

TOWN OF BOW MAR

ORDINANCE NO. \_\_\_\_\_

INTRODUCED BY TRUSTEE \_\_\_\_\_

AN ORDINANCE FOR THE TOWN OF BOW MAR, COLORADO, CONCERNING THE LICENSING AND REGISTRATION OF CONSTRUCTION SUPERVISORS AND THE IMPOSITION OF REASONABLE FEES ASSOCIATED THEREWITH.

**WHEREAS**, the Town of Bow Mar, Colorado (the "Town"), is a statutory town organized and governed by the laws of the State of Colorado (the "State"), in particular Title 31 of the Colorado Revised Statutes ("CRS");

**WHEREAS**, the members of the Board of Trustees of the Town (the "Board") have been duly elected and qualified;

**WHEREAS**, the Board has determined there is a need to license and register construction supervisors, and the need to charge fees therefor to offset the costs and expenses of administering the licensing; and

**WHEREAS**, in connection therewith, the Board desires to amend the Town Municipal Code by the addition of a new Section 18-14 to Chapter 18, Article 1, of the Town's Municipal Code as provided herein.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BOW MAR, COLORADO, THAT:**

**Section 1:** The Town of Bow Mar Municipal Code is hereby amended by the addition of a new Section 18-14 to Chapter 18, Article 1, to read as follows:

**Section 18-14. LICENSING AND REGISTRATION OF CONSTRUCTION SUPERVISORS**

- (a) Purpose-Applicability. This Section provides for the licensing and registration of construction supervisors or individuals who are defined as follows: Any person, who supervises or is ultimately responsible for any classification of work as specified subsections (d) and (e) below or who undertakes by himself within the town, any work that shall require a building permit as outlined in this Code of the model codes adopted under this Code as may be adopted in this Code, or who supervises or performs such work for which a license or registration certificate is required under any provision of this Section, for a fixed sum, price, fee, percentage, trade in kind, or other compensation, including cost of the materials or labor or any combination thereof.

(b) Exceptions.

- i. Public utility companies shall not be required to obtain the licenses or registration certificates described in this Section when engaged in the installation, operation and maintenance of their equipment used for the production, generation or distribution of the utility product or service through the facilities owned or operated by the utility company to the point of consumer service.
- ii. A homeowner shall not be required to obtain the license or registration certificates described in this Section to build, construct, alter, repair, add to or demolish a residential occupancy, garage or a structure associated with residential properties, provided:
  1. That said person owns, occupies and uses said building for his own living purposes; and
  2. That building construction, alteration, repair, addition or demolition by the owner shall be subject to the permit requirements of those model codes as adopted in this Code.
- iii. Homeowners, individuals or construction supervisors shall not be required to obtain licenses described in this Section to build, repair or maintain fences, signs or awnings.

Nothing contained in this subsection shall be construed as exempting any construction activities from the permit requirements of those model codes adopted in this Code.

(c) Authority of Building Commissioner.

- i. The Building Commissioner of the Town, hereinafter in this Section referred to as the "Commissioner," is vested with the authority to establish written testing and licensing procedures, to qualified applicants for licenses, and to authorize, issue and renew licenses. The Commissioner may recommend the suspension or revocation of licenses to the Board of Trustee (hereinafter referred to as the "Board") or summarily suspend such license as provided for in this Section.
- ii. The Commissioner is vested with the authority to qualify applicants or registration certificates and to authorize the issuance and renewal of such certificates. The Commissioner may recommend the suspension or revocation of registration certificates to the Board or summarily suspend such certificates as provided for in this Section.

(d) Classification of Licenses. The definitions shall be taken from the Uniform Building Code.

- i. Building contractor Class "A": to erect, add to, alter, demolish or repair any building or structure.
- ii. Building contractor Class "B": to erect, add to, alter, demolish or repair any structure or building except those buildings of Type I or Type II.
- iii. Building contractor Class "C": to erect, add to, alter, demolish or repair any Group R-3 or Group M occupancy building.
- iv. Building contractor Class "D": to perform such work specialties as may be listed and on file with the Commissioner.

