

(Published in the Anthony Republican, February 20, 2013) 1t

ORDINANCE NO. G-2786

AN ORDINANCE AMENDING CHAPTER IV,
BUILDINGS AND CONSTRUCTION, ARTICLE 2
LICENSING OF BUILDING TRADES IN THE
ANTHONY CITY CODE.

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

ARTICLE 2. LICENSING OF BUILDING TRADES: 4-201Intent. The purpose of this Article is to protect the public health and safety by assuring that the persons responsible for the construction, alteration, repair, or demolition of structures in the City of Anthony are qualified to perform such services. It is further the intent that owners of single-family residential properties be permitted without special qualification to perform any work on residential structures that they personally occupy. A personal occupancy contractor license exemption for any homeowner shall be limited as specified in Section 101.4 (c).

4-202 **TITLE.** This article shall hereafter be referred to as the "City of Anthony Contractor Licensing Code."

4-203 **LICENSING AUTHORITY.** The City of Anthony Development Services Office shall issue contractor licenses for the classes of contractors specified by Section 101.11 upon verification of credentials of applicants required by Section 101.11, and the payment of fees as prescribed by Table 101.12 for each class of license being requested.

4-204 **DEFINED.** A "contractor," within the meaning of this Article, is any individual person, corporation, limited liability company, joint venture or other legal entity or enterprise that undertakes with or for another, with or without compensation, to construct, alter, repair or demolish any structure or any portion thereof. A licensed contractor, under this code, shall be responsible for supervising all employees and for the proper and competent performance of all employees working under his or her supervision. Unless otherwise provided by this code, no building permit shall be issued to any person who is not a licensed contractor. Exclusions. The following persons are not contractors within the meaning of this Article:

- a) An employee, or agents working for and under the supervision of a contractor licensed under this Article;
- b) An electrician, plumber, mechanical installer or other specialized trades-person for whom another license is required under provisions of this Article;
- c) A homeowner that owns and personally occupies property, who undertakes the construction, alteration, repair or maintenance of such homeowner's single-family residence or accessory structure thereto. Notwithstanding the foregoing, for purposes of this Article, any person who undertakes the construction of a new residence that they will own and occupy more than one (1) time in any five (5) year period or substantial improvement to existing residences more than three (3) times in any five (5) year period

shall be deemed to be a "contractor" under this Article.

- d) A homeowner may demolish a residential structure, agricultural building or detached accessory building when a permit application has been reviewed and a plan for demolition has been approved by the Building Inspector or City Superintendent. The term "demolition" for the purposes of this article, shall mean safe removal of a structure to a predetermined and approved disposal site. The various options and requirements for demolition shall be determined on a site by site basis at the discretion of the city official.

4-205 LICENSE REQUIRED. No building permit shall be issued to any contractor who has not first obtained a license or who is delinquent in payment of his annual license fee, or whose Certificate of Insurance has expired, or whose license has been suspended or revoked by action of the City of Anthony Board of City Commissioners (hereinafter referred to as "the Governing Body").

4-206 CONTRACTOR INSURANCE. Every contractor shall keep in force a policy of commercial general liability insurance including completed operations/products coverage. Such insurance policy shall be written with an insurance company licensed as an admitted insurance company in the State of Kansas. Contractors shall maintain general liability coverage in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage unless otherwise stated in this code. In addition, every such contractor shall procure and maintain workers compensation insurance as required by law. A contractor, at the time of licensing under this Section, shall provide City of Anthony with an original certificate of insurance verifying the insurance coverage required by this section. The City of Anthony shall be added as a "Certificate Holder" to the insurance policy by the insurance company issuing the certificate of insurance, requiring the insurance company to notify the City of Anthony, in writing, of any change in coverage or cancellation of such policy at least ten (10) days prior thereto. Every contractor shall also submit to the City Clerk, a good and sufficient bond by the contractor in the sum of \$3000, conditioned that the applicant will comply with all laws and regulations of the city and with any lawful orders of the building inspector and conditioned further that the city or any other person who may deem himself or herself injured or damaged by the applicants failure to comply with the provisions of this code, may sue on the bond to recover damages. All such bonds shall be approved by the City Clerk before a license is issued. No bond required under this section shall be cancelled or terminated until at least 10 days after a notice of cancellation of the bond is received by the city clerk.

