

### **§ 81-1. Purpose.**

The Borough Council of the Borough of Ridley Park finds that it is in the best interest of the residents of the Borough to require that any person or firm engaged in construction, repairs, demolition, remodeling or rehabilitation where such person or firm is operating as a ~~general contractor, subcontractor, specialty contractor or home improvement contractor~~ *commercial contractor, new home builder, electrician, or plumber* be required to both obtain a license from the Borough and provide the Borough with insurance information pursuant to Act 44 of 1993 of the Pennsylvania Legislature<sup>1</sup> in order that only responsible and qualified persons be permitted to engage in such business in the Borough of Ridley Park.

### **§ 81-2. Compliance required.**

No person or firm may engage in or transact any construction, building repairs, remodeling, rehabilitation or demolition business or hold themselves out to the public as doing such business or solicit such business in the Borough of Ridley Park, Pennsylvania, except in compliance with the applicable provisions of this chapter. No person or firm may engage in this Borough in any trade or practice or other act prohibited by any provision of this chapter, and any person or firm who willfully participates in a prohibited act or violation is subject to the civil and/or criminal penalty therefor. The provisions of this chapter may not be waived by agreement.

### **§ 81-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

ACTUAL NOTICE — Notice expressly or actually given to the party directly.

BOROUGH — The Borough of Ridley Park.

COMMERCIAL — *Buildings, structures, and spaces that are not covered under the definition of RESIDENTIAL in this ordinance.*

CONTRACT — An agreement, whether oral or written, between two or more persons which creates an obligation to do a particular task or work.

CONTRACTOR — One who enters into a contract for the performance of work or services or the furnishing of goods, whether for the public or company or individual. The term "contractor" shall include a subcontractor to whom a principal contractor has sublet any part of the work which such principal contractor has undertaken.

LICENSE — A permit, granted by the Borough, for consideration, to a person, firm or corporation to pursue some occupation or to carry on some business subject to regulation under the police power.

PERMIT — An official document or certificate issued by the Borough which authorizes performance of a specified activity. This term includes building permit.

PERSON — Includes an individual, partnership, corporation, firm, organization or association.

PROOF OF INSURANCE — ~~Includes~~ A certificate of insurance *listing Ridley Park Borough as a certificate holder.* ~~or self-insurance demonstrating current coverage and compliance with the Pennsylvania Workers' Compensation Act,<sup>2</sup> the Occupational Disease Act<sup>3</sup> and the Longshore and Harbor Workers' Compensation Act, their amendments and supplements, where applicable.~~

SUBCONTRACTOR — One who has entered into a contract, express or implied, for the

performance of an act with the person who has already contracted for its performance.

*RESIDENTIAL — Detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures and spaces not more than three stories above grade plane in height.*

**§ 81-4. License required.**

- A. It will be the duty of the Code Enforcement Officer or his authorized representative to provide for the administration and enforcement of all provisions of this chapter and to issue licenses to all persons who apply for the same under this chapter and have paid the required fee and complied with all other Borough ordinance provisions and any other applicable rules and regulations.
- B. The application required shall be ~~substantially the same as that set forth in Appendix A of this chapter, attached hereto and made a part of this chapter.~~<sup>4</sup> *prepared by the Building Code Official and kept on record at the Borough.*
- C. ~~License~~ fee. No license shall be issued by the Code Enforcement Officer or be effective until the applicant has paid the required fees ~~in Appendix B of this chapter, attached hereto and made a part of this chapter.~~<sup>5</sup> *in accordance with the fee schedule adopted by resolution by Borough Council of the Borough of Ridley Park as said fee schedule may be amended from time to time. The fee for any contractor working without a license in the Borough shall be doubled.*
- D. License and insurance required. Except as otherwise specifically exempted by the provisions of this chapter, no person shall act in the capacity of a ~~general~~ *commercial contractor, subcontractor, new home builder, electrical, or plumbing contractor* unless proof of insurance has been presented and a license has been issued pursuant to the provisions of this chapter.
- E. Exceptions to license requirement. A contractor license shall not be required of any person when acting in the capacity herein set forth in this subsection:
  - (1) Any person who does any work in a ~~single or two-family~~ *RESIDENTIAL* dwelling ~~used exclusively for living purposes~~, including accessory buildings *structures and spaces* usual to such dwellings, if the same will be occupied by the owner who shall personally purchase all materials and shall perform all labor in connection herewith. *This exception shall not apply to the legalization of work performed prior to obtaining required permits.*
  - (2) An individual who performs labor or services for a *licensed* contractor for wages or salary, provided that such contractor has complied with all applicable ordinances.
- F. License issuance, refusal and renewal.
  - (1) When an application has been filed with the Code Enforcement Officer in the required form, the Code Enforcement Officer must, within 30 days from the date the application is received, issue or refuse the appropriate contractor's licenses to the applicant. If an application for a license is refused, the applicant shall be sent a written statement

setting forth the reason for the refusal.

