

CHAPTER 23

OCCUPATIONS REQUIRING PERMITS

BOROUGH OF WYALUSING
ORDINANCE NO. 23

AN ORDINANCE CHAPTER NO. 23, OCCUPATIONS REQUIRING PERMITS,
OF THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF BRADFORD,
COMMONWEALTH OF PENNSYLVANIA.

The purpose of this Ordinance is to regulate contractors involved in building and property maintenance under the Borough Code found at 53 P.S. § 46202, Specific powers. (24) Building, housing, property maintenance, plumbing and other regulations. To enact and enforce ordinances relating to buildings and housing, their construction, alteration, extension, repair and maintenance and all facilities and services in or about such buildings or housing, to require that, before any work of construction, alteration, extension, or repair of any building is begun, approval of the plans and specifications therefor be secured; to provide for the inspection of such work of construction, alteration, extension and repair, including the appointment of one or more building inspectors and/or housing inspectors; to prescribe limits wherein none but buildings of noncombustible material and fireproof roofs shall be erected, or substantially reconstructed, or moved thereinto; to provide for enforcement of such regulations by a reasonable fine, and by instituting appropriate actions or proceedings at law, or in equity, to effect the purposes of this provision and ordinances enacted thereunder. The Borough of Wyalusing hereby ordains and enacts as follows:

ARTICLE I
Contractors

§ 1. DEFINITIONS AND WORD USAGE.

A. The following words and phrases, as used in this article, shall have the meanings ascribed to them in this section, unless the context indicates a different meaning:

BOROUGH -- The Borough of Wyalusing.

CODE APPEALS BOARD – The Board appointed by the Eastern and Western Bradford County Council of Government as the Agency which shall hear all appeals involving the Building Codes, including all appeals of the Ordinance Enforcement Officer's decision to deny or revoke a permit.

CONTRACT -- An agreement, whether oral or written and whether contained in one or more documents, between a contractor and an owner or another contractor for the performance of work, including all labor, services and materials to be furnished and performed thereunder.

CONTRACTOR -- Any person, other than a bona fide employee of the owner, who in pursuit of full-time independent business for compensation undertakes to perform a job or piece of work, retaining in himself/herself control of means, method and manner of accomplishing the desired result and who undertakes or offers to perform any of the following services: back hoe operation, bulldozing, building additions, construction of any structure, including decks, porches, garages and out buildings, concrete installation, demolition, drainage, driveways, drywall, electrician work, excavation, fencing, fertilizer, foundation work, gutters, heating and air conditioning, hauling and removal for building renovation, kitchen and bath installation, mason, brick and stone installation, landscaping and professional lawn care, painting, paper hanging, patios, paving, plumbing, professional cleaning services interior and exterior, power washing, remodel, repair, replacement of windows and doors, roadways, roofing, septic systems, sewer installation, sidewalks, siding, sign installation, site preparation, snow removal utilizing an attached plow to a motorized vehicle (excluding small sidewalk tractors and riding lawn mowers), swimming pools, topsoil, tree removal, tree trimming, utilities, waterproofing, well drilling; whether as a general contractor, subcontractor, specialty contractor or home improvement contractor with respect to the owner.

ORDINANCE ENFORCEMENT OFFICER -- The Ordinance Enforcement Officer of the Borough of Wyalusing.

OWNER -- Any property owner, tenant or other person who orders, contracts for or purchases the services of a contractor or any person entitled to the work of a contractor pursuant to a contract, gift or otherwise.

PERMIT YEAR -- The twelve-month period beginning the first day of January of each year.

PERSON -- Any individual, partnership, limited partnership, association, corporation, trust or other legally recognizable entity.

B. The masculine includes the feminine, the singular includes the plural and the plural includes the singular.

§ 2. ENFORCEMENT.

The Ordinance Enforcement Officer or his authorized representatives shall administer and enforce the provisions of this article.

§ 3. COMPLIANCE REQUIRED.

No person shall act as a contractor in the Borough except in compliance with the provisions of this article. Any person, including an owner, who willfully aids a contractor or participates with a contractor in violating any provisions of this article, is in violation of this article. The provisions of this article may not be waived by agreement.

§ 4. APPEALS BOARD.

The Appeals Board shall be the Code Appeals Board, which will hear all appeals of the Ordinance Enforcement Officer 's decisions to deny or revoke a permit. All appeals shall be filed within 30 days of notice of the denial or revocation.

