

ORDINANCE 2019-03

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 3
OF THE CITY OF CODY CODE.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CODY,
PARK COUNTY, WYOMING:**

Title 9, Chapter 3 of the City of Cody Code shall be amended to read as found in Exhibit A, attached hereto.

This Ordinance shall become effective at the final passage and publication in the Cody Enterprise as required by law.

PASSED ON FIRST READING: May 21, 2019

PASSED ON SECOND READING: June 18, 2019

PASSED, ADOPTED AND APPROVED
ON THIRD AND FINAL READING: July 9, 2019

Matt Hall, Mayor

ATTEST:

Cynthia Baker, Administrative Services Director

Chapter 3
CONTRACTOR LICENSING

9-3-1: CONTRACTOR LICENSE REQUIRED; EXCEPTIONS; LICENSING CATEGORIES:

9-3-2: APPLICATION AND REVIEW PROCESS:

9-3-3: TERM OF LICENSE; RENEWAL REQUIRED:

9-3-4: GROUNDS AND PROCEDURE FOR SUSPENSION OR REVOCATION OF LICENSE; EFFECTS THEREOF:

9-3-5: INSURANCE REQUIRED:

9-3-6: INACTIVE STATUS:

9-3-1: CONTRACTOR LICENSE REQUIRED; EXCEPTIONS; LICENSING CATEGORIES:

A. Contractor License Required.

It shall be unlawful for any person to participate in any form of “construction contracting” within the City unless that person is either:

- i. Licensed in the particular contracting category under the provisions of this chapter for the work being performed;
- ii. Performing construction contracting solely for work that is entirely exempt from all building, plumbing, HVAC, and electrical permits; or,
- iii. Exempt from contractor licensing as otherwise provided in section 9-3-1(B) of this chapter, or a non-compensated volunteer laborer while overseen by someone otherwise authorized to perform construction contracting pursuant to this chapter.

"Construction contracting" as used herein shall include the: demolishing; erecting; constructing; assembling; enlarging; altering; moving; removing; repairing; improving; converting; and performing work on electrical, plumbing or HVAC systems; of or on any building, structure or device in a manner regulated by the adopted building, plumbing, mechanical, or electrical codes. Activities specifically excluded from construction contacting include, but are not limited to: carpeting, decorating, installing flooring, painting, tiling, and wallpapering.

Furthermore, it shall be illegal to solicit construction contracting work or claim to be licensed or otherwise authorized to perform construction contracting work within the City without holding a contractor’s license pursuant to this chapter for the applicable category of work that is advertised.

B. Licensing Exemptions.

The following exemptions to the above contractor licensing requirement are provided. These exemptions do not absolve a person from obtaining necessary permits and inspections, or from completing the work in accordance with adopted codes. Persons

claiming such an exemption shall submit documentation for such to the Building Official and complete any applicable affidavits as noted herein.

i. Owner-Occupied Property Owner Exemption:

A property owner who is not a licensed contractor may be issued permits to perform work that would otherwise require them to hold a contractor's license, if one of the following scenarios applies, and they otherwise meet the requirements herein:

- a. The structure, building, or device falls within the jurisdiction of the International Residential Code and the work will be performed by the property owner on the property where they currently reside.
- b. The structure, building, or device falls within the jurisdiction of the International Residential Code, the work will be performed by the property owner, and the property owner intends to reside on the property once the work is completed.
- c. The permit is for either installation or repair of a fence, or minor demolition work, and the work will be performed by the property owner. The building official shall determine whether any demolition is minor based on the specific characteristics of the demolition project and experience of the property owner performing the work.

The language indicating work is to be performed by the property owner does not preclude the property owner from hiring licensed contractors/subcontractors, or from having immediate family members of the property owner and non-compensated volunteers participate in the permitted work while overseen by the property owner or a contractor licensed for the work being performed.

