

ORDINANCE NO. 46

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF CEDAR COUNTY, IOWA, BY ADDING AN EMERGENCY CONTRACTOR PERMIT ORDINANCE

BE IT ORDAINED BY CEDAR COUNTY:

Ordinance No. 46 is hereby added, as follows:

**SECTION 1, PURPOSE:**

The Cedar County Board of Supervisors makes the following findings:

1. That the week of June 9, 2008, flooding caused extensive damage to residences and other infrastructures within Cedar County.
2. That this damage poses a significant risk to the health, safety and security of the residents of Cedar County
3. That recognizing the extent and severity of these damages and risks, Cedar County has been declared a disaster area by the federal government.
4. That the expeditious reconstruction of structures damaged in these floods in a manner that ensures the health and safety of the community and its residents is of the utmost importance.
5. That such need for extensive and expeditious reconstruction creates demand for construction-related services and materials well beyond the normal capacities of construction contractors that customarily have served this community.
6. That such great need for construction services also greatly increases the risk that such services will be offered by contractors that are not licensed or qualified to perform the services required, that such work will not be completed in compliance with applicable codes or in an otherwise safe manner, and creates increased risk that residents will be subject to fraud in procuring these services.

WHEREFORE, it is deemed by the Cedar County Board of Supervisors that the following ordinance is of vital importance and necessary to ensure the health, safety and security of the residents of Cedar County by ensuring that construction contractors operating in the areas affected by this disaster are in compliance with applicable laws and regulations and operate consistent with the health, safety and security of the community by temporarily requiring permits and otherwise regulating the conduct of such contractors in the public interest in this time of emergency.

**SECTION 2, DEFINITIONS:**

For purposes of this ordinance, the following definitions shall apply to the listed terms:

“Construction” means new work, additions, alterations, reconstruction, installations, repairs or demolitions to structures, fixtures or appurtenances on real property.

“Consumer” means a person in a “designated area” who has entered into an agreement to purchase construction services from a contractor or to whom a contractor has offered such services.

“Contractor” means a person who engages in the business of construction as the term is defined herein. A Contractor does not include plumbing, HVAC, refrigeration or hydronic professionals holding current licenses valid in this jurisdiction pursuant to Iowa Code Chapter 105 when performing work authorized by such licenses. “Contractor” does not include a person performing construction work on their own property.

“Designated area” means the unincorporated areas within Cedar County.

**SECTION 3, CONTRACTOR PERMIT**

A contractor shall not engage in construction work in the designated area unless the contractor has a valid current contractor permit issued by the Sheriff. Application for the contractor permit shall be made to the Sheriff on a form prescribed by the Sheriff which shall require the following information and any additional information which the Sheriff deems necessary to process the application:

1. The following information regarding the principal owner of the contractor:

- a. Full legal name including suffixes such as “Jr.” or “III”.
  - b. All trade names or aliases used by the principal owner in the past five years.
  - c. A listing of all states in which the principal owner has operated as a contractor in the last five years.
  - d. Physical residential street address. A post office box shall not be a sufficient address.
  - e. Date of birth.
  - f. Driver’s license number, state of issuance and expiration date.
2. The following information regarding the contractor:
- a. Contractor’s legal name.
  - b. Physical street address of the principal place of business. A post office box shall not be a sufficient address.
  - c. Telephone number. An 800 or 888 prefix number shall not be a sufficient telephone number.
  - d. State of incorporation and corporate identification number.
  - e. Contractor’s Internal Revenue Service tax identification number.
  - f. If not incorporated in Iowa, indicate whether or not the contractor has registered with the Iowa Secretary of State’s Office.
  - g. The make, model, model year, registration plate number and state, and vehicle identification number of all vehicles that will be used by contractor and contractor’s employees in construction activities in the designated area.
  - h. The full legal name, physical address and telephone number of all employees of contractor that will be employed in the designated area.
  - i. For each subcontractor that will be utilized by the contractor in the designated area, either provide the full legal name, physical address and phone number of the subcontractor or, in the alternative, provide a copy of a current and valid contractor permit issued to the subcontractor by this jurisdiction.
  - j. A listing of all states the contractor has operated in within the last 5 years.
  - k. A description of the services and materials that the contractor will offer in the designated area.
  - l. The number of years the contractor has been in construction business.
  - m. The name, physical address and telephone number of the owner of the property of the last construction job completed by the contractor.
  - n. A statement indicating whether the contractor has liability insurance. If the contractor has liability insurance, the contractor shall either produce a copy of the current and valid certificate of insurance issued by that insurer, or the contractor shall produce a written statement containing the insurance company’s name, the insurance policy number and the insurance policy liability limits.
3. The following shall be submitted by the applicant with the application:
- a. If contractor is incorporated in a state outside of Iowa, the application shall include proof that the contractor has registered with the Iowa Secretary of State and received a certificate of authority as required by Iowa Code Chapter 490.
  - b. Copies of all professional licenses, certifications and permits required by local or state authorities for the type of construction work offered or performed by contractor.
  - c. A copy of contractor’s current and valid Iowa Workforce and Development registration required by Iowa Code Chapter 91C including a copy of the evidence of workers compensation coverage or statement that coverage is not required as provided in Iowa Code Section 91C.2 (2007).
  - d. A photograph of the applicant.
  - e. An original identification to prove the identity of the applicant that would be sufficient to show identity and authority to be employed in the United States listed in United States Department of Homeland Security U.S. Citizenship and Immigration Form (I-9). A photocopy of the original will be kept with the application.
4. The contractor shall execute a written certification under oath that the information contained on and submitted with the application is true and correct.
5. The contractor shall have a continuing duty to update the information required in this section if there are substantive changes while the permit is in effect.

