

## **CHAPTER 7 BUILDING CONTRACTORS**

### **SECTION:**

- 4-7-1: Purpose
- 4-7-2: Definitions
- 4-7-3: License Required; Exceptions
- 4-7-4: Proof of License
- 4-7-5: Duties of Contractors
- 4-7-6: Contractors Registration
- 4-7-7: Licenses Authorized
- 4-7-8: Application Form and Fee
- 4-7-9: Renewal or Reinstatement of License
- 4-7-10: Examinations, License Approval and Issuance
- 4-7-11: Firms/Designated Representatives
- 4-7-12: Continuing Education
- 4-7-13: Contractor Discipline
- 4-7-14: Hearing Panel Action
- 4-7-15: Non-disciplinary hearings
- 4-7-16: Safe Harbor Provisions
- 4-7-17: Hearings
- 4-7-18: License Application and Issuance
- 4-7-19: Final Appeal to Council
- 4-7-20: (Repealed)

4-7-1:       **PURPOSE:** The purpose of this Chapter is to protect the health, safety and welfare of the inhabitants of the City by ensuring that all buildings within the City are constructed by qualified contractors, that such contractors comply with all applicable building, electrical, plumbing and other construction codes and that all appropriate permits and inspections are obtained. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07)

4-7-2:       **DEFINITIONS:** Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

**BUILDING CONTRACTOR:** A "contractor," within the meaning of this Chapter, is any person or firm that undertakes to construct, alter, repair, or demolish any structure or any portion thereof including every general contractor, building contractor, and residential contractor. Unless provided otherwise by this Chapter, only a contractor licensed under the provisions of this Chapter may obtain a building permit.

**BUILDING CONTRACTOR'S LICENSE:** A license issued by the City allowing the holder to engage in the activities of a building contractor.

**CLASS A CONSTRUCTION:** All residential, commercial and industrial building construction of any kind.

**CLASS B CONSTRUCTION:** The construction of hotels, apartment houses and buildings that are not more than three (3) stories above grade and are within occupancy groups A, B, E, F, H, I, M, or R, as defined by the International Building Code, including Class C construction.

**CLASS C CONSTRUCTION:** The construction of structures regulated by the International Residential Code.

**CLASS D CONSTRUCTION:** Relating to specific trades, including, but not limited to, such concrete, masonry, framing, drywall or roofing.

**DIRECTOR:** The Director of the Community Development Services Department of the City.

**FIRM:** For purposes of this Chapter, Firm means any sole proprietorship, partnership, association, limited liability company or corporation.

**INTERNATIONAL BUILDING CODE:** The International Building Code and International Residential Code as adopted and amended by the City.

**INTERNATIONAL FIRE CODE:** The International Fire Code as adopted and amended by the City.

(Ord. 2203, 5-23-96; Ord. 2520, 12-18-03; Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08; (Ord. 3003, 04-23-15; Ord. 3332, 9-10-20)

4-7-3:           **LICENSE REQUIRED; EXCEPTIONS:**

(A)   License Required: No person shall build, construct, alter, repair or modify any building in the City without obtaining an appropriate building contractor's license as set forth below.

(B)   Exceptions: The licensing requirement in this section shall not apply to the following:

- (1)   The installation, construction, repair or modification of any water line, sewer line, gas line, railroad line, telephone line, cable TV line, electrical line, fiber optic line or telecommunications line.
- (2)   The construction, repair, alteration or demolition of any road, bridge or structure directly appurtenant to any road or bridge.
- (3)   A homeowner who personally occupies or will occupy and undertakes the construction, alteration, repair, or maintenance of such homeowner's single-family residence or an accessory structure thereto. This exception is not intended to prohibit the homeowner from having assistance in the construction of the home

from others provided that any persons assisting such homeowner hired as paid labor shall be deemed a sub-contractor and shall be required to be licensed as such in accordance with Section 4-7-7 of this ordinance. Notwithstanding the foregoing, for purposes of this section, any homeowner who undertakes the construction of a new residence for such homeowner's personal occupancy more than two times in any five year period shall be deemed to be a "contractor" under this Chapter. A "homeowner" is defined as any person, or spouse of that person, who owns the home or property

- (4) Any person who is a bona fide employee of a contractor holding a valid building contractor's license or a subcontractor of a licensed general contractor, and who engages in building construction while generally under the direct supervision and control of the licensed building contractor.
- (5) The placement/installation of pre-manufactured storage structures that comply with local geographic design criteria of the International Building Code adopted by the City. (Ord. 2520, 12-18-03; Ord. 2681, 11-21-06; Ord. 2772, 08-14-08; Ord. 2772, 08-14-08; Ord. 3309, 6-18-20)

4-7-4: PROOF OF LICENSE: Before being issued a building permit within the City, the contractor must show proof of the appropriate contractor's license to the City of Idaho Falls Building Department. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-5: DUTIES OF CONTRACTORS: Contractors licensed under this Chapter shall have the following duties:

(A) Contractors shall comply with all provisions of the International Building Codes, Uniform Plumbing Code, International Fire Code, and any other building or construction code adopted by the City.