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- (2) An applicant for any license required by the provisions of this chapter shall file a written application, which shall be signed and under oath. The application shall require the names of the owners, partners, directors and officers of any applicant and the business addresses and trade names of the applicant, together with a certificate of *liability insurance with a minimum per occurrence limit of five hundred thousand dollars (\$500,000)*. ~~written for not less than any limits or coverage specified under this chapter. The contractor shall take out and maintain at his expense during the life of the license such public liability insurance, property damage, products liability and completed operations (single limits \$100,000). Blasting and demolition insurance limits shall be determined at the time of any application for a permit. Applicants must also provide a certificate of workers compensation insurance in accordance with PA State requirements, or complete an affidavit of exemption.~~
- (3) *An applicant for an electric or plumbing license must provide proof of a successful completion of a professional licensing examination and/or training program, or a reciprocal license from a municipality or State with equivalent standards to Ridley Park Borough. A list of acceptable testing agencies, educational programs, and reciprocal municipal or State licenses shall be maintained by the Building Code Official, kept at the Borough and provided as an addendum to the license application.*
- (4) Every contractor licensee shall, within 10 days after a change in control of ownership or of management or of change of address or trade name, notify the Code Enforcement Officer of such changes.
- (5) Licenses of all contractors shall expire ~~on December 31 of each year~~ *one (1) calendar year* following the date of issue unless prior thereto the license is revoked or suspended. Upon payment of the annual license fee, as prescribed by this chapter prior to the expiration date, a license shall be renewed for another year, and the authority to do business shall continue in effect until such time within the year as the Borough revokes or suspends the license.

G. Grounds for refusal and revocation.

- (1) The Code Enforcement Officer shall have the power to refuse, suspend or revoke any license under the provisions of this chapter where the Code Enforcement Officer finds:
  - (a) That the licensee has violated any provisions of this chapter or is performing or attempting to perform any act prohibited by this chapter ~~or violates the Borough of Ridley Park Building, Mechanical, Plumbing, Electrical or Fire Codes.~~<sup>6</sup>
  - (b) ~~Any condition of a permit is violated.~~ *That the licensee has repeatedly failed to obtain required permits prior to starting work.*
  - (c) *That the licensee has failed to abate a notice of violation or correction issued by the Building Code Official.*
  - (d) *That the licensee has had their license revoked by a municipal or state authority for violations consistent with the standards contained in this ordinance.*

- (e) *That the licensee has performed work in a manner that endangered the safety of building occupants or the general public.*
- (2) Any violation of any of the provisions of this subsection upon the part of any director, manager, partner, officer, salesman, agent or employee of a contractor shall be cause for suspension or revocation of the license of the contractor unless it shall appear to the satisfaction of the Code Enforcement Office that the individuals engaged in the management of the contractor:
  - (a) Had no knowledge of the wrongful conduct; or
  - (b) Were unable to prevent the violation.
- H. License restrictions. For the protection of the people of this Borough, no license shall be issued or continued if already issued where:
  - ~~(1) The person or the management personnel are not of good character; or~~
  - (2) The business transactions of the person have been marked by a practice of failure to perform contracts or the manipulation of assets or accounts or by fraud or bad faith.

**§ 81-5. Insurance required.**

- A. Before a building permit may be issued to a contractor, the contractor must present current and up-to-date proof of insurance to the Borough or a current and up-to-date affidavit that the contractor does not employ other individuals and is not required to carry workers' compensation insurance.
- B. A contractor shall not subcontract all or any part of a contract unless the subcontractor has presented current and up-to-date proof of insurance.
- ~~C. Contents of building permit.
  - (1) The building permit must include, in addition to any information required by ordinance, the name and workers' compensation policy and the contractor's federal or state employer identification number.
  - (2) If the contractor is not required to maintain workers' compensation insurance under the Pennsylvania Workers' Compensation Act,<sup>7</sup> the permit must set forth the contractor's federal or state employer identification number and the basis of the affirmation and that the contractor is not permitted to employ any individual to perform work pursuant to the building permit.~~
- D. Borough named as certificate holder.
  - (1) For every building permit issued, the Borough shall be named as a workers' compensation policy certificate holder.
  - (2) The certificate shall be filed with the Borough's copy of the building permit.
  - (3) An insurer issuing a policy which names the Borough as a workers' compensation policy certificate holder shall be required to notify the Borough of the expiration or cancellation of any such policy or insurance or policy certificate within three working days of any such cancellation or expiration.