§ 5. PERMIT REQUIRED; APPLICATION; RENEWAL.

A. For the permit year beginning January 1, 2005, and for each permit year thereafter, every person desiring to continue to engage in or hereafter to begin to engage in the business of acting as a contractor in the Borough shall, on or before the first day of January of the permit year or prior to commencing business in such permit year, make application for a permit to act as a contractor in the Borough. Such application shall be made by the completion of an application furnished by the Ordinance Enforcement Officer and the payment of a permit fee as hereinafter set forth in this article. Each application must contain information as set forth hereafter in this article, and each applicant must present satisfactory proof of insurance as set forth hereafter in this article. Each application for a permit shall be signed by the applicant, if a natural person, and in the case of an association or a partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof.

B. Each successful applicant shall be issued a permit. Every licensed contractor while actually acting, as a contractor in the Borough, shall carry said permit card with him and shall display it to the Ordinance Enforcement Officer or his representatives upon demand to do so.

C. All contractors' permits shall expire on December 31 each year unless the permit is revoked or suspended prior thereto under the terms of this article. Any contractor carrying on the business of contractor in the Borough must secure a permit under the terms of this article for each permit year during which he carries on such business.

D. Any contractor or owner demolishing a structure will be required to inform the Ordinance Enforcement Officer as to how the material is going to be disposed of, and the disposal must be in accordance with the Department of Environment Regulations.

§ 6. EXCEPTIONS AND EXEMPTIONS.

A. The provision of this article shall not apply to the official transactions of any authorized representative of the government of the United States, any state or commonwealth of the United States, any political subdivision of any state or commonwealth or any agency or instrumentality of the foregoing governments.

B. No contractor's permit shall be required by any person when acting in a particular capacity or particular type of transaction as follows:

- (1) A person who performs labor or services for a contractor for wages or salary.
- (2) A person who is required by other state or local law to attain standards of competency or experience and who must obtain licensing under such other state or local law as a prerequisite to engage in a craft or profession and who is acting exclusively within the scope of such craft or profession for which he is currently licensed pursuant to such other law.

§ 7. INSURANCE REQUIREMENTS.

A. No contractor's permit shall be issued unless the applicant files a certificate of insurance with the Borough at the time of permit application. The certificate of insurance shall contain a provision that coverage's afforded under the policy will provide notice of cancellation to the Borough within three business days of the cancellation. The certificate of insurance must show evidence of policies of insurance, maintained at the expense of the applicant, for comprehensive general liability or manufacturers and contractor's liability, each of which must have a single occurrence and aggregate limit of at least \$500,000. The contractor is also required to maintain property damage, bodily injury, products liability and completed operations insurance, each of which must have a single occurrence and aggregate limit of at least \$500,000. Blasting and demolition insurance shall also be

required for blasting and demolition contractors, and the reasonable limits of such insurance shall be determined by the Ordinance Enforcement Officer at the time of application based on the nature and extent of the applicant's proposed operations.

B. All types and limits of insurance for which certificates are presented at the time of application and based upon which a permit is issued shall be maintained throughout the permit year, or the permit will be suspended or revoked as hereinafter set forth in this article.

C. Effective September 1, 1993, the Borough of Wyalusing will no longer issue a building permit to a contractor, subcontractor or resident (i.e., plumber, electrician, mason, heating, ventilation/air-conditioning repairman, etc.) who has not demonstrated current coverage and compliance with the requirements of the Workers' Compensation Reform Act 44 of 1993 by filing with the office of the Ordinance Enforcement Officer one of the following:

- (1) A certificate of insurance issued by his insurance carrier as proof of workers' compensation insurance for his employees.
- (2) A certificate of self-insurance from the Department of Labor and Industry.
- (3) A notarized affidavit of exemption from workers' compensation insurance stating that he will not hire any employees to work on the construction project.
- (4) Registration via company letterhead or billhead, including address and phone number (post office box not acceptable), of his federal or state identification number.

D. Exemption for Borough resident not employing contractor.

- (1) Borough residents and/or homeowners please note: If residents and/or homeowners will be performing the work, they must file a notarized affidavit of exemption from workers' compensation insurance stating that they will not hire/employ any individual or subcontractor on the construction project.
- (2) Should a resident and/or homeowner later choose or be forced to subcontract work to comply with Chapter __, Building Construction, it is the responsibility of the resident to see that the subcontractor complies with the regulations as outlined in Subsection C.

