

CHAPTER 11-A

LICENSES

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Article I. Licenses, General.

11-A.01. License Requirements.

11-A.01.01. When Required.

No person shall engage in any activity within the corporate boundaries of the city of Hot Springs for which a license is required without first having obtained a license as required by ordinance. All licenses issued in the city shall be subject to the provisions of this Chapter unless specified otherwise. Licenses subject to this Chapter shall include but are not limited to:

- i. Bicycle License; (Chapter 5)
- ii. Carnival/Circus/Tent Show; (Chapter 19)
- iii. Cemetery Contractor License; (Chapter 7)
- iv. Construction Contractor License; (Chapter 11-A)
- v. Dog License; (Chapter 4)
- vi. Excavation Contractor; (Chapter 22)
- vii. Mobile Home Parks; (Chapter 13)
- viii. Peddlers, Solicitors, Transient Merchants; (Chapter 16)
- ix. Second Hand and Pawn Shops; (Chapter 15)
- x. Solid Waste Haulers; (Chapter 10-A)
- xi. Taxi Cabs and Busses. (Chapter 23)

11-A.01.02. Application.

- A. Except as otherwise provided, an applicant for a license shall make and file an application to the City in writing on a form provided by the City. Such application shall contain such information as required by the licensing authority or as provided by ordinance, and must show that the applicant is eligible for the license for which application is made. The applicant shall verify the application with a government issued photo identification card.

- B. Unless otherwise provided, an applicant for a license shall state:
 - 1. name and physical address of applicant;
 - 2. mailing address;
 - 3. trade name, if any, under which license is to be exercised;
 - 4. if a partnership, the name and address of each partner;
 - 5. if a corporation, the names and addresses of the officers;
 - 6. place of business or location where the license is to be exercised;
 - 7. description of the activity to be carried on under the license;
 - 8. such information as required by ordinance or by the Common Council showing the applicant is entitled to the license and that he is a proper person, and the place a proper place for the exercise thereof;
 - 9. such information as required by ordinance as may be necessary for determination of the amount of the license fee.

11-A.01.03. Approval of Required Bond, Insurance, or Deposit.

Any bond, liability insurance, or deposit required shall be subject to the approval of the Common Council, and in case the Common Council deems the security inadequate, it may require new or additional security.

11-A.01.04. Payment of Fee.

Except as otherwise provided, an applicant for license shall first pay the amount of the license fee to the Finance Officer, taking his receipt, therefore showing the kind of license for which the fee was paid and the amount paid.

11-A.02. Issuance and Term.

11-A.02.01. Issuance.

Except as otherwise provided, all licenses shall be issued by the Finance Officer if the issuance of the license is approved by the licensing authority and the applicant has complied with all requirements for issuance of the license. Unless otherwise provided, all licenses shall be signed by the Finance Officer and shall have affixed thereto the official seal of the City.

11-A.02.02. Posting and Exhibition.

Every person to whom a license is issued by the City shall keep the same posted in a conspicuous place in the licensed place of business or vehicle; or if there is no place of business or vehicle, then he shall exhibit the license to any person in authority or to any person who may deal with the licensee when required to do so.

11-A.02.03. Term.

Unless otherwise provided, all annual licenses shall take effect when issued and shall terminate on December 31st in the year for which issued. Where any new license is granted on or after July 1st of any new year, one-half of the annual license fee shall be charged.

11-A.02.04. Change of Name.

If a licensee changes the name or form of organization under which he does business, the license may be so changed without payment of an additional fee except as otherwise provided by law.

11-A.02.05. Registry.

The Finance Officer shall keep a registry listing, under their proper headings, all licenses that have been issued, giving the name of the licensee and the place of business.

11-A.02.06. Cancellation.

The Common Council shall have the power to cancel any license issued by the City for failure of the licensee to comply with any ordinance or regulation of the City or State law respecting such license or the manner of exercise thereof or for

other good cause after hearing upon notice to the licensee. Upon conviction of a violation of any ordinance of the City by the licensee relating to the exercise of such license, the Court, in addition to other penalties imposed, may enter its judgement canceling such license.

