

## CHAPTER 10 - GENERAL LICENSING & LICENSING BOARDS

### ARTICLE 22 - LICENSING OF RESIDENTIAL CONTRACTORS

#### SECTIONS:

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**Section 10-22-101 to 199, inclusive. Licensing of Residential Contractors – general provisions.**

#### **Section 10-22-101 License required.**

Except as provided herein, no person shall undertake or offer to undertake Residential Building Construction within the jurisdiction of the City of Pierre including the extra-territorial area until the person obtains a residential contractor's license.

#### *Exceptions:*

1. Employees of a person or business licensed in accordance with this Chapter when they are under the direct direction and control of that person.

2. Persons engaged in other construction trades for which that person or business holds a valid licenses required by the City of Pierre when that person is performing work pertaining to their respective license.
3. A dwelling owner for work to be done on his property which he occupies as his own home or will occupy as his own home and when the property owner is acting as his own general contractor. A home owner shall not construct more than 1 home within a 2 year period, and shall occupy said residence for a minimum of 1 year from final inspection. Sub contractors hired by the home owner shall be licensed in their respective trades.
4. A landlord or his employee for work to be done on his property when, in the opinion of the building official, the work does not involve elements of the structure normally sustaining design loads.

Source: SDCL 9-34-12

#### **Section 10-22-102 Residential contracting definitions.**

1. **Residential Building Construction;** shall mean the enlargement, alteration, repair, improvement, conversion, or new construction of any one or two family dwelling or any accessory building or structure associated with a one or two family dwelling for which a building permit is required.
2. **Residential Contractor;** is any person, firm or corporation engaging in the business of or contracting for new residential construction, alterations, repairs, improvements or conversions of accessory buildings or appurtenances to one and two-family residential dwellings. *This includes but not limited to: excavation, flat-formed or preformed concrete, general carpentry, shingling, drywall, siding, window or door installation, painting, cabinetry installation, etc.*
3. **Employee;** any person who is compensated for construction work which is reported by his employer to the Internal Revenue Service on a W-2 form and is also otherwise an employee under applicable laws.

#### **Section 10-22-103 Fees and application for residential contractor's licenses-renewals.**

Each person, partnership, or corporation, applying for a residential contractor's license shall make application and pay to the City Finance Officer an annual fee set out in a schedule to be approved by the City Commission and as presented and on file at the City business office. The licenses provided for in this chapter shall be issued by the city finance officer and the license fee shall be payable annually.

Source: SDCL 9-34-12

#### **Section 10-22-104 License issuance requirements.**

1. Contractors:

A residential contractor's license shall be issued to every person who applies for such license and meets the license requirements and pays the required fee and has not forfeited said license in the past 12 months. Any contractor refused a license may appeal such refusal per Section 10-21-107.

2. Annual License Requirements:

A. **Proof of General Liability Insurance**

Proof of liability insurance in the minimum amount of \$300,000 shall be required of every type of residential contractor and shall be on file with the City of Pierre Building Department. This insurance shall be kept in force for the duration of the active contractor license. It shall be the responsibility of any residential contractor's insurance company to notify the City of Pierre Building Department upon cancellation of said liability insurance

B. **Workman's compensation Insurance**

A residential contractor shall provide proof of workman's compensation insurance in accordance of South Dakota law.

C. **South Dakota Contractor excise tax license**

A residential contractor shall provide proof of a valid South Dakota Excise tax license which is to be kept on file with the building department.

D. **Residing Agent**

Every applicant shall be required to provide the name, address, phone number of an agent residing in South Dakota.

E. **Continuing Education**

Residential contractors must attend a minimum of two hours of continuing education annually presented by the City of Pierre Building Department or another course as approved by the City of Pierre Building Department.

**Section 10-22-105 Expiration of license.**

Every license issued pursuant to this chapter shall remain in force and effect until December 31<sup>st</sup> of the issuing year unless canceled or revoked prior to such time. Any person or firm shall not do work in the city of Pierre until that license is reinstated or renewed.