4-207 ESTABLISHED PLACE OF BUSINESS REQUIRED. Every contractor who has obtained a license as set forth in this Section shall have and maintain an established place of business at a definite address and telephone number to be kept current and on file at the City of Anthony Development Services office (hereinafter referred to as "the Department"). If said place of business is located in the City of Anthony, the place of business shall comply with all rules and regulations of the City of Anthony. Contractors holding an unexpired license shall be responsible for notifying the Department of any changes of address or phone contact information.

- 4-208 **CONTRACTOR RESPONSIBLE FOR ALL WORK.** No person shall perform any work as a contractor in the City of Anthony without first obtaining a Contractor's License from the Development Services Office. No building permit shall be issued to any person who does not have a current license as required by this Section. Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including receiving and passing all inspections required by the current building codes as adopted by the governing body, as well as all work done by the contractor's employees, agents, and subcontractors. Licensed contractors shall be responsible for all funds or property received by him for prosecution or completion of a specific contract or for a specific purpose.
- 4-209 **LICENSES AUTHORIZED.** There shall be separate classes of licenses authorized for contractors as provided in Subsections 101.11.1 through 101.11.5
- 4-209.1 **MULTIPLE CLASSES.** A contractor may become licensed in any classification by submitting to the examination as set forth in Subsection 101.11 for the particular class involved and paying the fee required for the classification as set forth in Table 101.12.
- 4-209.2 **BUSINESS ENTITIES.** A corporation, limited liability company, partnership, joint venture or other legal entity or enterprise may obtain, in the entity's name, a building permit provided that such entity has, in its regular employ, a person who is licensed as a contractor under this Article and such individual is the signatory on the building permit on the entity's behalf. Only a contractor licensed under provisions of this Article may obtain a building permit on behalf of a corporation, partnership, limited liability company, joint venture or other business entity or enterprise. Every contractor by obtaining a building permit in the name of such corporation, partnership, limited liability company, joint venture or other business entity or enterprise, shall certify that such contractor is the employee or principal of such business entity or enterprise.
- 4-210 **EXAMINATIONS, LICENSE APPROVAL AND ISSUANCE.** Unless otherwise provided by this code, every contractor shall, prior to making application for a contractor's license under this code, possess a certificate of competency from a nationally-recognized testing institution as contemplated by K.S.A. 12-1508, 12-1525, 12-1541 or 12-1556 (Supp. 1998) or as otherwise set forth in this Article for Limited Contractors. The Governing Body will accept a contractor license of an equivalent class issued by any city or county within the State of Kansas that is issued based on successful examination or continuing education, so long as the licensing jurisdiction shall designate such qualifications directly on the license (pursuant to K.S.A. 12-1503 et seq.).
- 4-210.1 **CONTINUING EDUCATION.** Continuing Education is required by Kansas Statutes for Plumbing, Electrical and Mechanical (HVAC) Contractors (see K.S.A. 12-1509, 12-1526, and 112-1542 respectively). The Governing Body may establish continuing education requirements, rules and regulations for all other contractors licensed under this Section. Every contractor shall demonstrate compliance with such continuing education requirements prior to license renewal.
- 4-211 **CLASSIFICATIONS OF CONTRACTOR LICENSES.**
- 1) **General Contractor.** This license shall entitle the holder thereof to build, remodel, repair, move or demolish any structure without limitation of use, type of construction, height or area. An applicant shall submit proof of

successfully completing the General Contractor Certification Examination by Block and Associates, Gainesville, Florida (pursuant to K.S.A. 12-1556).