E. Effect of cancellation or expiration of insurance.

- (1) In the event the Borough receives actual notice that a contractor who is performing work pursuant to a building permit has had workers' compensation insurance or state-approved self-insurance canceled, the Borough shall issue a stop-work order to the contractor.
- ~~(2) A stop-work order shall additionally be issued by the Borough in cases where an affidavit of exemption has been filed from workers' compensation insurance and the permittee has hired persons to perform work pursuant to a building permit and does not maintain the required workers' compensation insurance.~~
- (3) The stop-work order shall remain in effect until the proper workers' compensation coverage is obtained for all work performed pursuant to the building permit.

F. Public contracts.

- (1) Cancellation or expiration of insurance.
  - (a) Where any contractor is performing work for a public body or political subdivision and the public contractor's workers' compensation insurance or state-approved self-insurance has expired or been canceled, the public body or political subdivision, upon receiving notice of such cancellation or expiration, shall issue a stop-work order.
  - (b) If a public body or political subdivision receives actual notice that a contractor, having filed an affidavit of exemption from workers' compensation insurance, has hired persons to perform work for a public body or political subdivision and does not maintain the required workers' compensation insurance or self-insurance, the public body or political subdivision shall issue a stop-work order.
- (2) Duration of stop-work order. The stop-work order issued by a public body or political subdivision shall remain in effect until the proper workers' compensation coverage is obtained for all work performed pursuant to the contract of work for the public body or political subdivision.

**§ 81-6. Notice requirements.**

The contractor must immediately notify, in writing, the municipality, public body or political subdivision in the event a policy of workers' compensation insurance be canceled or has expired during the duration of the work or should the workers' compensation self-insured status change.

**§ 81-7. Prohibited acts.**

A. The following acts are prohibited:

- ~~(1) Abandonment or willful failure to perform, without justification, any contract or project engaged in or undertaken by a contractor or willful deviation from or disregard of plans or specifications in any material respect without obtaining the consent of the owner in writing and provided that the Code Enforcement Officer has received notification of such changes.~~
- (2) Making any substantial misrepresentation in the procurement of a contractor or making any false promise of a character likely to influence, persuade or induce.

- (3) Any fraud in the execution of or in the material alteration of any contract, mortgage, promissory note or other document incident to a contractual transaction.
- (4) Preparing or accepting any mortgage, promissory note or other evidence of indebtedness upon the obligation of a contractual transaction with knowledge that it recited a greater monetary obligation than the consideration for the work to be performed.
- (5) Directly or indirectly publishing any advertisement relating to work or services which contains an assertion, representation or a statement of fact which is false, deceptive or misleading, provided that any advertisement which is subject to and complies with the then existing rules, regulations or guidelines of the Federal Trade Commission shall not be deemed false, deceptive or misleading or by any means advertising or purporting to offer the general public any work or service with the intent not to accept contracts for the particular work or at the price which is advertised or offered to the public.
- (6) Willful or deliberate disregard and violation of the building laws of this state or of this Borough or of the safety or labor or workmen's compensation insurance laws of this state.
- (7) Doing any business ~~with or~~ through any person who is subject to the licensing requirements of this subsection with the knowledge that such person is not licensed as required.
- (8) Misrepresentation of a material fact by an applicant in obtaining a license.
- (9) Willful failure to notify the Code Enforcement Officer of any change of control in ownership, management or business name or locations.
- ~~(10) Conducting a business in any name other than the one in which the contractor or salesman is licensed.~~
- (11) Willful failure to comply with any order, demand or requirements lawfully made by the Code Enforcement Officer under and within the authority of this chapter.
- (12) Failure to carry or be covered by workmen's compensation insurance where such coverage is required.

B. Violations of any of the prohibitions of this section:

- (1) Shall subject any violator to whom the licensing provisions of this subsection apply to the administrative sanctions of this chapter; and
- (2) Shall subject any violator, whether or not required to be licensed by this subsection, to criminal prosecution.

**§ 81-8. Severability.**

*Should any section, subsection, paragraph, sentence, laws or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect and for this purpose, the provisions of this Ordinance are hereby declared to be severable.*

**§ 81-9. Specific Repealer.**

1. Chapter 96 of the Borough Code is hereby repealed.
2. Chapter 158 of the Borough Code is hereby repealed.

**§ 81-10. General Repealer.**

*All other Ordinances or parts of Ordinances, including definitions, found in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict. The Borough of Ridley Park reserves the right at any time by Ordinance to amend or otherwise modify or repeal this Ordinance.*

**§ 81-11. Municipal liability.**

Nothing in this chapter or Act 44 amending the Workers' Compensation Law shall be the basis of any liability on part of the municipality.

**§ 81-12. Violations and penalties. [Amended 5-17-2006 by Ord. No. 1168]**

Any person who violates the provisions of this chapter or fails to comply with the requirements thereof shall, upon conviction, be punishable by a fine of not more than \$1,000. Each day that a violation continues shall be deemed a separate offense.