Article II. Licenses, Construction Contractor.

11-A.03. Contractor License.

11-A.03.01. Purpose.

The purpose of this license requirement is to protect the public welfare by assuring that those undertaking the construction, alteration, repair, or demolition of structures and other construction activities are qualified to perform such services and maintain insurance responsibilities for the protection of the citizens of Hot Springs.

11-A.03.02. Definitions.

1. 'Alteration'. As defined in the International Existing Building Code.
2. 'Building Inspector' shall mean the person under the direction of the Building Official responsible for duties relating to the Building Department.
3. 'Building Official' shall mean the appointed official responsible for the administration and enforcement of the City's codes and ordinances regulating construction, use or occupancy of buildings and structures, public or private.
4. 'Contractor, Class A-2' shall mean the individual or company that is the General Contractor, Project Administrator or Project Manager in charge of any construction project in excess of \$500,000.
5. 'Contractor, Class A' shall mean the individual or company that is the General Contractor, Project Administrator or Project Manager in charge of any construction project up to \$500,000.
6. 'Contractor Class B' shall mean:
 - A. a construction contractor for a construction project that does not exceed \$35,000 in total valuation, or
 - B. a sub-contractor on construction project who's part or portion contracted for does not exceed 25% of the total valuation of the project.

7. Contractor Class 'C' shall mean an individual or company for hire as a Class 'C' contractor as required in this Article.
8. 'Contractor, Dry Wall/Sheet Rock' shall mean an individual or company for hire for the installation of gypsum board in new construction or alterations, excluding repairs or replacement not to exceed \$1,000 in total valuation.
9. 'Contractor, General' shall mean the primary contractor hired by the consumer to be responsible for overseeing the entire construction project. The General Contractor is the contractor named on the building permit application as the General Contractor. The General Contractor pays the 2% state excise tax for the project and is responsible for issuing the excise tax exemption certificate to the sub-contractors.
10. 'Contractor, HVAC' shall mean individuals or companies who install Heating, Ventilation and/or Air Conditioning systems. The term shall not include the servicing of existing units.
11. 'Contractor, Landscape' shall mean an individual or company for hire for the purpose of grading, re-grading, or landscaping properties, the scope of which requires that a Site Development Permit be obtained in accordance with the City's Erosion and Sediment Control Ordinance.
12. 'Contractor Paving Contractor' shall mean a company who advertises for hire to pave streets, alleys, driveways, parking lots and similar areas. The term shall not include flat work as defined herein.
13. 'Contractor, Roofing' shall mean an individual or company for hire to install or replace residential or commercial roof coverings and/or roof decking. The term shall not include roof repairs to residential use structures provided that the scope of the work does not exceed one-hundred (100) square feet of area.
14. 'Contractor, Siding' shall mean an individual or company for hire to install residential or commercial siding on structures, excluding repairs or replacement not to exceed \$1,000 in total valuation.
15. 'Contractor, Tree Service' shall mean any individual or company for hire for the cutting or trimming of trees and tree limbs with a boom or bucket truck.
16. 'Contractor, Underground Sprinkler System Installation' shall mean an individual or company for hire to install underground sprinkler systems when that installer connects that system to the municipal water supply. The term shall not apply to the service or repair of existing systems or to installers who utilize licensed plumbers to connect to the municipal water supply.