E. Building permit information requirements. Under the Workers' Compensation Act, every building permit issued by the Borough to a contractor, subcontractor or resident shall clearly set forth one of the following:

(1) The name and workers' compensation policy and the contractor's and/or subcontractor's federal or state employee identification number.

(2) The contractor's federal or state employer identification number and the substance of the affirmation that the applicant is not permitted to employ any individual to perform work pursuant to the building permit.

(3) The resident's and/or homeowner's notarized affirmation that he will not employ any individual to perform work pursuant to the building permit.

F. These certificates shall be filed with the Borough's copy of the building permit. Upon issuance of a building permit, the Borough will be named as a workmen's compensation policy certificate holder. The issuer of the policy, the worker's compensation insurance carrier, must inform the municipality within three working days of any change in or termination of coverage.

G. If the Borough receives notice that the contractor or resident has had coverage terminated, has lost state-approved self-insurance status or has employed persons without providing coverage, the Borough must and will, under the Workers' Compensation Act, issue a stop-work order. The stop-work order may not be lifted until the contractor and/or subcontractor obtains proper coverage.

§8. FEES.

A. At the time of application for a new permit or for the renewal of a current permit, the applicant shall pay to the Ordinance Enforcement Officer a nonrefundable permit application fee, payable to the Wyalusing Code Enforcement Agency, as set forth in the Borough Schedule of Fees as adopted and amended from time to time by the Wyalusing Borough Council.

B. All contractors who renew their permit annually prior to the commencement of construction shall pay the annual permit fee as set forth in the Borough Schedule of Fees adopted and amended from time to time by the Wyalusing Borough Council.

C. All contractors who commence construction without a contractor's permit or without renewing their contractor's permit shall pay, in addition to the contractor's permit fee, a late registration fee as set forth in the Borough Schedule of Fees adopted and amended from time to time by the Wyalusing Borough Council.

D. All contractors or owners who commence construction or activity requiring a building/zoning permit without obtaining a permit from the Ordinance Enforcement Officer shall pay a late fee as set forth in the Borough Schedule of Fees adopted and amended from time to time by the Wyalusing Borough Council.

§ 9. ISSUANCE OR DENIAL OF PERMITS; FORM OF APPLICATION.

A. When an application has been filed with the Ordinance Enforcement Officer in proper form, the Ordinance Enforcement Officer must, within a period of 30 days from the date following the date the application is received, issue or refuse to issue the appropriate contractor's permit to the applicant. If issuance of a permit is denied, the Ordinance Enforcement Officer shall mail to the unsuccessful applicant a written statement setting forth the reason or reasons for the denial within the aforesaid thirty-day period and a refund of the application fee. The rejected applicant shall be entitled to request a hearing from the Code Appeals Board of the Borough Council within 30 days to appeal the Ordinance Enforcement Officer's decision.

B. The application for a permit shall be a printed form, provided to the applicant by the Ordinance Enforcement Officer, and the application shall require a written answer to all questions contained thereon. Failure to answer all questions on the application form shall mean that the applicant is not entitled to consideration of his application until he has answered all questions. The application form shall be signed by the applicant under oath. The questions and information requested on the application form shall include but shall not be limited to the following:

(1) The names of owners, partners, directors and officers of the applicant and the business address and trade names of the applicant.

(2) A statement as to whether or not any municipalities have refused to issue or have revoked any similar contractor's permit of the applicant within two years previous to the date of the application. In the event that there has been such a denial or revocation, the applicant must explain, in writing, the reasons for such denial or revocation.

(3) A waiver by the applicant that he agrees that the information in the application shall be available to the public for inspection.

(4) A listing of all convictions within two years prior to the date of the application for any crimes or offenses under any federal or state criminal statute or common law criminal offense or for violation of any municipal ordinance, so long as such convictions were for crimes or offenses related to the applicant's work or contracts as a contractor. The term "conviction" shall include guilty pleas and pleas

of nolo contendere. If any such convictions exist, the applicant shall give, in writing, the caption, court and term number of the proceeding leading to the conviction. The applicant shall also explain, in writing, the nature of the conviction.