The property owner, whether their ownership of the property is individual, joint, or part of a group (e.g. partnership or corporation), may be issued permits for the construction of no more than two new dwelling units in any five-year period. The property owner requesting a permit for construction of a new dwelling unit shall sign a sworn affidavit indicating their intent to reside on the property for at least one year after the certificate of occupancy is issued. If a person fails to meet the one-year minimum occupancy requirement, they shall not be entitled to further utilize this exemption to construct a dwelling unit.

For work on existing dwellings subject to the International Residential Code, there shall be no limit on the number of building, plumbing, mechanical or electrical permits a property owner may receive to perform work on their own property where they reside.

ii. Residential Property Owner Exemption:

A property owner that does not reside on their property may be issued permits to perform work on an existing dwelling or an accessory structure on their property without possessing a contractor's license, subject to the limitations specified herein. This exemption does not authorize creation of a new dwelling unit.

The dwelling or structure must fall within the jurisdiction of the International Residential Code. A permit shall be issued to the property owner for any type of work on the existing dwelling except: electrical work; plumbing work; and heating, ventilation, and A/C (HVAC) work. Provided, if the property owner can demonstrate relevant experience and knowledge to safely perform work in any of those areas, the building official may issue a permit to the property owner for the work, or part thereof, for which the property owner has relevant experience and knowledge. In no case shall the building official issue a permit pursuant to this exemption for installation of an electrical service or startup of a new HVAC system, unless the property owner has a contractor's license for such.

iii. Property Owner Construction Management Exemption:

A property owner may perform the construction management aspect of overseeing construction activities on their commercial or residential property, subject to the conditions and limitations of this section, and be issued the building permit for such project. In such cases, a general contractor is not required. Where a property owner is issued a building permit as a construction manager, it does not authorize them to perform any construction work requiring a contractor's license. All construction and demolition work on the project shall be performed by licensed contractors/subcontractors, except as otherwise provided in this chapter.

iv. City Inspector Exemption: Construction work for the City may be performed by the City building inspectors when they hold an International Code Council (ICC) certificate or Wyoming contractor license for the type of work performed.

C. CONTRACTOR LICENSING CATEGORIES

Licenses for construction contracting are categorized and defined as follows. A license authorizes the company or person(s) holding the license to perform work within the trades(s) identified for that license, to the extent specified herein. Provided, each contractor is responsible to ensure that they do not accept or perform work that is clearly beyond their level of proficiency and skill—doing so is grounds for suspension and revocation of their license, as may be determined by the contractor's board.

i. General Contractor: This category authorizes the construction of all components of commercial and residential structures, except those components requiring an electrical license, plumbing license, or mechanical/HVAC license. A general contractor is also authorized to manage all work on the permitted project.

Persons requesting a general contractor license after adoption of this section shall show that they have passed the International Code Council (ICC) National Standard

Exam for Class “A” Commercial or Class “B” Commercial and Residential contracting (or equivalent), and have at least 60 months of experience as a general contractor, journeyman carpenter, architect, engineer or similar work that demonstrates the skills and proficiency needed to act in the capacity of a general contractor.

- ii. General Contractor—IRC: This category authorizes the construction of all components of a residential structure that is subject to the International Residential Code (e.g. single-family dwellings, duplexes, and townhouses), except those components requiring an electrical license, plumbing license, or mechanical/HVAC license. An IRC general contractor is also authorized to manage all work on the permitted project.

Persons requesting a “general contractor-IRC” license shall show that they have passed the ICC Class “C” Residential Contractor Exam (or equivalent) and have at least 24 months of experience that demonstrate the knowledge, skills and proficiency needed to perform work of this nature.

- iii. Master Electrical Contractor: This category authorizes electricians licensed by the State of Wyoming as Master Electricians to perform electrical work regulated by the National Electric Code within the City of Cody. Their employees that perform electrical work must also be registered with the State of Wyoming. Persons requesting to be licensed by the City as an electrical contractor must provide a copy of their current Wyoming master electrician license and electrical contractor’s license (card) issued by the State of Wyoming.

- iv. Master Plumbing Contractor: This category authorizes plumbing work (including fuel gas) within all types of buildings and structures.

