

STATE OF TEXAS

AN ORDINANCE AMENDING THE SEGUIN CODE OF ORDINANCES CHAPTER 18, BUILDINGS AND BUILDING REGULATIONS, ARTICLE II, BUILDING CODES, TO MAKE CHANGES IN THE LICENSING PROCEDURES FOR CONTRACTORS OPERATING WITHIN SEGUIN; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING STAFF TO PREPARE THIS ORDINANCE AS A SUPPLEMENT TO THE CODE OF ORDINANCES.

WHEREAS, for a number of years the City of Seguin has required all residential and commercial contractors to obtain licenses respective to their activities; and

WHEREAS, the City's present licensing scheme includes passing an international codes test and taking a minimum number of continuing education credits; and

WHEREAS, the present licensing procedure does not provide sufficient public benefit to merit the amount of staff time required to administer the system nor the time and hardship imposed on practicing contractors; and

WHEREAS, city staff have reviewed the procedures and recommends the following Ordinance that would change from licensure to registration.

NOW THEREFORE BE IT RESOLVED, by the City Council of Seguin, Texas:

SECTION ONE. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-34, License is required; exception is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-34. License Contractor Registration is required; exception.

- (a) It is unlawful for any person to perform construction work subject to this article unless the person is licensed registered as a contractor or is exempt under one of the following:
 - (1) A maintenance person may perform maintenance work only upon property owned by the person's employer. A maintenance person who performs work upon the property of more than one property owner is deemed to be performing work for the general public and shall be licensed as a city residential or general contractor.
 - (2) A property owner may perform construction work with the owner's own hands in/on an existing residence owned and occupied by the owner as his homestead. All work is subject to permit, inspection and approval in accordance with this chapter.
- ~~(b) — A contractor holding a license issued prior to March 31, 2012, may continue to perform construction work under that license until it expires. Upon expiration of a contractor license issued prior to March 31, 2012, an applicant shall complete 12 hours of continuing education. This applies to both commercial and residential licenses.~~

SECTION TWO. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-35, Qualification for license or registration, is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-35. ~~Qualifications for license or registration.~~ Liability Insurance Requirements

- ~~(a) Residential contractor. This designation applies to construction limited to one- and two-family dwellings, fencing, and remodeling, moving, and accessory buildings. This designation also applies to the installation and site setup of modular, manufactured, and prefabricated residential buildings. A person applying for a residential contractor's license shall provide verifiable documentation of passing the required ICC examination for the license with the minimum of \$300,000.00 liability insurance for residential contractor.~~
- (a) Contractor registration requires the applicant to have on file with the city a \$500,000 liability insurance policy with the City of Seguin listed as the certificate holder.
- ~~(b) Commercial contractor. This designation applies to construction limited to multifamily dwellings, office buildings, shopping centers, restaurants and similar structures. A person applying for a commercial contractor's license shall provide verifiable documentation of passing the required examination for the license with the minimum of \$1,000,000.00 liability insurance for contractor commercial.~~
- ~~(c) Residential restricted contractor. This designation applies to the installation and site setup of modular homes, manufactured homes, and prefabricated portable storage buildings (not site built), and the construction of awnings, decks, and fencing. A person applying for a residential restricted contractor's license shall provide the minimum of \$300,000.00 liability insurance for residential restricted contractor. This person shall be required to attend the contractor's continuing education classes presented by the city required for license renewal. A residential restricted contractor shall also comply with section 18-39 of this Code.~~
- ~~(d) Maintenance person. This designation applies to maintenance of existing buildings or structures. A person applying for a property maintenance person registration shall have a letter from the property owner he is working under. The letter is to be on company letterhead and show maintenance personnel's information, address, license number and phone number.~~
- ~~(e) Roofing contractor. This designation applies to the installation of new roofing or replacement of roofing systems, not to include any structural components of the building structure. A person applying for a roofing contractor's license shall satisfy the minimum of \$300,000.00 liability insurance for a residential license and a minimum of \$1,000,000.00 liability insurance for a commercial license. License fees shall be set per appendix C; article II, building codes; (a) contractor's license.~~

SECTION THREE. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-36, Issuance, renewal of registration, is repealed in its entirety.

SECTION FOUR. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-37, Examination, is repealed in its entirety.

SECTION FIVE. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-38, Issuance, renewal of license or registration is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-36 38. Issuance, renewal of ~~license or~~ registration.