- 2) **Electrical Contractor.** This license shall entitle the holder thereof to perform Electrical Contractor services. An applicant for an Electrical Contractor License shall submit proof of successfully completing an examination administered by an approved testing agency as required (pursuant to K.S.A. 12-1525).
- 3) **Plumbing Contractor.** This license shall entitle the holder thereof to perform Plumbing and Gas services. An applicant for a Plumbing Contractor License shall submit proof of successfully completing an examination administered by an approved testing agency as required (pursuant to K.S.A. 12-1508).
- 4) **Mechanical Contractor.** This license shall entitle the holder thereof to perform Heating, Venting and Air Conditioning (HVAC) services. An applicant for a Mechanical Contractor License shall submit proof of successfully completing an examination administered by an approved testing agency as required (pursuant to K.S.A. 12-1541).
- 5) **Limited Contractor.** An applicant may apply for a Limited Contractor License when the applicant chooses to specialize in only one aspect of construction. Limited Contractor Licenses are available for the following specialized trades:
 - a) **Concrete and Masonry Contractor:** This license shall entitle the holder thereof to contract for and to install, repair and replace building foundations. License shall be issued upon successful completion of local testing requirements as may be approved by the Governing Body. Handyman services may be included in this category depending on the scope of work.
 - b) **Roofing Contractor:** A roofing contractor license shall entitle the holder thereof to contract for and to install, repair and replace roof coverings. Work may include roof deck and roof deck insulation, roof coating, painting, covering and may include use of sheet metal and insulation of other sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof. License shall be issued upon successful completion of local testing requirements as may be approved by the Governing Body. Handyman services may be included in this category depending on the scope of work.
 - c) **Wood and Framing Contractors:** A framing contractor license shall entitle the holder thereof to contract for and to install, repair and replace framing members and wood decks. Work may include wood deck construction, building and wall framing and replacement of framing members in existing structures. License shall be issued upon successful completion of local testing requirements as may be approved by the City of Anthony. Handyman services may be included in this category unless the scope of work requires a more specific category.
 - d) **Siding and Window Contractor:** A siding and window contractor license shall entitle the holder thereof to contract for and to install, repair and replace siding and windows on residential or accessory structures. License shall be issued upon successful completion of local testing

requirements as may be approved by the Governing Body.

- e) **Elevator Contractor:** An elevator contractor class 1 shall be authorized to perform work for the installation, alteration, modernization, maintenance, service or repair of any electrically or electro-hydraulically powered passenger and freight elevators, escalators or moving walks. License shall be issued upon presentation of valid licensure through the State of Kansas.
- g) **Fire Protection Contractor:** A fire protection contractor class 1 license shall entitle the holder thereof to install, alter, modernize, maintain, service, repair, test and inspect automatic sprinkler systems and standpipe systems for any and all types of occupancies, inclusive of all related underground fire lines and fire services and inclusive of, but not limited to, all appurtenances such as fire pumps, water storage tanks, fire control systems, automatic and manual water-spray and deluge systems, and special extinguishing systems using carbon dioxide, foam, dry chemical or inert gas, and other such systems used for the control or extinguishment of fire. Backflow prevention devices are permitted to be installed, but they must be tested in accordance with City and state regulations. License shall be issued upon presentation of valid licensure through the Kansas State Fire Marshal's Office.
- h) **Pool and Spa Contractor:** This license shall entitle the holder thereof to install outdoor or indoor, above ground or below ground swimming pools, spas or hot tubs, including installation of solar heating and appurtenant equipment associated with such construction. License shall be issued upon successful completion of local testing requirements as may be approved by the Governing Body. This category shall include lawn irrigation and sprinkler installers unless required by the scope of work to be licensed as a plumbing contractor.
- i) **Demolition Contractor:** A demolition contractor license shall entitle the holder thereof to demolish structures according to the conditions set forth by the building inspector. The term "demolition" for the purposes of this article, shall mean the safe removal of a structure to a predetermined and approved disposal site.

4-212 CONTRACTOR LICENSE APPLICATION

- 1) **Application form.** The Development Services Office shall receive and process contractor license applications. The fees as set forth in Section 101.12 and Table 101.12 shall accompany each original application.
- 2) **License fees.** Application for contractor's license, name change, organizational change or change of the qualified person shall include information as the Governing Body may prescribe and shall accompany the fee required by Table 101.12. Each application must list a qualified person. The qualified person shall be the applicant for a license, and must have the ability to sign contracts that legally bind the individual, partnership or corporation. The qualified person shall be the individual, for an individual license; one of the partners, for a partnership license; an officer or active member in the corporation for a corporate license. It shall be a violation for the qualified person to leave the licensed contractor entity. Penalty for departure of the qualified person or

disassociation with the entity shall result in all licenses and permits to be rendered null and void 30 days after official notice from the Development Services office unless another person associated with the entity becomes qualified within that period of time. Upon approval of the application and verification of qualifications in accordance with Section 101.11 and insurance requirements in accordance with Section 101.6, the Development Services Office shall issue the requested license upon payment of the annual fee required by Table 101.12. License fees shall not be prorated because part of the year has elapsed.