(5) A listing of all unsatisfied civil judgments in any jurisdiction against the applicant, if such civil judgments were on a lawsuit in which it was alleged that the applicant failed to complete a contract as defined in this article or improperly performed a contract as defined in this article. The applicant shall give, in writing, the caption, court and term number of the civil action upon which any such judgments were entered and shall explain, in writing, the nature of all such civil judgments.

§10. CHANGES IN OWNERSHIP, MANAGEMENT, ADDRESS OR TRADE NAME.

Every contractor permittee shall, within 10 days after a change in ownership, directors, officers, management, address or trade name, notify the Ordinance Enforcement Officer of such change.

§11. STANDARDS FOR PERMIT ISSUANCE AND RENEWAL.

No permit shall be issued or renewed under the following circumstances:

- A. If the applicant falsely answered any question or questions contained on the application form.
- B. If the applicant has been refused a similar contractor's permit or has had a similar contractor's permit revoked or suspended by Wyalusing Borough or another municipality within two years prior to the date of application for issuance or renewal and if the refusal, revocation or suspension by the other municipality was due to failure to comply with that municipality's building codes.
- C. If the applicant has been convicted within two years prior to the date of the application for any crimes or offenses under any federal or state criminal statute or common law criminal offense or for violation of any municipal ordinance, so long as such convictions were for crimes or offenses related to the applicant's work as a contractor. The term "conviction" shall include guilty pleas and pleas of nolo contendere.
- D. If an unsatisfied civil judgment against the applicant exists in any court in any jurisdiction without adequate agreement to make satisfaction and if the record of such court shows that such judgment was entered because of the applicant's failure to complete a contract as defined in this article or if such judgment was

entered because of the applicant's failure to complete a contract, as defined in this article, or if such judgment was entered because of the applicant's failure to properly perform a contract as defined in this article.

§12. REVOCAION OF PERMIT.

A. The Ordinance Enforcement Officer shall revoke any permit issued under the provisions of this article under the following circumstances. The applicant who has his permit revoked shall be entitled to request a hearing from the Wyalusing Code Appeals Board within 30 days to appeal the Ordinance Enforcement Officer 's revocation or denial.

(1) If the permittee falsely answered any question or questions contained on an application for licensing or renewal of licensing previously submitted to the Ordinance Officer.

(2) Failure of the permittee to maintain, during the permit year, the policies of insurance required under the provisions of this article.

(3) If the permittee violates any of the terms or provisions of the Uniform Construction Code or any terms or provisions of this article.

(4) If the permittee violates any condition or requirement of a building permit, sewer construction permit or highway permit issued by the Borough.

(5) If the permittee willfully deviates from or disregards any plans or specifications for any contracting job in any substantial respect without first obtaining the consent of the owner, in writing, to any such change and without first notifying the Ordinance Enforcement Officer of any such change.

(6) If the permittee does any business through any person who is subject to the licensing requirements of this article and who is not licensed as required by this article.

(7) If the permittee conducts a contractor's business in the Borough under any name other than that under which he is licensed.

(8) If the permittee fails to comply with an order, demand or requirement lawfully made by the Ordinance Enforcement Officer under the authority of this article or any other Borough ordinance.

B. The Borough of Wyalusing, by virtue of granting a permit to this contractor, does not warrant or make any representation regarding the quality of any of the

workmanship performed by said contractor. The Borough does not assume any liability for the quality of this contractor's workmanship or lack thereof. The purpose of this licensing requirement is to guarantee that the contractor has adequate insurance and has not been convicted of any prior fraudulent activities. Furthermore, the Borough will not be held liable for any failure on its part to investigate any of the facts that may be falsely stated in any application presented by any contractor receiving a permit by the Borough.

§13. UNLAWFUL ACTS.

In addition to all other acts prohibited by the terms of this article, those acts warranting revocation of a permit under § 12 shall also be prohibited acts and subject the violators to the fine under §14.

§14. VIOLATIONS AND PENALTIES.

In addition to refusal or revocation of a permit as provided under this article, any person, as defined in this article, or any officer, agency, servant or employee thereof who shall fail, neglect or refuse to comply with any of the terms or provisions of this article shall, upon conviction thereof before a District Justice, be sentenced to pay a fine or penalty not exceeding \$600 and costs of prosecution for each offense, to be collected as like fines or penalties and costs are now by law collectible. The fine or penalty imposed by this section shall be in addition to any other penalty imposed by this article.

THIS ORDINANCE shall take effect immediately upon adoption.