- ~~(a) Upon receiving a passing grade on the examination for a license or registration under this division, the building official can issue a license or registration to the successful candidate, with an appropriate fee to be assessed as set forth in appendix C, chapter 18, article 2(a).~~
- ~~(b) No license will be issued for more than one year. A license may be renewed from year to year upon application of the holder. All licenses issued under this division expire on the last day of December.~~
- ~~(c) Prior to the renewal of any contractor's license, the contractor shall complete six hours of continuing education annually approved by the building official.~~
- ~~(d) Any licensee failing to make application for renewal of a license within 60 days after its expiration is considered delinquent and the license renewal fee will be doubled. Any licensee failing to make application for renewal of a license within 90 days after its expiration is considered delinquent and the license renewal fee will be tripled. Any licensee failing to make application for renewal within 180 days after its expiration will be processed as an applicant for an original license. This section does not permit construction work by a contractor with an expired license.~~
- ~~(e) If a license or permit issued under this article is lost or destroyed, the person to whom it is issued may obtain a duplicate upon furnishing proof satisfactory to the building official that the permit or license was lost or destroyed and upon payment of a fee.~~
- ~~(f) A licensee shall have the appropriate license in his immediate possession at all times when doing any construction work, and shall display it upon demand by any peace officer, by the building inspector or building official, or by the owner or manager of the premises or property upon which the licensee is working, offers to work or has worked.~~
- (a) Registration expires one year from date issued.
- (b g) Each person contractor who obtains a license shall register with the building official. The registration will include the person's name, phone number, email address, residential address, business address, and scope of work performed, i.e., roof contractor, pool contractor, demo company. If any changes occur in the information provided, the licensee contractor shall amend the registration to reflect the changes within ten business days of the change. If the building official is not notified within 60 days of an address change, the license registration may be revoked.

SECTION SIX. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-39, Roles and responsibilities of the licensed contractor, is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-37 39. Roles and responsibilities of the licensed registered contractor.

- (a) The contractor that holds a license registration with the City of Seguin and applies for a building permit for construction is deemed the prime contractor on all construction activities related to the permit.
- (b) Prime contractor shall be defined as the contractor with the main responsibility for the construction project under contract, and is the party signing the prime construction contract for the project directly with the owner of the project. It is an individual, partnership, corporation, or other business entity that is capable of performing construction work as a contractor with overall responsibility for the satisfactory completion of a project using its own forces to perform or supervise the work.

- (c) The prime contractor may hire and retain subcontractors to perform specialty work on the construction project under the direction of the prime contractor. Subcontractors are to be paid directly by the prime contractor. At no time shall a subcontractor receive direct payment from or work under the direction of the owner of the project.
- (d) The owner of the construction project or property may apply for a building permit and serve as the prime contractor for his own project or property only if he/she is a **licensed** contractor registered with the City of Seguin. The owner of a construction project may not serve as a subcontractor for any project or property he/she owns.
- (e) All requests for city building inspections shall be made by the prime contractor or an employee of the prime contractor for the project.

SECTION SEVEN. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-40, Prohibited Acts, is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-38 40. Prohibited acts.

It is unlawful for any person to:

- (a) Display or cause a permit to be displayed or to have in one's possession any license contractor registration for doing any construction work, knowing it to be fictitious or to have been canceled, suspended or altered;
- (b) Lend or permit the use of any license contractor registration for doing any construction work to any person not entitled to it;
- (c) Display or to represent as one's own any license contractor registration for any construction work when the license contractor registration has not been lawfully issued to the person displaying it;
- (d) Fail or refuse to surrender to the building official any license contractor registration for any construction work that has been suspended or canceled;
- (e) ~~Apply for or have in one's possession more than one current city construction license of the same type;~~
- (f) Use a false or fictitious name or address in any application for any license contractor registration or permit provided for in this chapter or any renewal or duplicate or make a false statement or conceal a material fact or otherwise commit fraud in making any application;
- (g) Perform any construction work for which a license contractor registration is required without having the license registration or while the license registration is suspended, expired or canceled.
- (h) Perform any construction work for which a permit is required without having the permit or after the permit has been canceled;
- (i) Fail or refuse to make the necessary repair or changes as provided in a written notice issued by the inspections division. A separate offense is deemed to be committed each day after the expiration of the time for correction provided in the notice until the work is corrected;
- (j) Permit any construction work covered by this article to be performed by any person not properly licensed, while owning or in control of premises covered by this article;
- (k) Remove, break, change, destroy, tear, mutilate, cover or otherwise deface or injure any official notice or seal posted by the building inspection division; or
- (l) Place or leave the property in such condition that it injures or endangers persons or property.

SECTION EIGHT. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-41, Grounds for disciplinary action, is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-39-41. Grounds for disciplinary action.