**SECTION 4, APPLICATION PROCESSING:**

The permit application and required supporting materials will be processed and retained by the Sheriff or the

Sheriff's designee. The Sheriff may deny the application if it is incomplete, if all required supporting materials are included, or if the official finds that the information provided is untrue, inaccurate, incomplete or that the contractor is not licensed to do the type of work listed. Notice and appeal of a denial shall be governed under the process provided for cancellation of a permit in Section 7. If the application is approved, the Sheriff will issue a permit to the applicant and will forward a copy of the permit to any other governmental agency designated by the Sheriff. The Sheriff, or a designee of the Sheriff, shall retain copies of the permit application and supporting materials, as well as a copy of the permit for a period of no less than five years from the date that the permit was issued.

**SECTION 5, PERMITS FROM OTHER JURISDICTIONS:**

The Sheriff, at the Sheriff's sole discretion, may recognize a similar permit from another county or jurisdiction that meets substantially the same requirements as those contained within this ordinance, and upon being so recognized, the Sheriff shall issue a permit and the contractor shall be subject to the requirements, duties and processes of this ordinance.

**SECTION 6, ACTIVITIES BY PERMITTEES:**

Permit holders shall abide by the following requirements. Failure to do so will be grounds for cancellation of the contractor's permit:

1. Permittees shall fully comply with the requirements of the Iowa Door to Door Sales Act, Iowa Code Chapter 555A.
2. Permittees shall complete all work in conformity with applicable codes and statutes.
3. Permittees shall have a copy of the permit available at each work site in the designated area and will present it for inspection to any peace officer, other inspection official or consumer upon request.
4. Permittees shall fully comply with the requirements of the Iowa Mechanic's Lien chapter, Iowa Code Chapter 572.
5. Permittees shall fully comply with all other state, county and local licensing, registration and permit requirements.

**SECTION 7, CANCELLATION OR DENIAL OF PERMIT AND APPEAL:**

The Sheriff shall enforce the provisions of this chapter. If the Sheriff determines that the contractor has violated the requirements of this chapter, or provided false information or omitted material information in the application, the Sheriff shall give written notification of cancellation and grounds therefore to the permittee by regular mail sent to the address of the contractor provided in the application or by personal service. Service is deemed made when placed in the United States Mail or personal service is made. Said notice shall also contain notice of the right to appeal as provided herein. Appeal shall be made by a written request received by the County Auditor within 15 days of the service of the notice of cancellation. Permit cancellation will be final if the action is not so timely filed. The appeal will be a public hearing held before the Cedar County Board of Supervisors to determine if grounds exist for denial or cancellation of the permit. The parties are entitled to be present at the hearing and present evidence. The Cedar County Board of Supervisors will present written findings and a ruling at the conclusion of the hearing which shall be a final action.

**SECTION 8, VIOLATIONS:**

Violations of this chapter are declared to be a simple misdemeanor.

**SECTION 9, SAVINGS CLAUSE.**

If any section, provision, sentence, clause, phrase 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 provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**SECTION 10, EFFECTIVE DATE:**

This Ordinance shall be in full force and effect from and after its passage, adoption and publication as required by law and shall remain in effect for two (2) years after its passage.