*Source: SDCL 9-34-12*

**Section 10-22-106 License suspension, revocations, refusal to renew.**

The City of Pierre may suspend, revoke, refuse to issue or renew a license if:

1. In their discretion the order is in the public interest; and
2. Based upon substantial evidence presented, the applicant or licensee:
  - a. Has filed an application for a license that is incomplete in any material respect or contains false or misleading statements.
  - b. Has engaged in any fraudulent, deceptive, or dishonest act or practice.
  - c. Has violated any applicable provisions of the adopted building codes, city ordinance, rule, or regulation or state law.
  - d. Fails to file with the City Finance Officer the necessary certificates of insurance.
  - e. Fails to pay permit and landfill fees in a timely manner as determined by the Building Official.
  - f. Fails to respond to a lawful order or directive of the City of Pierre Building Department.

**Section 10-22-107 Administrative appeal of license suspension, revocation, refusal to issue or renew.**

The City of Pierre shall notify a contractor by certified mail of a suspended, revoked, refusal of issuance or renewal of a license. A party whose license is suspended, revoked, or refused issuance or renewal may appeal that decision to the Building Code Board of Appeals as appointed by the City Commission.

Appeals commence by filing a written appeal with the City of Pierre within ten business days of notification. The appeal shall include a statement describing the complaint, why the action taken should be modified or rescinded and an address where the appellant can be mailed notice of hearings. The City of Pierre shall immediately deliver a copy of the appeal to the city attorney.

**Section 10-22-108 Time of hearing and notice.**

A public hearing shall be held on all appeals within 15 business days after filing of the appeal, unless a later date is agreed upon by the appellant and the Building Code Board of Appeals. The Building Official shall cause written notice of the date, time, and place of such hearing to be served upon the appellant by personal service or certified mail to the address set forth in the appeal at least five days before the hearing date.

**Section 10-22-109 Hearing procedures.**

The following rules shall govern the procedures for an administrative hearing on matters concerning licensee suspension, revocation, refusal to issue or renew.

- 1) Hearings and administrative appeals need not be conducted according to the technical rules relating to evidence and witnesses.
- 2) Oral evidence shall be taken only on oath or affirmation.
- 3) The chairperson of the Board shall administer oaths or affirmations to witnesses.
- 4) Any relevant evidence shall be admitted if it is the type of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence after objection in civil actions in courts of competent jurisdiction in this state.
- 5) Irrelevant and unduly repetitious evidence and evidence that lacks trustworthiness shall be excluded.
- 6) The appellant, the major organization unit or agency, and any other party to an appeal shall have these rights among others:
  - a) To call and examine witnesses on any matter relevant to the issue of the hearing;
  - b) To introduce documentary and physical evidence.
  - c) To cross examine opposing witnesses on any matter relevant to the issues of the hearing; and
  - d) To rebut evidence.
- 7) After each appeal hearing, the Chairperson of the Board of Appeals shall perform the following:
  - a) Make written findings of fact.
  - b) Based upon such written findings, sustain, remand for further hearing or action, or rescind the complained action or decision. The Board may in its discretion waive the payment of any reinstatement or late penalty fee.
- 8) A written report of the decision, including the findings of fact, shall be furnished to the appellant and the Building Official within 15 working days from the date the appeal hearing is closed. The City and the appellant shall bear their own respective costs of the appeal proceeding. The decision of the board shall be final.

**Section 10-22-110 Appeal to circuit court.**

The decision of the Building Code Board of Appeals may be appealed to circuit court as provided by law.

(Ord. No. 115-96, & 6, 10-7-96)

**Section 10-22-111    Violations of license**

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed two hundred dollars (\$200.00) or by imprisonment in the county jail not to exceed thirty (30) days, or by both such fine and imprisonment. Upon written notice by the City of Pierre, each separate day or any portion thereof during which any violation of this chapter continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as herein provided.

**Section 10-22-112 to 199.    Reserved**

**Source:** Ord. No. 1706, 2012; Ord. No. 1733, 2014.