Persons requesting a master plumbing contractor license shall show that they have passed the ICC “Master Plumber with Fuel Gas” exam (or equivalent) and have at least 48 months of experience that demonstrate the knowledge, skills and proficiency needed to perform work of this nature.

- v. Plumbing Contractor—IRC: This category authorizes all plumbing work within buildings and structures regulated by the International Residential Code (IRC).

Persons requesting a “plumbing contractor-IRC” license shall show that they have passed the ICC “F26 National Standard Residential Plumber” exam (or equivalent) and have at least 12 months of experience that demonstrates the knowledge, skills and proficiency needed to perform work of this nature; or, have at least 36 months of experience that demonstrate the knowledge, skills and proficiency necessary to perform work of this nature.

- vi. Master Mechanical/HVAC Contractor: This category authorizes mechanical/HVAC work within all types of buildings and structures.

Persons requesting a master mechanical/HVAC contractor license shall show that they have passed the ICC “Master Mechanical” exam (or equivalent) and have at least 24 months of experience that demonstrate the skills and proficiency needed to perform work of this nature; or, have at least 48 months of experience that demonstrate the knowledge, skills and proficiency necessary to perform work of this nature.

- vii. Mechanical/HVAC Contractor—IRC: This category authorizes all mechanical/HVAC work within buildings and structures regulated by the International Residential Code (IRC).

Persons requesting a “mechanical/HVAC contractor-IRC” license shall show that they have passed the ICC “F32 National Standard Residential Mechanical” exam (or equivalent) and have at least 12 months of experience that demonstrates the skills and proficiency needed to perform work of this nature; or, have at least 36 months of experience that demonstrate the skills and proficiency necessary to perform work of this nature.

- viii. Specialty Contractor: This category authorizes the person to work in one or more of the following trades, on any type of building or structure. Work only in those trades for which the person applies and meets the minimum experience therefore is authorized. The minimum experience need not be provided if the person has passed an ICC or equivalent professional exam for the trade and otherwise demonstrates the applicable knowledge, skills and proficiency to the Contractor’s Board.

<u>Trade:</u>	<u>Minimum Experience:</u>
Asbestos Abatement	24 months
Commercial Fire Suppression Systems	36 months
Commercial Railings	24 months
Conveyor Systems	36 months
Demolition	24 months
Drywall	24 months
Elevator Installation	48 months
Fencing	6 months
Framing	48 months
Ground stabilization/mud jacking	24 months
Insulation	24 months
Masonry	48 months
Refrigeration	24 months
Roofing	24 months
Sheet metal installation	24 months
Siding	24 months

Sign/Awning Installation	24 months
Steel fabrication/erection	48 months
Structural Concrete	48 months
Stucco/Plaster	12 months
Underground Utilities (sewer, water, conduit)	12 months
Windows/Glass glazing	12 months

- ix. Specialty Contractor—IRC: This category authorizes the person to work in any of the following specialty contractor activities when the work is conducted on a building or structure subject to the IRC. The minimum experience need not be provided if the person has passed an ICC or State of Wyoming exam for the trade, or if the Building Official or Contractor’s Board is otherwise satisfied that the person has the knowledge and training necessary to perform the work in a competent manner.

<u>Trade:</u>	<u>Minimum Experience:</u>
Fire Suppression Systems	6 months
Demolition	6 months
Drywall	6 months
Fencing	3 months
Framing	12 months
Insulation	6 months
Masonry	6 months
Roofing	6 months
Sheet metal installation	6 months
Siding	6 months
Structural Concrete	6 months
Stucco/Plaster	6 months
Windows/Glass glazing	6 months

9-3-2: APPLICATION AND REVIEW PROCESS:

A. Any person desiring a contractor’s license to perform work within the City of Cody shall complete an application therefore, and provide evidence of relevant experience, skills, and proficiency. The format and content of the application form shall be specified by the Contractor’s Board. All contractor license applications shall be accompanied by an application fee, as specified in a fee schedule adopted by resolution of the governing body. The application fee is non-refundable.