(B) Contractors shall obtain all permits and pay all applicable fees required by the City Code.

(C) Contractors shall obtain all inspections as required by the City Code.

(D) Contractors shall ensure that all buildings are constructed without substantial departure from any drawings and specifications filed with and approved by the City.

(E) Contractors shall obey all lawful orders of the Director, the Building Official or their authorized representatives.

(F) Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including work done by the contractor's employees, agents and subcontractors.

(G) Contractors are responsible for all of their employees and sub-contractors working generally under the direct supervision and control of the contractor. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-6: CONTRACTORS REGISTRATION: Every Contractor will be registered with the Idaho Bureau of Occupational Licenses as required by Idaho Code § 54-5101 et. seq. Evidence of registration shall be provided to the City or its designated agent upon initial application and each subsequent renewal.

(Ord. No. 2625, 10-27-05; Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-7: LICENSES AUTHORIZED: There shall be four (4) separate classes of licenses authorized for contractors as provided in this Chapter. All license fees set forth below may be amended by Resolution of the Council.

(A) A Class A License shall entitle the holder thereof to construct, remodel, repair, and demolish any structure. The annual Class A License fee shall be in an amount set from time to time by Resolution of the Council.

(B) A Class B License shall entitle the holder thereof to construct, remodel, repair, and demolish all structures not exceeding three stories in height. A Class B License shall also entitle the license holder to perform non-structural remodeling, tenant-finish, and repairs of all structures. The annual Class B License fee shall be in an amount set from time to time by Resolution of the Council.

(C) A Class C License shall entitle the holder thereof to construct, remodel, repair, and demolish single family or duplex residences and buildings accessory thereto. The annual Class C License fee shall be in an amount set from time to time by Resolution of the Council.

(D) A Class D License shall entitle the holder thereof to perform the specific trade for which they are licensed for, whether it be concrete, masonry, framing, drywall or roofing, or other specific trade. The annual Class D License fee shall be in an amount set from time to time by Resolution of the Council

(E) The original fee and renewal for any license applied for under the reciprocity provisions of Section 4-7-10(A)(3) of this Chapter shall be in an amount set from time to time by Resolution of the Council for those who hold an equivalent license from an out-of-state jurisdiction or organization. The fee shall be in an amount set from time to time by Resolution of the Council for an applicant who holds an equivalent license from an in-state jurisdiction or organization. (Ord. 2964, 8-14-14)

4-7-8: APPLICATION FORM AND FEE: The Director shall receive and process contractor license applications. An application fee of \$100 shall accompany each original application except for those applying under 4-7-10(A)(3). No application fee shall be required in connection with a license renewal. All application and license fees shall be paid without proration. No contractor license may be transferred or assigned. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08))

4-7-9: RENEWAL OR REINSTATEMENT OF LICENSE:

(A) Every contractor license shall be issued on a calendar year basis to expire one (1) year from the date that the license is issued. A contractor shall be entitled to renew such contractor's license upon satisfaction of the requirements of this Chapter. Unless an expired license is renewed within one (1) year of its expiration, the contractor shall be required to make a new application and satisfy all of the then-existing contractor licensing requirements. The failure to receive a renewal application shall not excuse untimely license renewal.

(B) During the annual renewal period, a licensed contractor that has completed the annual requirement for continuing education may, upon the payment in an amount set from time to time by Resolution of the Council, have the contractor's license declared inactive. No building permit shall be issued to a contractor with an inactive license. The holder of an inactive license may annually renew the inactive license upon the completion of all continuing code education requirements and the payment of the annual renewal fee. The holder of an inactive license may obtain an active contractor's license at any time upon the payment of the required license fee.

(C) Any contractor whose license is suspended for any code related violation must provide satisfactory evidence to the Board established by the Director that the violation has been corrected in accordance with the applicable Code. Failure to provide such evidence may result in the revocation of the contractor's license.

(D) When a contractor's license is revoked, a new license shall not be granted until the contractor has first passed an examination as required by Section 4-7-10 and has provided the City or its designated agent with satisfactory evidence that a new license should be issued. If the contractor's license was revoked as a result of a Code-related violation, such contractor may not be re-licensed unless the City determines that the violation has been corrected.

