

AN ORDINANCE OF THE CITY OF CLEVELAND, MISSISSIPPI PROVIDING REGULATIONS AND MINIMUM QUALIFICATIONS FOR THE LICENSING OF CERTAIN CONTRACTORS ENGAGING IN THE BUSINESS OF ELECTRICAL, GAS PIPE FITTING, LAWN IRRIGATION, MECHANICAL, OR PLUMBING WORK; ESTABLISHING THE CLEVELAND CONTRACTOR LICENSING BOARD; PROVIDING PENALTIES FOR VIOLATIONS OF SAID ORDINANCE; AND REPEALING ANY AND ALL OTHER ORDINANCES IN CONFLICT THEREOF.

BE IT ORDAINED by the Mayor and Board of Aldermen of the City of Cleveland, Mississippi, as follows:

SECTION 1. DEFINITIONS

Apprentice shall mean a full-time employee of a master or residential contractor as defined herein who performs electrical, gas pipe fitting, lawn irrigation, mechanical, or plumbing work under the direct supervision of a journeyman contractor, residential contractor, or master contractor.

Full-Time Employee shall mean a person who is an actual employee of the business, not an independent contractor. The person must work, on average, 30 or more hours a week for the business (1500 hours per year), must not be paid as an independent contractor (not receive a "1099" for his earnings but receive a "W-2" for his earnings). A full-time employee is not someone who is hired "job to job" as needed. Other factors to be considered in making this determination include, but are not limited to: whether the business pays for worker's compensation insurance on the individual, whether the business pays payroll taxes on the individual, the amount of control the business has over the activities of the individual, the ownership of the tools used by the individual and, whether the individual maintains his own business separate from the business in question.

Homeowner shall mean the person who lives in a single-family residence or is constructing a single-family residence for the purpose of living in themselves.

Journeyman Contractor shall mean an experienced, reliable workman and licensed as such in the electrical, gas pipe fitting, mechanical, or plumbing trades who meets the qualifications set forth in this ordinance. Journeyman contractors are only allowed to work directly under the supervision of a master or residential contractor.

Master Contractor shall mean any qualifying person engaged in the business of installing, maintaining, altering, or repairing, electrical, gas pipe fitting, lawn irrigation, mechanical, or plumbing systems in, on, or under all types of buildings or structures and outside installations and licensed as such. A master contractor is allowed to work on any type of structure or project in the field(s) in which they hold a valid license.

Qualifying Person shall mean the individual who has passed the appropriate examination from any source recognized herein. The license holder of a master or residential license must also be either: (1) a sole owner; (2) a partner of the partnership; (3) an officer of the corporation who is actively engaged in the day to day activities of the company; (4) a member of the Limited Liability Company who is actively engaged in the day to day activities of the company; (5) a partner of the Limited Liability Partnership who is actively engaged in the day to day activities of the company; or (6) a full-time employee.

Residential Contractor shall mean any qualifying person engaged in or about to engage in the business of installing, maintaining, altering, or repairing electric or plumbing materials, fixtures, and equipment in, on, or under residential buildings including the premises adjacent to such buildings. Residential contractors are still categorized as master contractors except they are only allowed to only work on residential projects.

SECTION 2. GENERAL REGULATIONS

1. **License Required.** It shall be unlawful for any person in the business of electrical, gas pipe fitting, lawn irrigation, mechanical, or plumbing work to perform such work without first obtaining the appropriate license from the Contractor Licensing Board to do so. As stated in Section 2.2, a homeowner may be allowed to perform such work themselves provided it is on the single-family residence they are currently living in or are constructing to live in.
2. **Homeowner Exemption.** Any capable person who wishes to perform electrical, gas pipe fitting, lawn irrigation, mechanical, or plumbing work in or on a single-family residence in which they currently live or are constructing to live in themselves, or in or on any accessory structure associated with the single-family residence in which they live is hereby exempt from the regulations contained in this ordinance unless otherwise specifically stated. Such homeowner shall be required to complete an Owner/Builder Certification form stating that they will be performing the work themselves and not hiring anyone else to perform said work. It shall be unlawful and a violation of this ordinance for any homeowner to obtain a permit through false pretenses or to hire an unlicensed person to perform work that would otherwise require a licensed contractor to perform while the owner is acting under the provisions of this exemption. Nothing in this section shall preclude the necessity of the homeowner from obtaining the required permits and inspections and from performing the work in accordance with all applicable codes.
3. **Supervision of Work.** Except for the homeowner exemption as stated herein, all electrical, gas pipe fitting, lawn irrigation, mechanical, and plumbing work shall be done under the direct supervision of a master or residential contractor.

