

**RESOLUTION NO. 2017-03**

**A RESOLUTION ADOPTING THE 2017 SEWARD COUNTY, KANSAS  
CONTRACTOR LICENSING CODE AND REPEALING THE PROVISIONS OF  
RESOLUTION 2007-05**

**BEFORE** the Board of County Commissioners, Seward County, Kansas:

**WHEREAS**, Seward County, Kansas is a county municipal government with the power of home rule pursuant to K.S.A 19-101 and 19-101a, and the Board of County Commissioners of Seward County, Kansas is the governing body of said county; and

**WHEREAS**, K.S.A. § 12-1510, 12-1527, 12-1543, and 12-1558 authorize the Board of County Commissioners to adopt and enforce such codes, standards, and regulations as the Board deems appropriate for the regulations of plumbers, electricians, mechanical heating, ventilation and air conditioning (HVAC) contractors, general contractors, building contractors and residential contractors; and

**WHEREAS**, the Contractor Licensing Code adopted by Resolution 2007-05 was in need of updates; and

**WHEREAS**, the Planning Commission has made a recommendation to approve the 2017 Seward County, Kansas Contractor Licensing Code as required by the existing code;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEWARD COUNTY, KANSAS, that:**

Resolution 2007-05 is hereby repealed and the Seward County Contractor Licensing Code shall read as follows:

**Seward County, Kansas  
Contractor Licensing Code  
2017**

- Section 1 - Title, Authority and Purpose**
- Section 2 - Jurisdiction**
- Section 3 - Definitions**
- Section 4 - Classifications of Contractor Licenses**
- Section 5 - Certificates of Competency**
- Section 6 - Licensing Requirements**
- Section 7 - Responsibilities, Restrictions and Exclusions**
- Section 8 - Permits and Building Codes**
- Section 9 - Violations and Penalties**
- Section 10 - Amendments and Severability**

**Section 1 – Title, Authority and Purpose**

**Title**

This code shall hereafter be referred to as the “Seward County, Kansas Contractor Licensing Code” or within this document as “this code”.

## **Authority**

Kansas Statutes Annotated (KSA) Chapter 12, Article 15 authorizes the Board of County Commissioners to adopt and enforce such codes, standards, and regulations as the Board deems appropriate for the regulation of contractors. (12-1510, 12-1527, 12-1543 and 12-1558)

## **Purpose**

The purpose of this code is to safeguard life, health, and property and to promote the safety and welfare of the public by ensuring that persons practicing in the various construction fields responsible for the construction, installation, alteration, repair or demolition of structures and their components in Seward County are qualified to perform such services.

It is further the intent to permit owners of single-family residential properties, without special qualification, to obtain permits and perform any work on residential structures that they personally own and occupy without meeting the requirements of contractor.

## **Section 2 – Jurisdiction**

This code shall apply to and be enforced in all unincorporated areas of Seward County, Kansas and any participating municipalities, as well as all incorporated areas not already covered under an incorporated city's requirements.

## **Section 3 - Definitions**

Terms not defined herein shall have ordinarily accepted meanings such as the context implies. For the purpose of this code, the following words, terms and phrases shall mean:

**Administrator:** the County Administrator of Seward County, Kansas

**Apprentice or helper:** an individual that helps master and/or journeyman tradesmen in the performance of their work and only in the presence of such master or journeyman.

**Building official:** the building inspector of the county, or his/her duly authorized representative.

**Contractor:** any individual or company (corporation, limited liability company, joint venture or other legal entity or enterprise) that undertakes to provide materials or labor to perform a service or job with or for another, with or without compensation, either individually, by subcontracting, by employment or by supervision of others. Also, any individual or company performing any improvement which requires a building permit. This includes but is not limited to the following: construct, erect, install, maintain, alter, repair, remodel, add to, subtract from, demolish or improve any structure or any portion thereof, or install, alter, repair or replace electrical, plumbing or mechanical equipment or services, or install flat concrete or any other specialized portion of construction.

**Fee Schedule:** the fee schedule adopted by the governing body, usually updated annually.

**Governing Body:** the Board of County Commissioners of Seward County, Kansas.

**Journeyman:** a person who possesses technical knowledge, qualifications, certification, manual skills and experience to perform installation, repair and maintenance in the electrical, plumbing, heating, air conditioning, refrigeration, and ductwork or sheet metal trades while employed by and under the supervision of a master contractor of that trade and has a valid Journeyman Certificate of Competency.

