such hearing terminate such suspension within not more than 30 days thereafter, or may revoke such license. If any license shall be revoked, the builder or contractor shall not be eligible for a new license during a period of six months thereafter. No fee shall be refunded in event of the suspension or revocation of any builder's or contractor's license.
- d. It shall be unlawful in the City of North Newton, Kansas to engage in the occupation or trade of builder or contractor during the time any license of such builder or contractor has been suspended or revoked.
- e. The provisions of this section shall not apply to the following:
 - (1) Subcontractors working for and under the direct supervision of a licensed general contractor;
 - (2) Any owner or his or her authorized agent making ordinary repairs to any building which repairs do not involve the structure of the building and on which a builder or contractor is not employed.

SECTION VIII. WORK BY PROPERTY OWNER. Nothing herein contained shall prohibit any property owner from personally performing any building or construction work within and upon his or her own residence and intended for his or her personal use and permanent occupancy provided, the owner shall satisfy the building inspector as to his or her ability to perform such work, secure a permit, pay required fees, do work in accordance with this article, and apply for and satisfactorily pass the customary inspections. Personal building or construction performed by an owner under this section shall be by himself, herself, for himself or herself on his or her own residence, without compensation and no person shall be employed to assist him or her in any way on such work except a builder or contractor licensed by the city.

SECTION IX. PENALTIES. Any person who intentionally refuses to comply with or intentionally resists the enforcement of any of the provisions of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars for each

offense. Each and every day that such violation or failure to comply continues to exist after notification shall constitute a separate offense.

SECTION X. REMEDIES. In the event that any builder or contractor, as defined herein, continues to violate any of the provisions of this ordinance, an appropriate action or proceeding in law or an equity may be instituted to prevent such unlawful action or to restrain, abate, enjoin or correct such violation. These remedies shall be in addition to the penalties prescribed in Section VIII above.

SECTION XI. LIABILITY. This ordinance shall not be construed to relieve from any liability or lessen the liability of any person performing any activity connected herewith, nor shall the city be held as assuming any liability by reason of any inspection authorized herein, by reason of any certificate of inspection issued by it or by reason of any permit or license granted herein.

SECTION XII. SEVERABILITY. If any section of the Uniform Building Code or of this article shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separate and apart from the remaining sections, the section to be completely severable from the remaining provisions which shall continue in full force and effect.

SECTION XIII. REPEAL. Ordinance No.413 of the City of North Newton, Kansas is hereby repealed and substituted with this Ordinance.

SECTION XIV. EFFECTIVE DATE. This ordinance shall take effect and be in force on January 1, 2017 and after its adoption and summary publication in THE NEWTON KANSAN, the official newspaper of said City.

PASSED AND ADOPTED by the Governing Body of the City of North Newton, Kansas, this 12th day of September, 2016.


RONALD D. BRAUN, Mayor

ATTEST:


PATRICIA S. REDDING, City Clerk

(SEAL)