(e) Classification of Registration Certificates. There shall be two classes of registration certificates and the holders thereof shall be authorized to perform the following:

- i. Electrical contractor: to install, alter, repair, renovate or add to electrical wiring, appliances or apparatus for the purpose of electrical light, heat, power or signal systems or other purposes within or affixed to any building or structure.
- ii. Plumbing contractor: to install, alter, repair, renovate or add to any plumbing fixtures, gas or drainage piping, water heating or treating equipment connected to a public or private potable water distribution system or any public or private sewer system.

(f) Licenses and Registration Certificates-Regulations.

- i. Required. A license or registration certificate is authority granted to the individual to whom it is issued to perform only such work as is authorized by said license or registration certificate. Every person doing or causing any work to be done as specified in subsections (a) and (b) shall always have or shall always employ as a supervisor of such work a person licensed to do such work or hold a certificate to do such work. The proper license or registration certificates shall be required for any type of work described in this Section. Performing work which requires a license or registration certificate without having such a license or registration certificate is declared to be a criminal offense subject to the general penalty of this Code. No building permit(s) shall be issued until a proper license(s) or registration certificate(s) is presented to the Commissioner for the work to be done.

Any building permit(s) issued shall be suspended if there are no current licenses or registration certificate holders.

- ii. Application. Every applicant for a license or registration certificate shall apply in accordance with and on forms supplied by the Commissioner. In the case of applications for licenses, the name of the license applicant, the applicant's present employer and three references of jobs completed within the past five years shall appear on the application. In the case of applications for registration certificates, the name of the appropriate qualified master electrician, or master plumber shall appear on the application.
- iii. Proof of State License Required. Every applicant for a registration certificate shall be required to present with the application his valid state of Colorado master electricians' license, his valid electrical contractor licenses or a master plumbers' license issued by the state.
- iv. Proof of Insurance Required. Every applicant for any license or registration certificate shall submit proof of current liability insurance, which shall remain in effect during the period of the license or registration certificate in the minimum amount of five hundred thousand dollars for a single occurrence for building Class "A" and "B" licenses and three hundred thousand dollars for single occurrence for building Class "CD and "D" licenses and registration certificate holders. Certificates of said insurance coverage shall be supplied to the commissioner. Fulfillment of the insurance requirements herein described may be made by submitting proof of such insurance carried by the applicant employer.
  1. The insurance policy submitted by the applicant in compliance with this section must be approved by the Commissioner prior to the issuance of the requested license or registration certificate. Such insurance policy, along with written evidence of payment of required premiums, shall be filed and maintained with the Commissioner during the term of the license or registration certificate.
  2. All insurance policies and insurance certificates maintained pursuant to this section shall contain the following endorsement:

It is hereby understood and agreed that this insurance policy may not be canceled nor the intention not to renew be stated except upon thirty (30) days' written notice to the Town of Bow Mar, Building Commissioner.

- v. Examination and Fee Required. Every applicant for a license shall take an examination administered by the commissioner. Before taking the examination, the applicant shall pay the commissioner an examination fee of thirty dollars. The fee shall not be refundable. If the applicant has complied with this section and successfully passes the examination, the commissioner shall, within a reasonable time, issue the license.
  
- vi. Waiver of Examination. The Commissioner, or its designee may waive the license examination and testing fee if the applicant satisfactorily demonstrates his competency. In determining when a test may be waived, said persons shall consider:
  - 1. Whether the applicant has been issued a similar license in another jurisdiction in the state of Colorado within three years which has not been suspended or revoked;
  - 2. Whether the applicant has passed a similar test in another jurisdiction in the state of Colorado within three years;
  - 3. Whether the applicant has ever been convicted, pled guilty or no contest to a violation of any provisions of the building codes;
  - 4. Whether there are sufficient objective criteria for testing purposes for the specific license requested; and
  - 5. Whether recent examples of the applicant's work reflects his competency to construct in conformance with the town's building codes and ordinances.
  