B. All applicants for a contractor’s license shall submit an application to the Community Development Department and be interviewed by the building official for a determination as to their qualifications and level of proficiency for the license requested, as set forth in the application. Those applicants that have previously been licensed for the type of license requested (whether in Cody or another jurisdiction),

clearly meet the minimum qualifications of this chapter, and clearly demonstrate the proficiency required, shall be issued a contractor's license. The building official is authorized to issue the license on behalf of the contractor's board in such instances, provided the applicant is not currently in violation of the City's contractor licensing provisions (e.g. has not performed construction contracting within the City without a license and/or required permit).

When an applicant either does not have previous licensing for the type of license requested, has performed construction contracting in the City without a license, or when in the judgement of the building official the application would be better considered by the contractor's board for whatever reason, the application shall be presented to the Contractor's board for review. Applicants should be present at the Board meeting to provide information when their application is considered.

Upon reviewing a contractor's license application, the contractor's board has authority to approve it, deny it, approve a lesser license (e.g. IRC level instead of Master), or issue a conditional/limited license. Applicants that meet the qualifications shall be issued the license(s) requested, except the Board may delay issuance of a license as a penalty for an applicant performing construction contracting work within the City without a license. Such delay shall be based on the severity of the violation, but in no case shall exceed 90 calendar days. This penalty shall be in addition to other penalties the City may pursue through the court.

The option of issuing a conditional/limited license is available to the Board when they have concerns with the applicant's level of skills and/or knowledge, as related to the type and/or level of license requested. A conditional/limited license may be tailored by the Board in any manner they deem necessary to address their concerns. Examples include precluding work of a certain type, issuing the license for a specific project only, and requiring reevaluation after a specified time period.

Applications for persons that do not meet minimum qualifications to be issued a license or conditional/limited license shall be denied. Any person whose application is denied must wait a minimum of forty-five days before they can reapply. Reapplication shall be accompanied by an additional application fee.

Appeals from any action of the Board must be made within 10 days of their decision and shall be submitted in written form to the governing body.

9-3-3: TERM OF LICENSE RENEWAL REQUIRED:

All contractor licenses issued by the City are annual licenses and shall expire at the end of the calendar year in which they are issued.

Licensed contractors desiring to perform construction contracting in the new year shall submit an application for renewal of their license by December 15th of the current year. Licensed contractors that submit a completed renewal application, provide evidence of current insurance, pay the specified renewal fee, and are in good standing with the City, shall be issued a proper contractor's license for the new year. "Good standing" shall mean the contractor has maintained compliance with the standards of this chapter and timely obtained all required permits throughout the past year. The building official is authorized to issue the new annual license on behalf of the contractor's board in such cases. If the contractor is not in good standing, the renewal application must be reviewed by the Contractor's Board.

Contractors that apply for renewal after the December 15th deadline, but before January 15th of the new year shall have their renewal considered upon payment of an additional \$30 late fee. Renewal applications for contractor licenses shall not be accepted after the January 15th deadline (or the following Monday if January 15th falls on a weekend). Contractors licensed in the prior year that do not submit a renewal application by the January 15th deadline shall not be relicensed except upon submittal and review of a new application to perform construction contracting.

Annual renewal pursuant to this section shall not require a contractor to pass an examination listed for their category of license if they were not previously required by the City to do so, nor does it require reexamination based on a new set of adopted building codes.

9-3-4: GROUNDS AND PROCEDURE FOR SUSPENSION OR REVOCATION OF LICENSE; EFFECTS THEREOF:

A. Grounds: The contractor's board may suspend, revoke, limit, or reclassify any license issued under the provisions of this chapter when the licensee or an employee of the licensee commits one or more of the following acts or omissions:

1. Improperly obtaining a license and/or a building permit through nondisclosure, misstatement or misrepresentation of a material fact;
2. Performing a form of construction contracting work for which they are not licensed;
3. Accepting and performing work clearly beyond their level of proficiency and skill, which work does not meet code requirements;
4. Failure to comply with any of the requirements of this chapter;
5. Combining or conspiring with any unlicensed person to evade the provisions of this chapter by permitting one's license to be used by such person;
6. Acting as agent, partner, associate or in any other capacity with any unlicensed person, to evade the provisions of this chapter; and,
7. Violating any provisions of the city ordinances pertaining to construction activities, including but not limited to failure to obtain required permits in a timely manner.