**Licensing administrator:** the Seward County Zoning Administrator, building official or his/her designee.

**Licensed contractor:** an individual or business entity (individual sole proprietorship, partnership, company, corporation, limited liability company, joint venture, business trust or other legal entity) approved and authorized by the licensing administrator to conduct business within an indicated scope of work, after satisfying the requirements of this Code, and that holds a current Seward County contractor license.

**Master:** a person who possesses technical knowledge, qualifications, certification, manual skills and experience to properly lay out, plan and serve the public on the installation, repair and maintenance in the designated electrical, plumbing, heating, air conditioning, refrigeration, and ductwork or sheet metal trades, meets all the requirements for and has a valid Master Certificate of Competency.

**Owner/Occupant:** the individual(s) on file with the Seward County Appraiser's Office as the current owner of a parcel when the individual also resides in the residential structure on that parcel. In the case of more than one residence on a parcel, an individual shall be recognized as the owner/occupant of only one. This can also mean individuals on file as property owners of vacant land on which they are constructing a new residence that they intend to own and occupy as their primary residence commencing at the issuance of a Certificate of Occupancy.

**Permitting Authority:** the Seward County Zoning Administrator, building official or his/her designee.

**Provisional Contractor:** a contractor that does not meet the requirements to receive a Certificate of Competency (has not provided proof of passage of an accepted exam or proof of experience), but has obtained a license prior to adoption of this code. Also referred to as "Grandfathered".

**Qualified agent:** an individual who possesses a current Certificate of Competency as a Master Electrician, Master Mechanic, Master Plumber, General Contractor, Building Contractor or Residential Contractor.

#### **Section 4 - Classifications of Contractor Licenses (descriptions)**

Class A General Contractor: A Class A license shall entitle the holder thereof to build, remodel, repair, move or demolish any structure (residential, commercial, industrial) without limitation of use, type of construction, height or area.

Class B Building Contractor: A Class B license shall entitle the holder thereof to build, remodel, repair, move or demolish any residential or commercial structure not exceeding three (3) stories in height.

Class C Residential Contractor: A Class C license shall entitle the holder thereof to build, remodel, repair, move or demolish single family or duplex residences and buildings accessory thereto.

Class A, B & C licenses **shall not** entitle the license holder to perform electrical, mechanical (HVAC) or plumbing work.

Electrical Contractor: An Electrical Contractor License shall entitle the holder thereof to install, alter, maintain, repair, or replace electrical systems and system components in any structure.

Plumbing Contractor with gas: A Plumbing Contractor License shall entitle the holder thereof to install, alter, maintain, repair, or replace any plumbing and gas systems and system components in any structure.

Mechanical Contractor: A Mechanical Contractor License shall entitle the holder thereof to install, alter, maintain, repair, or replace any mechanical HVAC systems or system components in any structure.

Limited License: A Limited License shall entitle the holder thereof to complete **only** the specific type of work for which the license is issued. Contractors shall be issued limited licenses in no more than two (2) disciplines (Sanitation licenses excepted).

- **Demolition**: removal of buildings and structures
- **Carpentry**: wood framing
- **Communication Tower Contractor**: install/assemble pre-engineered towers
- **Fire Extinguishing Systems**: in accordance with the Kansas Fire Marshal
- **Fire Alarm & Sprinkler systems**: in accordance with the Kansas Fire Marshal
- **Manufactured Housing Installer**: in accordance with State of Kansas regulations
- **Masonry**: install masonry units as structural elements or as decorative elements
- **Millwright**: install machinery and equipment in commercial and industrial settings
- **Pole structure**: erect and apply metal skin to pole framed structures only when said structures are not used or intended to be used for residential occupancy or commercial purposes
- **Remodeling Contractor**: install non-structural interior partitions, wall finish, and minor repairs to existing structures
- **Roofing Contractor**: install new or replacement roofing material, or roofing related services including renovation, maintenance, alteration or waterproofing
- **Sanitary Disposal Contractor (Waste water hauler)**: in accordance with Seward County Sanitation Code
- **Septic System Installer**: in accordance with Seward County Sanitation Code
- **Siding, Windows and Doors**: install new or replacement siding, windows and doors, this shall not include framing of new window or door openings
- **Sign Installer**: install signs in accordance with all applicable codes; electrical signs require a separate licensed electrical contractor to complete electrical work
- **Structural Concrete Contractor**: complete concrete work, including formwork, placement of steel reinforcement, batching, mixing, delivering, placing, finishing and curing; including but is not limited to installation, repair and replacement of footings, stem-walls, foundations and flat concrete such as driveways, sidewalks and patios
- **Swimming Pool Contractor**: install outdoor or indoor swimming pools
- **Water Conditioner Contractor**: install, maintain and repair water conditioning equipment and water treatment units
- **Water Well Drilling Contractors**: in accordance with State of Kansas requirements and Seward County Sanitation Code requirements
- **Limited "Other" Contractor**: An applicant may apply for a Limited "other" license when the applicant chooses to specialize in work that does not meet a specified classification or description, herein, at the determination of the licensing administrator