SECTION 3. LICENSES

1. **Classification of Licenses.** For the purposes of receiving a license under the provisions of this ordinance, licenses in the City of Cleveland shall be classified as follows:
 - a. Master Electrical
 - b. Residential Electrical
 - c. Journeyman Electrical
 - d. Master Gas Pipe Fitter
 - e. Journeyman Gas Pipe Fitter
 - f. Master Lawn Irrigation Systems
 - g. Master Mechanical
 - h. Journeyman Mechanical
 - i. Master Plumbing
 - j. Residential Plumbing
 - k. Journeyman Plumbing

2. **Minimum Qualifications.** Licenses issued by the Contractor Licensing Board are specific to an individual qualifying person and not issued to a business, and as such said license(s) automatically expire upon death or retirement of the license holder without any grace period. A separate and distinct privilege license is required in order for a business to operate. An applicant for any classification of license must be at least twenty-one (21) years of age and meet other minimum qualifications for each classification as stated herein.
 - a. *Master Contractor.* In addition to passing the appropriate examination(s), an applicant for a master contractor license shall have had at least four (4) years of training as an apprentice or the equivalent in a recognized technical school or college, and in addition thereto, shall have had at least two (2) years of experience as a journeyman, or in lieu thereof, shall have had at least seven (7) years of training as an apprentice during which at least three (3) of those years must have been in commercial or industrial projects.
 - b. *Residential Contractor.* In addition to passing the appropriate examination(s), an applicant for a residential contractor license shall have had at least three (3) years of training as an apprentice or the equivalent in a recognized technical school or college, and in addition thereto, shall have had at least two (2) years of experience as a journeyman, or in lieu thereof, shall have had at least six (6) years of training as an apprentice during which at least three (3) of those years must have been primarily on residential projects.
 - c. *Journeyman Contractor.* In addition to passing the appropriate examination(s), an applicant for a journeyman contractor license shall have worked a minimum of four (4) years under the supervision of a master or residential contractor as an apprentice, or the equivalent in a recognized technical school or college.
3. **Application Required.** Any qualifying person desiring to engage in the business of electrical, gas pipe fitting, lawn irrigation, mechanical, or plumbing work shall, before doing so, file an application for license(s) with the Contractor Licensing Board at the Department of Community Development. The application shall set forth the applicant's business address, phone number, training, and qualifications. In addition to the required license application, an applicant for a contractor license shall also submit the following:
 - a. A certificate of liability insurance (\$100,000.00/\$300,000.00) with products completed coverage. The insurance certificate shall also show a valid expiration date and policy number.
 - b. A bond in the amount of five thousand dollars (\$5,000.00) issued to the City of Cleveland, Mississippi. The bond shall also be show a valid expiration date.
 - c. Master contractor applicants or residential contractor applicants employing five (5) or more full-time employees shall provide a certificate of worker's compensation insurance showing coverage for each of the full-time employees/apprentices listed on the application.
 - d. Completed Certification of Employee/Apprentice forms and copies of a W-4 or W-2 for each full-time apprentice listed on the application.

- e. Three (3) letters of recommendation from persons with knowledge of work relating to the license(s) being applied for.
4. **Examination Required.** All applicants for any contractor license(s) shall submit written proof of passing examination from the International Code Congress (ICC), the Mississippi State Board of Contractors (MSBOC), any source approved by the Contractor Licensing Board, or from another municipality or county within the State of Mississippi or other jurisdiction of reciprocity which has an examining board where there is regularly given a written examination. The passing examination provided shall be taken in the same field(s) of work as the license(s) being applied for and shall be sufficient to test the theoretical and practical knowledge of the applicant. All contractors currently licensed by the City of Cleveland, and in good standing on the effective date of this ordinance shall be exempt from the aforesaid examination process.
5. **New License Fee.** The fee for each new contractor license shall be seventy-five dollars (\$75.00) each and licenses are valid for the calendar year or part thereof in which they are issued.
6. **License Renewals.** All contractor licenses issued by the City of Cleveland shall be renewed on or before December 31st of each year. The fee for each license renewal shall be twenty-five dollars (\$25.00) each if renewed by the required deadline. Contractor licenses not renewed by the deadline shall be subject to the following penalties:
 - a. Contractors who are in good standing with the Contractor Licensing Board but have failed to renew license(s) by the required December 31st deadline may renew said license(s) on or before a January 10th grace period by submitting a two-hundred fifty dollar (\$250.00) late fee in addition to the required twenty-five dollar (\$25.00) renewal fee for each license.
 - b. Contractors failing to renew license(s) by the January 10th grace period shall be subject to the license(s) being suspended until reinstated by the Contractor Licensing Board at their next meeting. A two-hundred fifty dollar (\$250.00) late fee and a twenty-five dollar (\$25.00) renewal fee for each license shall be submitted to the Department of Community Development prior to license(s) reinstatement.
 - c. Contractors failing to renew license(s) or submit application for reinstatement on or before January 31st shall be subject to all license(s) being revoked.
7. **Revocation.** It shall be the duty of the Contractor Licensing Board upon recommendation of the Building Official or Building Inspector and after sufficient hearing, to suspend or revoke or cause to be suspended or revoked, licenses and permits of any license holder for any of the following reasons:
 - a. Willful misstatements or false statements in the license application; or
 - b. Permitting the use of a license by any person other than the license holder; or
 - c. Persistent refusal or neglect to observe the provisions of the applicable codes and ordinances; or

- d. Failure to renew license(s) or submit application for reinstatement on or before January 31st; or
- e. Any other act intended to violate the provisions of applicable codes and ordinances.