B. Procedure: When the building official believes that a contractor's license should be suspended, revoked, limited, or reclassified based on a violation one or more of the items listed in 9-3-4(A), the building official shall notify the licensee that the building official will recommend to the contractor's board that the licensee's license be suspended, revoked, limited or reclassified. The building official shall give written notice either in person or by certified mail to the licensee of the facts and circumstances giving rise to the recommendation, including reference to the applicable sections of this code which the licensee has violated. The notice shall state the requirement that the licensee shall have ten (10) days to request a hearing before the contractor's board, and that if the licensee fails to request such a hearing, the board shall act on the building official's recommendation at its next meeting. The notice shall state the place, date and time of the meeting where the board will hear the building official's recommendation.

1. Upon receipt of notice, the licensee may request a hearing before the board. Such request shall be in writing to the board within ten (10) days of receipt of notice. Failure by the licensee to request the hearing shall be deemed a waiver of any right to a hearing on the matter and the order of suspension or revocation shall become final.
2. At such hearing, the licensee shall be given an opportunity to show compliance with all lawful requirements for the retention of the license. The licensee shall be given the opportunity to present testimony, oral and/or written, and shall have the right of cross examination. All testimony shall be under oath. The board shall have the power to administer oaths, issue subpoenas and compel the attendance of witnesses. The decision of the board shall be based upon the evidence produced at the hearing and made a part of the record thereof. The hearing shall be conducted in compliance with the procedures promulgated in accordance with the Wyoming administrative procedures act.

C. Effects:

1. A person whose license has been revoked or suspended shall not be entitled to file a new application by the establishment of a new legal entity, or otherwise, during the length of such revocation or suspension.
2. In addition to the revocation or suspension of any license as provided in this chapter, any person who violates any provisions of this chapter, or any rule or regulation promulgated hereunder, is guilty of a misdemeanor, the penalty for which is prescribed under Title 1, Chapter 4 of this code.

9-3-5: INSURANCE REQUIRED:

All contractors licensed pursuant to this chapter shall maintain liability insurance of the type and amount specified below for themselves and any employees, agents, and representatives.

1. Bodily injury liability insurance: Insurance coverage with limits not less than one million dollars (\$1,000,000.00) for bodily injury or death sustained by one person and one million dollars (\$1,000,000.00) for each occurrence; and,
2. Property damage liability insurance: Coverage with limits not less than one million dollars (\$1,000,000.00) for each occurrence.

The contractor shall provide to the building official a copy of their insurance certificate at the time of their initial application and as each new insurance certificate is issued, as necessary to show required coverage at all times that they have an active permit. No permit shall be issued to a contractor without proof of the required insurance being on file with the building official.

9-3-6: INACTIVE STATUS:

A. A licensed contractor may elect to designate his or her license as "inactive" by submitting a written statement to the building official. The following conditions shall apply to every contractor who is designated as "inactive":

1. Inactive licensees shall pay the appropriate annual renewal fees required for licensed contractors.
2. Inactive licensees shall not be required to comply with the insurance requirements that otherwise apply to licensed contractors under this Chapter.
3. Inactive licensees shall not perform work that must be performed by a licensed contractor under this Code, and may not receive any permits to perform work under this Code, except as may be permitted under the listed property owner exemptions of 9-3-1(B).
4. Inactive licensees shall not be eligible to serve any additional term on the Contractor's Board—however, they may complete their term if currently serving on the Board.
5. If an inactive licensee wishes to change status of his license to active so that he may perform work and receive permits to do work, he or she shall provide evidence of the required liability insurance to the building official, and deliver a written statement to the building official stating that he or she wishes to change his license to active. Upon receiving such information, the building official shall designate the licensee as active.