- 3) **Renewal or Reinstatement of Licenses.** Every contractor license shall be issued on a calendar year basis to expire on December 31st of each year. License renewal fees shall be due on the first day of January. A license renewal application may be submitted to the City beginning on December 1st through and including the last day of January without a late fee being assessed. Thereafter, a late fee equal to \$25, in addition to the License Fee shall be collected to offset administrative costs incurred resulting from late renewal. When insurance coverage expires, the license shall expire by limitation and notice will be sent to the license holder. The license shall not be reinstated until an original certificate of insurance as required by Section 101.6 of this code has been submitted and a reinstatement fee equal to \$25 is paid. Any construction permits that the license holder possesses shall be null and void when a license has expired or when insurance coverage has lapsed.

TABLE 4-201.12
LICENSE AND REGISTRATION FEES

General Contractor	\$100.00
Electrical Contractor	\$100.00
Plumbing Contractor	\$100.00
Mechanical Contractor	\$100.00
Limited Contractor License	\$50.00
Late Renewal Fee or Reinstatement Fee	\$25.00
Secondary License (ie. Plumbing+Mechanical)	Half Fee w/ Primary License

- 4-213 **CONTRACTOR DISCIPLINE.** The Development Services Office shall have the authority to discipline any contractor subject to the requirements of this Section including suspension or revocation of the contractor's license issued under the provisions of this Section. Before any contractor's license is suspended or revoked, a hearing may be held by the City Superintendent when requested by the Development Services Office or by the affected contractor. Although this is an informal hearing outside the procedures of the Kansas Administrative Procedure Act, said contractor may be represented by counsel and may question

any and all witnesses. The City Superintendent, after a hearing, may suspend or revoke a contractor's license if he/she concludes that the contractor's action or inaction is:

- 1) A violation of the provisions of this code, any applicable building safety code, or any lawful order of the Code Official;
- 2) A misrepresentation of a material fact made in connection with obtaining a contractor's license or building permit;
- 3) A fraudulent or deceitful use of a contractor's license to obtain or to allow an unlicensed contractor to obtain a building permit;
- 4) A failure to obtain a building permit or a timely inspection as required by any applicable building safety code;
- 5) A failure to exercise regular, routine control and supervision over a construction project for which the contractor has obtained a building permit or has established responsibility for a specific trade thereof;
- 6) A failure to timely obtain a Certificate of Occupancy for a structure as required by applicable building safety codes;
- 7) A failure to prevent any unlicensed contractors or unsupervised employees of a licensed contractor to work when licenses are required by this code to perform work on a job site for which the contractor obtained a building permit;
- 8) A failure to pay any required application or licensing fees, building permit fees, inspection fees or other fees required by the City of Anthony Building Code; or
- 9) A failure to maintain insurance as required by Section 101.6.

4-214 CITY SUPERINTENDENT ACTION. Upon finding by the City Superintendent that a contractor has violated one or more of the provisions of Section 4-213 items 1) through 9) of this code, the Superintendent may admonish, reprimand, or take appropriate disciplinary action against such contractor including but not limited to:

- 1) Suspension of the contractor's license for a fixed period not to exceed ninety (90) days;
- 2) Suspension of the contractor's license for a fixed period exceeding ninety (90) days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the Governing Body at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension. At the Governing Body's option, such reconsideration may include a hearing.
- 3) Revocation of the contractor's license for a period of not less than twelve (12) months from the date of revocation. A contractor's license shall be revoked if the contractor's license has been suspended three (3) times during any 36-month period. A contractor may appeal any decision of the City Superintendent by filing notice of appeal with the City Clerk within fifteen (15) days following the City Superintendent's written decision.

4-215 VIOLATION. Any person, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of the City of Anthony Contractor Licensing Code as adopted herein and amended hereafter shall be subject to the penalties and remedies provided for in this Section. Each day that a violation is allowed to continue may be deemed to constitute a separate offense.

