

**ORDINANCE TO AMEND  
DELAWARE COUNTY CODE  
TITLE 4, CHAPTER 3**

**ORIGINAL**

**WHEREAS,** in accordance with state statutes, the Board of Commissioners has established by ordinance a county department of building, as a part of the Delaware-Muncie Metropolitan Plan Commission, which includes a building commissioner/inspector; and

**WHEREAS,** said ordinance adopted by the Board of Commissioners may include, by state law, reasonable fees for permits, registration, renewal, examination and reexamination; and

**WHEREAS,** the original Residential Contractors' Registration Ordinance, adopted in 1984, is in need of updating to reflect new fees, insurance levels and appeals processes.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners as follows:

**Section 1.** That the existing Title 4, Chapter 3 of the Delaware County Code be deleted in its entirety and replaced with a new Title 4, Chapter 3 as follows:

**CHAPTER 3**

**RESIDENTIAL CONTRACTORS REGISTRATION**

**4-3-1. Purpose.**

An ordinance to promote the health and safety of the citizens of Delaware County. From and after the effective date of this ordinance it shall be unlawful for any person to engage in the business of, or to act in the capacity of, a general residential or skilled trades contractor in any unincorporated area in Delaware County, unless such person shall be registered as a general residential or skilled trades contractor as herein provided.

**4-3-2. Definitions.**

Person means any individual, firm, partnership, association, co-partnership, corporation, trust, or any other organization or any combination thereof.

Residential contractor means any person engaged in the construction of residential structures, who for a fixed sum, price, fee, percentage, valuable consideration or other compensation undertakes with another or offers to undertake or purports to have the capacity to undertake with another for the erection, construction, replacement, repair, alteration, or any addition to, subtraction from or improvement of a residential structure, or any person who manufactures, assembles, constructs, deals in, or distributes residential

structures which are pre-fabricated, preassembled, pre-cut, packaged or shell housing, or any person who erects a residential structure, except for his/her own use and occupancy on his/her own property.

Skilled trades contractor means any person, firm, partnership, or corporation whose principle owner contracts to perform for a fee; plumbing, electrical, heating, cooling, or subsequent ventilation work in the field of residential construction in the unincorporated areas of Delaware County.

Residential structure shall mean any structure used for human habitation.

Shareholder is any person who owns more than ten percent (10%) of the stock of a corporation that is engaged in any undertaking set forth above.

#### 4-3-3. Exclusions.

This ordinance shall not apply to:

- A. Owners of property upon which structures are located and constructed for their own use of occupancy, such construction not to exceed one such structure in each twelve (12) month period.
- B. Any undertaking as set forth above, wherein the total price for labor and materials does not exceed fifteen hundred dollars (\$1,500.00). Providing, however, this exemption does not apply in any case wherein the undertaking is only a part of a larger undertaking and the division of the undertaking is made in amounts less than five hundred dollars (\$500.00) each for the purpose of evasion of this ordinance.
- C. Roofing, guttering, siding, cabinets, window replacement, non-covered patio construction, aluminum patio enclosure, erection of aluminum canopies or awnings, unless the same is a part of an entirely new residential structure. These are considered component subcontracts, and are subject to the building contractor's permits and supervision.
- D. Any unlawful act or violation of any of the provisions of this act upon the part of any employee or any officer or member of a registered general residential or skilled trades contractor shall not be cause for suspension, revocation or denial of the registration of any general residential or skilled trades contractor, unless it shall appear to the satisfaction of the building commissioner that the general residential or skilled trades contractor had knowledge thereof and acquiesced therein.

#### 4-3-4. Registration Procedure.

- A. All applications for registration shall be made in writing to the building commissioner, who shall have the responsibility to prepare and process the form of application for registration.