17. 'Construction' shall include, but is not limited to, cement or concrete contracting; masonry contracting; carpenter contracting; excavation contracting; demolition; tree cutting or trimming; underground sprinkler system installation; all building trade contracting which includes within limitation to electrical, plumbing, roofing, remodeling, siding, rough framing; all phases of new construction, alterations, additions, repairs and demolition of structures; street, sidewalk and pavement contracting and any items requiring a permit within the licensing jurisdictional limits of the City of Hot Springs.
18. 'Employee' means a person whose compensation for construction work is reported by the employer or an Internal Revenue Service W-2 Form and is also otherwise considered an employee under applicable law.
19. 'Flat Work' shall mean concrete sidewalks or driveways not more than thirty inches (30") above grade, not over any basement or story below, and not more than six inches (6") in thickness.
20. 'Residential/Commercial Building Contractor' means an individual, proprietorship, partnership, firm, or corporation who for compensation undertakes or offers to undertake residential and/or commercial building contracting.
21. 'Residential/Commercial Contracting' means any enlargement, alteration, repair, improvement, conversion or new construction of any single family or multi-family dwelling, any commercial structure, or any accessory structure or building which would require a building permit.
22. 'Spec Home' or 'Speculation Home' shall mean:
 - A. New residential construction or the remodeling of an existing structure by the person who owns the land with the intent that upon completion of the project the property will be sold.
 - B. New residential construction or the remodeling of an existing structure by the person who owns the land where the structure is not occupied by the owner and is used for rental or income purposes.
 - C. New residential construction or the remodeling of an existing structure by the person who owns the land, where the structure is sold within four (4) years of completion of the project.
23. 'Sub-Contractor' means a contractor who is hired by the General Contractor for special or specific jobs on a project which the sub-contractor has been listed as a sub-contractor on the building permit application.

11-A.04. License Requirements.

11-A.04.01. License Required, Exemptions.

- A. It shall be unlawful for any person or persons representing or operating under the auspices of a firm or corporation to conduct, carry on or engage in the business of residential or commercial contracting work which requires a building permit to be obtained from the City of Hot Springs or act in the capacity of a contractor of the same without first being approved by the City of Hot Springs and having had issued to them a valid contractor's license by the City Building Official.
- B. It shall be unlawful for any individual, proprietorship, partnership, firm, or corporation who is in the business of:
1. asphalt or concrete paving,
 2. siding installation,
 3. 'spec home' building,
 4. roofing,
 5. demolition,
 6. tree cutting or trimming,
 7. dry-wall installation,
 8. underground sprinkler system installation,
 9. landscaping, or
 10. Heating-Ventilation-Air Conditioning (HVAC) installations,

as defined in this Chapter, to act in the capacity of a contractor without first being approved by the City of Hot Springs and having had issued to them a valid contractor's license by the City Building Official.

C. Exemptions.

1. Employees or bona fide subcontractors of a person licensed in accordance with this Chapter when they are under the directions and control of that person as provided herein.
2. A property owner for residential construction to be done on his own property which he occupies as his own home or will occupy as his home when the property owner is performing his/her own work.
3. A landlord for work to be done on his property when the landlord is performing his/her own work.
4. 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 when the homeowner is performing

the work. An owner may build not more than one single family dwelling in a three year period without obtaining a contractor's license, provided he occupies the dwelling for a minimum of one year after the final inspection is approved and/or a Certificate of Occupancy is issued for the structure.

5. Home repair or handyman service which provides services which are exempt from requiring a building permit or services otherwise expressly exempted from the licensing requirements.

11-A.05. Classes of Licenses.

11-A.05.01. Class A-2 Contractor.

1. General Contractor, Project Administrator or Project Manager in charge of any construction project in excess of \$500,000.
2. License is job-specific, subject to renewal for the life of the project. At the time the specific project is completed the license will automatically revert to a Class 'A' license and may be renewed as such the following year for the applicable \$50.00 renewal fee.
3. Class A-2 Contractors have the option of listing sub-contractors on a job-specific Exemption Form. Sub-contractors listed on the Exemption Form shall be exempt from local licensing requirements for that project.
4. Applicant shall provide four (4) verifiable references as to services rendered in the capacity that the license application is being made.
5. Applicant shall provide a Certificate of Insurance for business liability insurance in the amount sufficient for the specific project valuation.
6. Applicant shall provide proof of Worker's Compensation Insurance where required.

11-A.05.02. Class A Contractor.

1. General Contractor, Project Administrator or Project Manager in charge of any construction project not to exceed \$500,000, with the exception of 'cookie cutter' construction projects such as strip malls and motels not exceeding two stories, subject to approval of the Building Official.
2. Class A Contractors, when acting in the capacity of the General Contractor, have the option of listing sub-contractors on a job-specific Exemption Form.