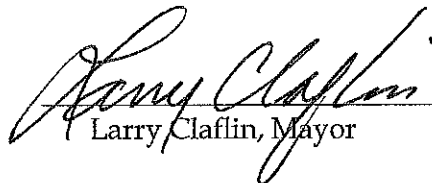
- 4-216 PENALTIES. A violation of this code shall be deemed to be a misdemeanor and punishable by a fine not to exceed five hundred dollars (\$500.00) for each offense.
- 4-217 SAFE HARBOR PROVISION. A contractor shall not be found in violation of this code, nor disciplined by the Governing Body for a violation of an applicable building safety code provision if the contractor provides substantial and compelling evidence that the violation occurred as the result of the contractor's good faith compliance with the building plans and specifications prepared or approved by an architect or engineer licensed by the State of Kansas.
- 4-218 INTER-LOCAL COOPERATION. Be it known that the Governing Body consists of five (5) members elected to the City Commission of the City of Anthony. Be it also known that this Governing Body hereby appoints the City Superintendent to oversee the Development Services Office in the licensing and regulation of contractors within the City. The City Superintendent shall also be the first hearing officer for complaints or disciplinary action against a contractor.
- 4-219 COMPLAINTS. Any person may file a written complaint with the Development Services Office on forms provided for that purpose. Every complaint shall set forth one or more of the conditions specified by Section 4-213 items 1) through 9).
- 4-220 CONSUMER COMPLAINTS. Consumer complaints relating to the quality of materials, workmanship, untimely construction, contract disputes and similar complaints are beyond the jurisdiction of the Development Services. No complaint shall be considered by the Development Services Office unless it meets the requirements of Section 101.13 of this code.
- 4-221 HEARINGS. All contested matters pertaining to the approval, issuance, suspension, revocation, renewal and reinstatement of licenses, including examinations, shall be heard by the City Superintendent. The hearing shall be informal but witnesses shall testify under oath and a written decision shall be rendered by the City Superintendent setting forth the relevant findings and conclusions for any action taken.
- 4-222 HEARING PROCEDURE. All hearings held before the City Superintendent shall be scheduled not less than (10) days, nor more than thirty (30) days from the date of a disciplinary action notice. Official notice shall be given to all parties concerned, which shall name the hearing date, time and place and state, in general terms, the nature of the complaint or disciplinary action. The written complaint, including any supporting material or documents, shall be provided to the contractor prior to the hearing. The burden of proof shall be on the complainant to show, by a preponderance of the evidence presented, that the allegations set forth in the complaint are true. If the complainant, or a representative of the complainant, fails to appear at the scheduled hearing, the City Superintendent may nonetheless proceed with the hearing. For cause, the City Superintendent may grant a continuance, hold a hearing open, allow additions to the record after the hearing has concluded or take other action in the interest of justice.
- 4-223 APPEAL. A contractor may appeal any decision of the City Superintendent to the Governing Body by filing a notice of appeal with the City Clerk within fifteen (15) days of the decision. The fifteen (15) day appeal period shall commence three (3) days after the date the written decision is mailed to the contractor. The City Clerk shall forward the Superintendent's decision, together with the record of the case, to the Governing Body.
- 4-224 AMENDMENT. These Rules and Regulations may be amended by the Governing

Body pursuant to the requirements set forth in Kansas Statutes for amending the City Code.

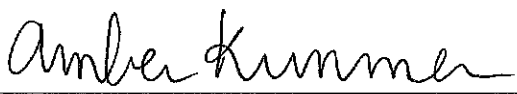
4-225 SEVERABILITY. It is hereby declared the intention of the Governing Body that the Articles, Sections, paragraphs, sentences, clauses and phrases contained within this Code are to be severable and should any Article, Section or provision of these regulations be declared unconstitutional or otherwise ruled to be invalid by any court of competent jurisdiction in a valid judgment or decree, then such decision or ruling shall not affect the validity of the Code as a whole, or any part of the Code, other than the specific part declared to be unconstitutional or otherwise ruled to be invalid by any court of competent jurisdiction in a valid judgment or decree, then such decision or ruling shall not affect the validity of the Code as a whole, or any part of the Code, other than the specific part declared to be unconstitutional or ruled to be invalid.

2. The code for licensing of building trades referred to in this Ordinance will be effective March 15, 2013.

PASSED, APPROVED AND ADOPTED by the Board of Commissioners of the City of Anthony, Kansas, this 18th day of February, 2013.


Larry Claflin, Mayor

ATTEST:


Amber Kummer, City Clerk/ Administrator