The suspension or revocation of a license shall not serve as a bar to any further remedy or action at law which might be invoked by the City of Cleveland.

- 8. **Identification Cards.** It shall be unlawful for any duly licensed master contractor, residential contractor, journeyman contractor, or any apprentice to work within the City of Cleveland without having in his/her possession, a valid identification card issued by the Contractor Licensing Board designating the classification of license obtained for master, residential, or journeyman, or the classification as apprentice and the expiration date of such card.
- 9. **Identification on Vehicles.** Licensed master or residential contractors conducting business within the City of Cleveland shall have affixed or printed on both sides or on the rear window of any vehicle being used on a job site, a sign or lettering stating the name of the company and license number of the master or residential contractor. Such signage or lettering shall be in colors so as to be visible and easily readable. Failure to comply with this section shall result in the withholding of permits until such time as the license holder meets the requirements of this section.
- 10. **Reciprocal Recognition.** Any non-locally licensed master or residential contractor who holds the same valid license in a jurisdiction of reciprocity may be allowed to perform one (1) project per calendar year in the City of Cleveland without having to obtain a local license from the Contractor Licensing Board provided that said contractor shall be required to submit the following documentation:
 - a. Completed "Reciprocity Contractor Application" at the Department of Community Development.
 - b. Provide proof of applicable licensure and examination from any jurisdiction of reciprocity.
 - c. Provide a clear and identifiable photo ID.
 - d. Provide proof of liability insurance and a bond made payable to the City of Cleveland in the same amounts as required for local license holders.

The master or residential contractor applying for reciprocity contractor consideration shall do so in person at the Department of Community Development located at 215 North Bayou Road in Cleveland, Mississippi. The master or residential contractor is also required to be on-site at all times for projects performed in this manner.

SECTION 4. CONTRACTOR LICENSING BOARD

- 1. **Licensing Board Established.** There is hereby established the Contractor Licensing Board, herein referred to as the Board. The Board shall consist of nine (9) members appointed by the Mayor and Board of Aldermen upon recommendation of the Building Official. Each member's place of business must be based within the city limits of Cleveland or they must live within the city limits of Cleveland. The Board shall be made

up of two (2) master electricians, two (2) master plumbers, two (2) master mechanical contractors, and one (1) master gas pipe fitter. In addition to these members, the Board shall also contain one (1) residential builder and one (1) commercial builder licensed by the Mississippi State Board of Contractors. The Building Official, Assistant Building Official, Building Inspector, Code Enforcement Officer, and City Attorney shall serve as ex-officio, non-voting members of the board by virtue of their offices.

2. **Terms of Office.** The members of the Contractor Licensing Board shall serve at the will and pleasure of the Mayor and Board of Aldermen for the City of Cleveland, Mississippi. The terms of office for licensing board members shall be as follows:

Three members shall serve until December 31, 2015.

Three members shall serve until December 31, 2016.

Three members shall serve until December 31, 2017.

Following the first expiration of term, board positions will be filled to serve for a period of three (3) years. All members shall be eligible for reappointment.

3. **Officers.** The Contractor Licensing Board shall elect one of its own members as Chairman who shall preside at all meetings, and a Vice-Chairman who shall preside in the absence of the Chairman. The Chairman and Vice-Chairman positions shall be elected annually. The position of Secretary shall be filled by a member of the Department of Community Development staff.
4. **Duties.** The Contractor Licensing Board shall approve credentials, grant or deny applications for licenses, receive complaints, conduct disciplinary hearings, suspend licenses, revoke licenses, make investigations, and recommend to the Mayor and Board of Aldermen from time to time amendments and changes to the Contractor Licensing Ordinance. The Board reserves the right to deny issuance of a license to any person who the Board determines to be unqualified or who has a record of performing unacceptable work which does not comply with the adopted codes of the City of Cleveland, Mississippi. Such determination shall be made at a Board meeting where the applicant shall be given the right to answer all charges. Denial of a license shall require a seventy-five percent (75%) vote of the members in attendance.
5. **Meetings; Quorum; Records.** Meetings of the Contractor Licensing Board may be called at any time by the Chairman, Vice-Chairman, Building Official, Building Inspector, or by a majority of the board provided that the board shall meet and act upon any application within thirty (30) days after receipt of such application. A quorum of the board shall consist of five (5) members, plus the Building Official or his representative. It shall be required of the board to open its meetings to the public as required by law. Minutes of each meeting shall be available and kept at the Department of Community Development.
6. **Conflict of Interest; Vacancies; Absences.** No Board member shall act in a case in which he/she has a personal interest. Vacancies on the Board shall be filled in the same manner in which original appointments are required to be made. Board members that are absent from three (3) consecutive meetings shall be dismissed from service unless a reasonable and valid excuse is given for the absences.