- vii. Annual Fee. After approval and before the issuance of a license or plumbing contractor registration certificate, and every year thereafter on or before December 31st, the applicant shall pay a fee to the Town as follows: In a case of a plumbing contractor or an electrical contractor registration certificate, a fee of fifty dollars; and in the case of a license, the fee specified in Table 1 below. License or registration fees shall not be refundable.

Table 1  
License Fee

Building Class "A"	\$150.00
Building Class "B"	\$100.00
Building Class "C"	\$75.00
Building Class "D"	\$50.00

- (g) License and Registration Certificate-Holders' Responsibilities. All licensees and registration certificate holders shall be responsible for performing the work under the provisions of this Section including, but not limited to, the following items:
- i. To provide minimum safety measures and equipment to protect workmen and the public;
  - ii. To have in their possession, at all times, the license(s) or registration certificate(s) for work they are performing;
  - iii. To present the license(s) or registration certificate(s) when requested by the commissioner or any peace officer;
  - iv. In the case of a registration certificate holder, to employ an appropriate qualified supervisor as required by the state of Colorado;
  - v. To obtain permits when required;
  - vi. To faithfully construct, without departure from the drawings and specifications filed and approved by the commissioner and permit issued for same, unless any such departure is previously approved by the commissioner in writing;
  - vii. To obtain inspections services when required by this Code or any model codes adopted herein;
  - viii. To obey any order or notice issued under the authority of this Code or any model codes adopted herein;
  - ix. To pay fees assessed under the authority of this Code or any model codes adopted herein; and
  - x. To provide toilet facilities prior to and during construction or demolition.
- (h) License or Registration Certificate-Changes. A license or registration certificate holder shall notify the commissioner personally or by mail of any change of his name, change of employer's name, or change of any of the above's addresses

within fifteen days after said change. In the case of notification by mail, notification shall be completed upon receipt.

(i) Suspension or revocation.

i. Definitions.

1. "Suspension" means that the authority of the licensee or registration certificate holder to perform or supervise work as authorized by the license or registration certificate, is temporarily withdrawn for any period of time from twenty-four hours, up to and including, but not to exceed six months.
2. "Revocation" means that the license or registration certificate shall become null and void. The licensee or registration certificate holder may not reapply for a new license or registration certificate until one year from the date of revocation.

ii. The Board may suspend or revoke a license or registration certificate when the licensee or registration certificate holder commits one or more of the following acts or omissions:

1. Fails to comply with any of his responsibilities as outlined in this Section;
2. Knowingly conspires with a person to permit his license or registration certificate to be used by another person;
3. Acts in any capacity with persons to evade any of the provisions of this Section;
4. Violates any provision of the model codes as may be in effect pursuant to this Code;
5. Fails to obtain required building permits;
6. Fails to request inspections as required by any as may be in effect pursuant to this Code;
7. Fails to observe stop work and/or correction notices;
8. Knowingly, willfully or repeatedly issues checks for payment of building permits and fees which are dishonored for any reason;