Sub-contractors listed on the Exemption Form shall be exempt from local licensing requirements for that project.

3. Applicant shall provide four (4) verifiable references as to services rendered in the capacity that the license application is being made.
4. Applicant shall be required to pass a written 75 question test with a minimum 80% score, except that the Building Official may waive this requirement where applicant provides a verifiable license or certification that is equal to or greater than local requirements.
5. Applicant shall provide a Certificate of Insurance for business liability insurance in the minimum amount of \$1,000,000 or in the amount sufficient for the specific project valuation, whichever is greater.
6. Applicant shall provide proof of Worker's Compensation Insurance where required.

11-A.05.03. Class B Contractor.

1. Any contractor acting as a General Contractor in charge of any construction project not in excess of \$35,000, or any sub-contractor as defined in this Chapter who's part or portion of a project sub-contracted for does not exceed 30% of the total valuation of the project on which they are listed.
2. Applicant shall provide four (4) verifiable references as to services rendered in the capacity that the license application is being made.
3. Applicant shall be required to pass a written 50 question test with a minimum 80% score, except that the Building Official may waive this requirement where applicant provides a verifiable license or certification that is equal to or greater than local requirements.
4. Applicant shall provide a Certificate of Insurance for business liability insurance in the minimum amount of \$500,000 or in the amount sufficient for the specific project valuation, whichever is greater.
5. Applicant shall provide proof of Worker's Compensation Insurance where required.

11-A.05.04. Class C Contractor.

1. Any individual or company for hire to provide the services of a Paving Contractor, Siding Contractor, Tree Service Contractor, Dry Wall/Sheet Rock

Contractor, HVAC Contractor, Underground Sprinkler Systems Installation Contractor, or Landscape Contractor, all as defined in this Chapter.

2. The application shall indicate the service or services that applicant wishes to be licensed for the application will be reviewed and processed accordingly.
3. Applicant shall provide four (4) verifiable references as to services rendered in the capacity that the license application is being made.
4. Applicant shall provide a Certificate of Insurance for business liability insurance in the minimum amount of \$500,000.
5. Applicant shall provide proof of Worker's Compensation Insurance where required.

11-A.05.05. Subcontractors.

Any person doing business as a subcontractor shall be construed as engaged in the business of construction for which a license is required by this article unless the subcontractor falls under an exemption.

11-A.05.06. Contractor Exemption Form.

It shall be an option of a Class 'A' and Class 'A-2' General Contractors to list sub-contractors of a specific project on a Contractor's Exemption Form releasing those listed sub-contractors from the licensing requirement of the City of Hot Springs, thus accepting the responsibility for those sub-contractors and the service provided by them as the General Contractor responsible for the project in questions. No one contractor, sub-contractor, or individual shall be listed exempt on more than three (3) occasions in any one license year.

11-A.05.07. Worker's Compensation, Statement of Non-Participation.

It shall be required that any General Contractor making application for a contractor's license with the City of Hot Springs shall provide the City with copy of their worker's compensation insurance, or complete the statement of non-participation on a form provided by the City.

11-A.06. License Fees and Issuance.

11-A.06.01 Licensing Fees.

- A. Class A-2 contractor license fee:
 - 1. \$200.00; job specific.
 - 2. Renewal fee of \$200.00 for the life of the project.
 - 3. At the time the project is completed the license shall automatically revert to a Class A license and may be renewed as such for the applicable \$50.00 renewal fee.

- B. Class A contractor license fee:
 - 1. \$100.00 annually.
 - 2. renewal fee: \$50.00

- C. Class B contractor license fee:
 - 1. \$50.00 annually.
 - 2. renewal fee: \$25.00

- D. Class C contractor license fee:
 - 1. \$35.00 annually.
 - 2. renewal fee: \$25.00

- E. Application for license renewal shall be made of a form provided by the City.

- F. For all classes of licenses, if the license is not renewed prior to the expiration date and the contractor has a job in progress, the renewal fee will be increased by a factor of two (2).