- B. Every applicant for registration shall furnish a sworn statement setting forth his/her addresses including present business and residence, former residences, and former businesses during the last five (5) years, and the length of time at each address.
- C. Every applicant for registration shall also state the name of the person, firm, partnership, association, co-partnership, or corporation and the location of the place for which such registrations desired, and set forth the period of time, if any, during which said applicant has been engaged in the business and such application shall be executed by such person or by the president and secretary of any corporation or by all partners in any partnership.
- D. No applicant shall be refused registration by the building commissioner (new or renewal) without an opportunity for a hearing before the Delaware-Muncie Metropolitan Board of Zoning Appeals appointed by the county commissioners as the hearing authority. Upon compliance with all the provisions of this ordinance, registration shall be granted forthwith. Thereafter, renewal annually, as long as the applicant continues to comply with all other provisions of this ordinance. If after a hearing of record before the commissioners, a residential builder or skilled tradesperson is found guilty of violating any of the provisions of this ordinance or the rules and regulations adopted pursuant thereto, the board may require in writing such restrictions as so determined by the board of such residential builder.

#### 4-3-5. Insurance and Bond.

- A. At the time of filing an original or renewal application, the applicant shall furnish to the board a bond by a surety insurer or in cash in which the county commissioners shall appear as the insured.
  - 1. Such bond shall be in the amount of five thousand dollars (\$5,000.00) for each residential contractor or skilled trade contractor registration. In addition thereto, each applicant shall provide proof of general liability insurance of not less than one million dollars (\$500,000.00) and workman=s compensation insurance coverage for all the registrant=s employees.
  - 2. If application for registration is made by any person whose registration has been revoked as a result of disciplinary action for violation of any of the provisions of this ordinance or of the rules and regulations adopted pursuant thereto and/or all state and local building codes, the building commissioner may require as a condition precedent to the re-registration of such applicant that such applicant file or have on file with the building commissioner a bond issued by a surety insurer or cash in a sum to be fixed by the board, not to exceed the sum of ten thousand (\$10,000.00) in which the county shall appear as the insured.
  - 3. The failure to maintain in full force and effect the bond or cash deposit and insurance as required by this section shall result in the suspension of that

person's privilege to contract in the county and shall not be reinstated until a new bond, cash deposit or proof of insurance has been furnished.

#### 4-3-6. Certificate.

The building commissioner shall issue to each registrant a certificate in such form and size as shall be prescribed by the county commissioners. Each certificate shall have imprinted thereon the name and address of the registrant, and shall contain such other matters as shall be prescribed by the board. The certificate shall be delivered or mailed to the place of business of the registrant.

#### 4-3-7. Registration Fee.

- A. Application for a residential contractor and/or skilled trade's contractor registration shall be made to the building commissioner with the fee herein prescribed.
1. The registration fee shall be thirty dollars (\$60.00) for the initial period and twenty dollars (\$45.00) annual thereafter.
  2. All fees and charges collected by the county under the provisions of this ordinance shall be paid into the general fund of the county treasury.

#### 4-3-8. Revocation.

- A. The county commissioners may upon its motion or upon the complaint in writing of any such person made within twelve (12) months after completion, occupancy or purchase of a residential or combination of residential and commercial building, investigate the actions of any residential builder or skilled trades contractor or any person who shall assume to act in such capacity within this county.
1. Willful violation of the building laws of the state or the county building code thereof, or of the safety laws or labor laws or compensation insurance laws of the state;
  2. Misrepresentation of a material fact by a registrant; making any substantial misrepresentation, or making any false promise of a character likely to influence, persuade or induce false statements upon a county citizen.
  3. Advertising in any manner whatsoever that said residential builder or residential maintenance and alteration contractor is registered under this act, when actually he/she is not;
  4. Insolvency, filing in bankruptcy, receivership or assigning for the benefit of creditors;
  5. Aiding or abetting a non-registered person to evade the provisions of this ordinance, or knowingly combining or conspiring with, or acting as agent, partner or associate for a non-registered person;

6. The violation of any of the provisions of this ordinance.

4-3-9. Suspension Procedure.