9. Conviction of any felony;
  10. Fraud in taking the contractor's test;
  11. Misrepresentation on the application; or
  12. Fails to complete work in a timely manner or without justification.
- iii. Whenever a written complaint is filed with the Board by the Commissioner, charging any licensee or registration certificate holder with the violation of any provision of this Section, the board shall issue and cause to be served upon such licensee or registration certificate holder a copy of the Commissioner's complaint and a written notice of hearing and order to show cause, either by personal delivery or by first class mail, why his license or registration certificate should not be suspended or revoked.
  - iv. A hearing shall be held at a place and time designated by the Board on the day stated in the notice or upon such other day as may be set for good cause shown. Evidence in support of the charges shall be given first, followed by cross-examination of those testifying thereto. The licensee or registration certificate holder, in person or by counsel, shall then be permitted to give evidence in defense, explanation or mitigation. In the event the licensee is found to have committed the violation charged, or any other violation, evidence in aggravation of the offense shall also be permitted.
  - v. If the evidence presented at the hearing does not support the charges stated in the notice and order served upon the licensee or registration certificate holder, but standing alone establishes the guilt of the licensee or registration certificate holder of a violation of some other pertinent law, the licensee or registration certificate holder shall be permitted to give evidence in defense, explanation or mitigation if then prepared to do so. If such evidence is not then available, but can be obtained by the licensee or registration certificate holder, the licensee or registration certificate holder shall state the substance thereof and upon his request the hearing may be recessed for not more than ten days, and shall then continue under the same procedure as though no recess had occurred.
  - vi. In the event the licensee or registration certificate holder is found not to have violated any provisions of this Section, the charges against him will be dismissed.



If the licensee is found to have violated some provision of this Section, his license may be suspended or revoked in the discretion of the Board.

- (j) Immediate suspension when imminent hazard.
  - i. If the Commissioner finds that an imminent hazard to life, health, property or public welfare exists, it may enter an order for immediate suspension or revocation of the license or registration certificate pending further investigation or hearing before the board. The building Commissioner shall, with reasonable speed, notify the party in writing by personal delivery or by first class mail, of the details, facts and reasons on which the immediate suspension or revocation is based.
  - ii. The license or registration certificate shall be suspended during the pendency of the hearing before the Board.
  - iii. The Commissioner may vacate an immediate suspension or revocation order should the party satisfactorily show to the Commissioner that no imminent hazard to life, property or the public welfare exists.
  
- (k) Employer liability.
  - i. In addition to those penalties which may be imposed against individual licensees or registration certificate holders pursuant to this Section, the employer of any licensee or registration certificate holder, whose license or registration certificate is suspended, shall lose its privilege of doing any business in the town for which a permit is required by those model codes, for the same amount of time as the suspension imposed against its employee.
  - ii. In addition to those penalties which may be imposed against individual licensees or registration certificate holders pursuant to this Section, the employer of any licensee or registration certificate holder whose license or registration certificate is revoked, shall be ineligible to do any business in the Town which requires a permit pursuant to those model codes for a period of one year.
  - iii. An employer shall be given notice of the hearing concerning the possible suspension or revocation of its employee's license or registration certificate and an opportunity to be heard in the same manner as provided in subsections iii, iv, and vi of subsection (i) of this Section.

**Section 2:** If any part, section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining

sections of this Ordinance. The Board hereby declares that it would have passed this Ordinance, including each part, section, subsection, sentence, clause or phrase hereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses or phrases may be declared invalid.

**Section 3:** The Town Clerk shall certify the passage of this Ordinance and cause notice of its contents and passage to be published.

**Section 4:** This Ordinance shall be in full force and effect upon the expiration of 30 days after publication of this Ordinance in the \_\_\_\_\_, said newspaper being a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

PUBLIC HEARING on the Ordinance to take place on the \_\_\_ day of \_\_\_\_\_, 2016, in the Offices of the Town, at the hour of 7:00 p.m., or as soon thereafter as it may be heard.

INTRODUCED by Trustee \_\_\_\_\_ as Ordinance No. \_\_\_\_ at a [regular meeting/special meeting] of the Board of Trustees of the Town of Bow Mar on \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, seconded by Trustee \_\_\_\_\_, passed by a vote of \_\_\_\_ FOR and \_\_\_\_ AGAINST, on the first reading; passed on the second and final reading as Ordinance No. \_\_\_\_\_, following public hearing, by a vote of \_\_\_\_ FOR and \_\_\_\_ AGAINST on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and ordered published in the \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Thomas Feldkamp, Mayor

ATTEST:

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TOWN CLERK