(E) Reciprocal license holders under Section 4-7-10(A)(3), shall submit current verification of licensing with another jurisdiction or organization approved by the director. The renewal free is set forth in Section 4-7-7(E). (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08; Ord. 2964, 8-14-14; Ord. 3282, 11-26-19)

4-7-10: EXAMINATIONS, LICENSE APPROVAL AND ISSUANCE:

(A) Contractor applicants shall be licensed upon their delivery to the Director of proof that the applicant or person employed by the applicant on a full-time basis meets one or more of the following qualifications:

- (1) Possession of a valid certificate of competency from a nationally-recognized testing institution; or
- (2) Possession of a bachelor's degree in engineering, architecture, or construction science from an accredited college or university;
- (3) Possession of a license from another jurisdiction or organization which the Director determines is sufficient to warrant reciprocity. The business from the other jurisdiction or organization must have an equivalent or greater continuing educational requirements.

(B) The Director is hereby authorized to administer examinations to determine the qualifications of applicants and may utilize the International Code Council examination, or other similar, nationally-recognized examination.

(C) The Director shall expeditiously process all license applications. The City shall adopt reciprocity rules and regulations to allow persons and firms from other states or municipalities within or without the state to obtain a contractor's license based upon such person's or firm's licensure in such other state or municipality.

(D) The contractor-applicant shall disclose, at the time of application, any current or previous contractor license held in Idaho or any other state and any disciplinary actions taken against such contractor-applicant. If the contractor-applicant is employed by or a principal of a firm, the application shall disclose whether the firm or the firm's employees or principals have had any contractor-related disciplinary action taken against them in Idaho or any other state. No license shall be issued to any contractor-applicant who has had a license suspended or revoked for disciplinary reasons, or who has surrendered a license during any disciplinary proceeding or investigation, within the immediately preceding five years. Any contractor-applicant denied a license under the provisions of this section may appeal such denial to the hearing panel selected by the Mayor and City Council. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08))

4-7-11: FIRMS/DESIGNATED REPRESENTATIVES:

(A) Under this Chapter, a firm may obtain, in the firm's name, a contractor's license provided that such firm has at least one full-time employee who is designated by the firm as its representative and such designated representative satisfies one of the requirements of Section 4-7-10 of this Chapter. A designated representative must spend a minimum of thirty (30) hours a week carrying out the work of the firm. Whenever a building permit is issued in the name of a firm, the firm shall be subject to this ordinance.

(B) A contractor, including firms, may appoint, on forms provided by the City, one or more individuals who shall be authorized to obtain building permits on behalf of the contractor. Such individuals are not required to be a licensed contractor. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-12: CONTINUING EDUCATION: Every contractor shall complete at least eight (8) hours of continuing education as required by the Director each calendar year. The Director shall recognize codes-related education provided by other governmental entities, trade associations, contractor education providers and other competent educational institutions for courses and instruction directly related to those codes adopted within the state of Idaho. The licensing fee, except those who receive a license through reciprocal admission under Section 4-7-10(A)(3), shall cover tuition costs for at least eight (8) hours per year, provided by the Director. Employees of non-reciprocal licensed contractors may attend a course for the cost in an amount set from time to time by Resolution of Council. A contractor with a reciprocal license may attend a course for the cost in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14)

4-7-13: CONTRACTOR DISCIPLINE: The Director shall have the authority to admonish, reprimand, and otherwise discipline any contractor who violates any requirements of this Chapter. Any discipline that does not involve a suspension or revocation of the license will not require a hearing. Any monetary fine is subject to an appeal as set forth below. If a disciplinary action could result in a suspension or revocation of the license, a hearing shall be held following not less than ten days' notice to the affected contractor. A three person panel shall be appointed by the Mayor and approved by the City Council to hear any contractor discipline which involves a suspension or revocation of a contractor's license. This three person hearing panel shall consist of one building official and two licensed contractors. The hearing panel may suspend or revoke a contractor's license if the hearing panel concludes, following a hearing, that the contractor's action or inaction is:

(A) A serious or repeated violation of the provisions of this Chapter, any applicable Code, or the failure to comply within a reasonable time to any written order of a building code official;

(B) A knowing and intentional misrepresentation of a material fact made in connection with obtaining a contractor's license or a building permit;

(C) A fraudulent or deceitful use of a contractor's license to obtain a building permit;

(D) A failure to obtain a building permit or to obtain a required inspection of an on-going project as required by any applicable Code;

(E) A failure to exercise regular, routine control and supervision over an on-going project for which the contractor has obtained a building permit;

(F) A failure to timely obtain a certificate of occupancy for a completed structure as required by applicable building safety code.