7. **Compensation.** The members of the Contractor Licensing Board shall not receive compensation for their service on the board.
8. **Appeal.** Any party aggrieved by a decision of the Contractor Licensing Board may appeal such decision in writing to the Mayor and Board of Aldermen provided such appeal is made within thirty (30) days following such decision.

SECTION 5. PENALTIES AND VIOLATIONS

1. Any contractor licensed by the Contractor Licensing Board to perform work as regulated by this ordinance who violates any provisions of the codes and ordinances of the City of Cleveland pertaining to construction or contractor licensing and is found guilty of the same by the Contractor Licensing Board shall be penalized after a hearing on such violation as follows:
 - a. 1st Offense – The contractor’s license(s) shall be suspended for a period of thirty (30) days and a penalty in the amount of two-hundred fifty dollars (\$250.00) shall be imposed.
 - b. 2nd Offense – The contractor’s license(s) shall be suspended for a period of ninety (90) days and a penalty in the amount of five hundred dollars (\$500.00) shall be imposed.
 - c. 3rd Offense – The contractor’s license(s) shall be suspended for a period of one hundred eighty (180) days and a penalty of one thousand dollars (\$1,000.00) shall be imposed.
2. In addition to aforesaid prescribed penalties, any licensed contractor, homeowner, or reciprocal contractor who violates any provision of this ordinance may be issued a citation to appear before the Municipal Court of the City of Cleveland, Mississippi, and upon conviction shall be found guilty of a misdemeanor offense and fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail not to exceed ninety (90) days, or by both such fine and imprisonment. Each day that said violation continues to exist shall constitute a distinct and separate offense.
3. Any licensed contractor, homeowner, or reciprocal contractor that fails to request a required inspection of the work being performed or who fails to request a final inspection within thirty (30) days after completion of the project shall be subject to a penalty of one hundred dollars (\$100.00) for each missed inspection. Failure to pay an inspection penalty will result in the inability to obtain further permits until said penalty has been paid in full.
4. If a contractor’s license is suspended, he/she shall be allowed to complete any jobs for which he/she hold an existing permit, however no further permits will be issued to the contractor during the period of suspension. The suspension period shall not commence until the final action is rendered by the Contractor Licensing Board.
5. If a violation of the construction codes of the City of Cleveland is not corrected within ten (10) calendar days following notification to the permit holder by the City of the violation,

no additional permits shall be issued to the offender until the violation(s) are corrected. Adequate notice shall be considered delivery of a letter through U.S. Postal Service to the address shown on the contractor's license application. The Building Official may grant an extension in time to correct the violation(s) if it is deemed appropriate for the amount of time necessary to physically correct the violation(s).

6. The Contractor Licensing Board on behalf of the City of Cleveland in its discretion may call, collect or otherwise demand the proceeds of the license bond from the bonding company of any license holder who refuses or otherwise does not correct any violation of this ordinance or the City's construction codes after having been given adequate time to correct the violation(s). The license shall automatically be revoked upon the calling of the bond. The contractor shall not be granted another license in the City of Cleveland until after one (1) year from the date of revocation of his former license, and the license shall not be granted until the contractor satisfies any requirements outlined by the Contractor Licensing Board.
7. The Contractor Licensing Board shall also have the authority to suspend or revoke licenses upon repeated violations. The license shall not be revoked until after the alleged offender has been given the opportunity to defend his/her actions in the form of a hearing with said licensing board. The City of Cleveland may also take any other legal action prescribed by law to uphold the provisions of this ordinance in addition to the penalties prescribed herein.

SECTION 6. SEVERABILITY

This ordinance and the various parts, sections, subsections, sentences, phrases, and clauses hereof are declared to be severable. If any part, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SECTION 7. EFFECTIVE DATE

In order to protect the health, safety and welfare of the public, the Mayor and Board of Aldermen of the City of Cleveland declare that such regulations as are described herein are vitally necessary, and that this ordinance shall take effect and be in full force immediately upon its passage and adoption.

ORDAINED, ADOPTED, AND APPROVED, this June 2, 2015.

BILLY NOWELL, Mayor

ATTEST:

DOMINIQUE GREEN, City Clerk