- (a) A person is subject to disciplinary action if the person violates this chapter, an order issued by the board, or a board rule. A violation of this chapter includes:
 - (1) Obtaining a license, endorsement, or registration through error or fraud;
 - (2) Willfully, negligently, or arbitrarily violating a municipal rule or ordinance that regulates sanitation, drainage, or plumbing;
 - (3) Making a misrepresentation of services provided or to be provided;
 - (4) Making a false promise with the intent to induce a person to contract for a service; or
 - (5) Employing a person who does not hold a license or endorsement or who is not registered to engage in an activity for which a license, endorsement, or registration is required under this chapter.
- ~~(b) Retesting procedures may be used to determine whether grounds exist for suspension or revocation of a license, endorsement, or registration due to incompetence or a willful violation by a person licensed under this chapter.~~

SECTION NINE. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-42, Suspension and revocation of license, is amended to read as follows (underlining indicates added text, ~~strikethrough~~ indicates deleted text):

Sec. 18-40-42. Suspension and revocation of license contractor registration.

- (a) The building official may suspend the ~~license or~~ registration of a building contractor ~~or maintenance person~~ who has been convicted three times within one year of a violation of section 18-34 or 18-40 of this chapter. The suspension will be for a period not to exceed six months. For purposes of this section, deferred adjudication will be treated as a conviction.
- (b) If the building official decides to suspend a license contractor registration, the official will notify the licensee-contractor of the suspension by first class mail to the ~~licensee's~~ last address on the building official's records, or by hand delivery to the ~~licensee~~ registered contractor. Notice by mail is deemed to be received three days after posting.
- (c) The building official can refuse to issue permits while there are outstanding violations against a contractor until the violations have been resolved by court disposition or arranging a court hearing.
- (d) The licensee registered contractor may appeal a suspension decision to the contractor's advisory board by filing a written request within 15 days of receiving notice of the suspension. The board will hold a hearing to determine whether the suspension decision should be sustained or reversed. The board will follow the hearing procedures outlined in subsection 14.380(b) [section 18-43].
- (e) If a ~~licensee's~~ license contractor registration has been suspended twice in a three-year period, and the ~~licensee~~ the registered contractor commits another violation under section 18-34 or 18-35 [18-40], the building official will notify the contractor's advisory board. The board will then hold a hearing under section 113 of the International Building Code.
- (f) Enforcement actions taken under this section are not exclusive, and do not affect any other remedies for violations of section 18-34 or 18-40.

- (g) ~~Maintenance-Contractor~~ registration can be revoked upon charge or conviction of any code violation.

SECTION TEN. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-43, Hearing procedures for revocation of license contractor registration; notice of revocation, is amended to read as follows (underlining indicates added text, ~~strike through~~ indicates deleted text):

Sec. 18-~~41~~ 43. Hearing procedures for revocation of ~~license~~ contractor registration; notice of revocation.

- (a) When the contractors advisory board is notified that a ~~licensee's license~~ contractor registration has been suspended twice in a three-year period under subsection 18-42(a) [18-42(e)], and that the ~~license~~ registered contractor has committed another violation under section 18-34 or 18-40, the board will set a ~~license~~ contractor registration revocation hearing within 30 days and will send a copy of the information to the ~~licensee~~ registered contractor by certified mail or by hand delivery not less than ten days before the date of the hearing.
- (b) The ~~licensee~~ registered contractor may appear in person at the hearing and may be represented by an attorney or any other person. All hearings will be open to the public. The City of Seguin and the ~~licensee~~ registered contractor are entitled to present evidence and arguments at the hearing. The board may, through its chair or secretary, administer oaths and compel the attendance of witnesses by subpoena issued by the chair. If the ~~licensee~~ registered contractor does not appear, the board may proceed to hear and determine whether to revoke the ~~licensee's license~~ contractor registration.
- (c) If the ~~licensee~~ registered contractor admits the truth of the charges, or if the board, by vote of three or more members, finds them to be true, the board will revoke the ~~license of the licensee~~ contractor registration. The decision of the board in each revocation hearing will be entered into the minutes of the board.
- (d) Notice of the revocation will be given by the board either in person at the hearing, by first class mail to the ~~licensee's~~ last address on the building official's records, or by hand delivery to the ~~licensee~~ registered contractor. Notice by mail is deemed to be received three days after posting.
- (e) A ~~licensee~~ contractor whose ~~license~~ registration is revoked under this section may not apply for another ~~license~~ registration until one year after the effective date of revocation.

SECTION ELEVEN. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-44, Surrender and return of suspended license, is repealed in its entirety.

SECTION TWELVE. Chapter 18, Buildings and Building Regulations, Article II, Building Codes, Section 18-45, Appeals, is repealed in its entirety.

SECTION THIRTEEN. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION FOURTEEN. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION FIFTEEN. This Ordinance shall become effective ten days after the date of its final passing.

SECTION SIXTEEN. City staff is authorized to prepare this Ordinance for submission as a supplement to the Seguin Code of Ordinances.

PASSED AND APPROVED on first reading this 1st day of June 2021.

PASSED AND APPROVED on second reading this 15th day of June 2021

DONNA DODGEN, Mayor

ATTEST:

Naomi Manski, City Secretary