(G) A failure to hire a State of Idaho licensed electrical, plumbing, or HVAC contractor to supervise any electrical, plumbing, or HVAC work on the job site for which the contractor obtained a building permit; or

(H) A failure by a contractor to pay the required application or licensing fees for a building permit, contractor license or inspection fee.

(I) If a contractor operating as a business entity (i.e. not as a sole proprietorship) has performed work as a building contractor at any time while the contractor does not have within its full-time employ, a person who satisfies any of the criteria of Section 4-7-10 of this Chapter. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-14: HEARING PANEL ACTION: A quorum of at least two hearing panel members must be present to conduct a hearing. Upon a finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of Section 4-7-13 of this Chapter, the hearing panel may admonish, reprimand, or take other appropriate disciplinary action against such contractor including, but not limited to:

(A) Suspension of the contractor's license for a fixed period not to exceed ninety days.

(B) Suspension of the contractor's license for a fixed period exceeding 90 days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the hearing panel at the expiration of the first 90 days and every 90 days thereafter to determine if just cause exists to modify or terminate the suspension. Such reconsideration may, at the hearing panel's option, include a hearing.

(C) Revocation of the contractor's license for a period not less than 12 months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended five times during any 36-month period.

(D) Any decision of the hearing panel shall be made in writing and mailed to the contractor. A contractor may appeal any decision of the hearing panel to the Director by filing a notice of appeal with the Director within the 30 days following the third day after the hearing panel's written decision was mailed to the contractor as evidenced by a certificate of mailing which shall be included with the decision. When an appeal is filed, the Director shall forward the appeal to the appellate board together with the hearing panel record. The Mayor and City Council shall designate an appellate board. The appeal shall be de novo and no action shall be taken by the hearing panel during a pending appeal. The Appellate Board shall consist of the following:

(1) Two members shall be certified building code officials within Idaho.

(2) One member shall be licensed by the State of Idaho as an architect or civil engineer.



- (3) One member shall be a licensed general contractor or an employee of such contractor.
- (4) One member shall be a licensed building contractor or an employee of such contractor.
- (5) One member shall be a licensed residential contractor or an employee of such contractor.
- (6) One member shall be a licensed subcontractor.

To conduct any hearings, a quorum of at least five (5) members of the Appellate Board must be present. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)

4-7-15: **NON-DISCIPLINARY HEARINGS:** All non-disciplinary matters, including contested matters such as approval, issuance, reinstatement, or educational matters, shall be heard by the hearing panel. A contractor may appeal any decision of the hearing panel to the Director within thirty (30) days of the decision. The thirty (30) day appeal period shall commence three days after the date the decision is mailed to the contractor. The hearing panel shall forward the hearing panel decision to the Director together with the panel record. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)

4-7-16: **SAFE HARBOR PROVISIONS:** A contractor shall not be found in violation of this Chapter, nor disciplined for a violation of an applicable building safety code provision if the contractor performs the work in accordance with and reliance upon duly certified plans and specifications prepared or approved by an architect or engineer licensed in Idaho without knowledge by the contractor that such plans and specifications, or pertinent parts thereof, are in violation of applicable Codes. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-17: **HEARINGS:** All contested matters pertaining to the approval, issuance, renewal, and reinstatement of licenses, including examinations, shall be heard by the Director. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-18: **LICENSE APPLICATION AND ISSUANCE:** All applications for building contractors' licenses shall be filed with the City Clerk, together with the appropriate license and application fees. Application forms shall be furnished by the Director and shall solicit all information necessary to determine the applicant's qualifications for licensing. Upon receipt of a properly completed application form, the Clerk shall forward it to the Director for his review and recommendation for approval or denial. On receipt of the recommendation of the Director, the City Clerk shall present the application, together with the Director's recommendation to the City Council for its approval or denial. Licenses shall be granted or denied within sixty (60) days of the date on which the application is filed with the City Clerk. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-19: FINAL APPEAL TO COUNCIL: All matters disputed by any contractor, after following the appeal processes outlined in this Chapter, may bring a final appeal to the City Council for a final decision. The City Council shall act as the final appeal board for all matters, and will hear the matter in an appellate review manner, not de novo. Notice of the appeal must be sent to the City Clerk within thirty (30) days from the date of the decision of the Director or a hearing panel. After a final action by the City, an applicant may file for Judicial Review within twenty-eight (28) days after the decision is made. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-20: (Repealed): (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)