The county commissioners, before suspending or revoking any registration and at least ten (10) days prior to the date set for a hearing with the hearing authority, the Delaware-Muncie Metropolitan Board of Zoning Appeals, notify in writing the holder of such registration of any charge made, and shall furnish said registrant with a copy of the complaint and afford said registrant an opportunity to be heard in person or by counsel in reference thereto. Such written notice shall be served by delivery of the same, personally to the registrant. The hearing on such charge shall be at such time and place as the commissioners shall prescribe. If the commissioners shall determine that any registrant is guilty of any violation of any of the provisions of this ordinance, said registration shall be suspended or revoked for such period of time as shall be determined by the board.

4-3-10. Public Record.

The building commissioner shall maintain open to public inspection during office hours a complete indexed record of all pending applications and all current registrations issued under this ordinance and of all terminations, suspensions and revocations thereof. It shall be the duty of the board of county commissioners to administer and provide for the enforcement of all the provisions of this ordinance.

4-3-11. Penalties.

Any person, firm, co-partnership, corporation, association or other organization, acting in the capacity of a residential or skilled trades contractor within the meaning of this ordinance, who shall violate any of the provisions of this act without properly maintaining registration as here provided, or any person aiding or abetting another person in the violation of any of the provisions of this ordinance or conspiring with another person to violate any of the provisions of this ordinance, shall upon conviction thereof, be punished by a fine of not to exceed five hundred dollars (\$500.00). The same penalties shall apply, upon conviction, to a member of a co-partnership or any construction or contracting officer or agent of any corporation, association or other organization who shall consent to, participate in, or aid or abet any violation of this ordinance upon the part of the co-partnership of which he is a member of the corporation, association or organization of which he is such an officer or agent.

4-3-12. Repealer.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

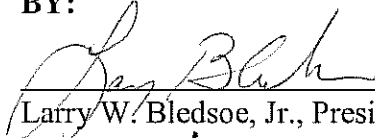
4-3-13. Severability Clause.

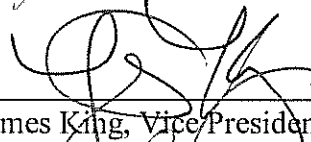
If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

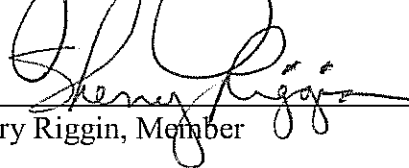
**Section 2.** That this ordinance shall be in full force and effect from and after its passage by the Board of County Commissioners.

**Section 3.** That the Ordinance is adopted this 2 day of December, 2013.

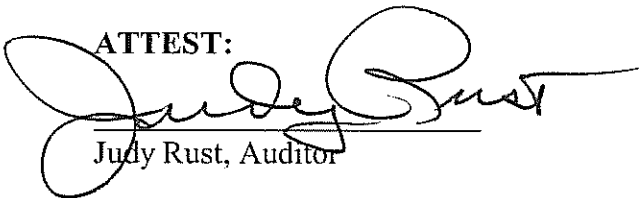
**BOARD OF COMMISSIONERS  
DELAWARE COUNTY, INDIANA  
BY:**

  
\_\_\_\_\_  
Larry W. Bledsoe, Jr., President

  
\_\_\_\_\_  
James King, Vice President

  
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Sherry Riggins, Member

**ATTEST:**

  
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Judy Rust, Auditor

# **Title 4, Chapter 3, Residential Contractors Registration**

## **Summary of Revisions**

- Removed specification of a Citizens Advisory Board;
- removed requirement that contractor must be a resident of Indiana for one year;
- changed general liability insurance requirement from \$100,000.00 to \$500,000.00;
- registration fee changed from \$45.00 to \$60.00 for initial registration;
- registration fee changed from \$30.00 to \$45.00 annual thereafter;
- appeals regarding refusal by the Building Commissioner to register a contractor or suspensions of a contractor was changed to specify the Delaware-Muncie Metropolitan Board of Zoning Appeals (BZA) to act as the hearing authority for the County Commissioners.