- G. 'Up-grading' to a higher class license shall require application for that license.

11-A.06.02. Issuance of Licenses.

- A. Applications, along with the required fee, shall be submitted to the Building Official. The application shall state:
 - i. the contractor's license number,
 - ii. the name of the business,
 - iii. the business's physical and mailing address,
 - iv. the business' phone number,

- v. the business owner's name,
- vi. the owner's physical and mailing address,
- vii. the owner's phone number,
- viii. the owner's South Dakota Excise Tax License number,
- ix. business liability insurance policy number (copy required),
- x. Worker's Compensation Insurance policy number (copy required) or statement of non-participation,
- xi. number of years experience,
- xii. number of years in business,
- xiii. type of contracting or service provided,
- xiv. trade school attended, degree or certificate earned, years attended, and
- xv. four (4) verifiable references.

B. After the application is reviewed by the Building Official, the Building Official shall have the discretion to deny an application for license if:

- i. the application or applicant has made false statements on the application or to the Building Official;
- ii. if the applicant has a current stop work order issued against him that has not been satisfied;
- iii. if the Building Official has received or obtained additional information to substantiate that the applicant would be unfit to hold the license he is applying for;
- iv. if the applicant has negotiated a contract to perform services without being licensed;
- v. if the contractor has engaged in substantiated fraud or misrepresentation;
- vi. if the references that the applicant has given do not demonstrate that the applicant was either the project manager or in a position of direct responsibility for a project similar to the type of license the applicant is applying for, then the application may be denied. If the verifiable references do not satisfy the building inspector, the building inspector may contact the applicant to give him an opportunity to provide other verifiable references; or
- vii. if the applicant fails to meet any requirements of licensing contained in this chapter or otherwise.

C. If the application is approved, the contractor's license shall be issued within fifteen (15) days of the date of application.

D. If the applicant is denied a license for any reason, the Building Official must provide the applicant a written denial listing the reason(s) for the denial within fifteen (15) days of the date of application. The written denial must include the process for appealing the Building Official's decision. If the application is denied, the applicants license application fee may be returned to the applicant upon the return of any and all books, forms or documents received by the applicant during the application process.

11-A.06.03. License Suspensions, Revocations and Denials of Licenses.

- A. Any contractor's license may be suspended, revoked or denied by the Building Official for blatant and/or repeated violations of any ordinance, building codes, or any other reasons which shall be substantiated and properly documented. Such suspensions, revocations or denials may be in addition to any fine imposed for violating this article.
- B. A contractor's license may be denied by the building inspector if for any reason the applicant for such license does not meet the licensing criteria or other applicable criteria or requirement.
- C. If a contractor's license is denied, all work that he has been performing will be suspended until a final decision has been reached in the appeals process provided herein.

11-A.06.04. Appeals.

- A. Appeals to any decision of the building inspector must be made to the City of Hot Springs Common Council.
- B. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or that a request to use an alternate material, design or method of construction under Section R104.11 has been requested and denied.
- C. Appeals to the decisions of the Building Official must be made within thirty (30) days of action of the Building Official and shall be on a form supplied by the City. Failure to appeal within thirty (30) days will constitute a waiver of all right to an administrative hearing and a decision on the matter.
- D. Appeals shall be heard at a regularly scheduled City Council meeting within thirty (30) days of the date of the Building Officials written order.
- E. Upon review, the Council may affirm, modify or reverse the action of the building official. Upon good cause the Council can order the issuance of a license after a review.
- F. If Appellant requests the Council to conduct the review at a special meeting, Appellant shall bear the cost for the special meeting.

Ord. 1024, 10/2005; Ord. 1037, 8/2006; Ord. 1067, 9/2008;

11-A.06.05. Fines.

In addition to fines and fees specifically addressed by code or by ordinance, violations shall be subject to the City of Hot Springs Code of Ordinances Section 1-7: Continuing Violations.

11-A.06.06. Repeal of Conflicting Ordinances.

That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they contradict any provisions of this ordinance.