## **Section 5 – Certificates of Competency**

All trade Journeymen and Masters working in Seward County shall obtain a Certificate of Competency from Seward County or shall provide a Certificate of Competency issued by another Kansas jurisdiction annually. Seward County Certificates of Competency shall be obtained by providing the required documentation and paying a fee. The fee shall be as prescribed in the fee schedule. A current Certificate of Competency from another Kansas jurisdiction shall be accepted as long as it was issued following the same requirements and bears a distinctive notation identifying the testing agency and the specific test by name and bears verification of completion of required continuing education. There must also be an indication from the issuing jurisdiction that the years of required experience and education were verified prior to issuance of the Certificate of Competency.

Trade apprentices may be registered by their employer with Seward County annually in order to assist with tracking years of experience. The fee shall be as prescribed in the fee schedule.

The licensing administrator shall issue Certificates of Competency to qualified applicants for the following: General Contractor, Building Contractor, Residential Contractor, Journeyman Electrician, Journeyman Mechanic, Journeyman Plumber with gas, Master Electrician, Master Mechanic and Master Plumber with gas. Requirements for issuance of a certificate, in accordance with Kansas Statutes Annotated, are as follows:

- All certificates require proof of passage of standard examinations with a minimum score of 75%. Standard Examinations for the determination of competency include: International Conference of Building Officials (ICBO), Block and Associates, International Code Council (ICC), International Association of Plumbing and Mechanical Officials (IAPMO) and Prometric (a current subsidiary of educational testing services in effect on July 1, 2008), or other such exam as may be designated by Kansas Statutes Annotated Chapter 12 Article 15, as amended.
- Journeyman Electrical, Mechanical, and Plumbing certificates require verified valid documented proof that the applicant has a minimum of two years field experience. "Field experience" means working under the direct supervision of a person having a valid journeyman certificate or master certificate or attending trade related schooling. No more than one year of the requirement may be satisfied by trade related schooling. Schooling shall consist of a minimum of 930 program hours documented by a certificate of completion.
- Master Electrical Certificates require proof of having a valid Journeyman Certificate for a minimum of two years.
- Master Mechanical and Plumbing Certificates require proof of having a valid journeyman certificate for a minimum of two years or having field experience for a minimum of four years.
- Journeyman and Master Certificates require proof of completion of not less than 12 hours biennially or six hours annually of approved continuing education. Not less than six hours biennially or three hours annually shall consist of code education. All CEUs for the current year's certificate shall be obtained by December 31 of the previous year (*example: to obtain certificate for 2017, documentation of six hours of CEUs earned in 2016, or 12 hours earned in 2015-2016, must be provided*).

- CEUs shall be used for one certificate only (*example: individuals with both a plumbing and mechanical certificate must have a total of 12 hours of continuing education to renew both certificates*).
- Payment of fee as prescribed by the fee schedule.

## **Section 6 - Licensing Requirements**

The licensing administrator shall issue contractor licenses for the classes of contractors specified by this code upon receipt of an application, verification of required credentials/qualifications of applicants, receipt of a valid Certificate of Liability Insurance, and payment of fees as prescribed in the fee schedule.

If a license is denied, applicant may appeal to the governing body following the hearing procedure listed in this code.

### **Application:**

- **Qualified Agent:** Each application must list a qualified agent. A Business Organization may obtain a contractor license in the organization's name provided that such organization has, in its regular employ, a qualified agent under this Code. Every individual by obtaining a building permit in the name of such organization shall certify that such qualified agent is the employee or principal of such business organization. Each qualified agent shall represent no more than one business organization at one time. Penalty for departure of the qualified agent or disassociation with the entity shall result in all licenses and permits being rendered null and void 30 days after official notice from the licensing administrator unless another person associated with the entity becomes qualified within that period of time.
- **Established place of business:** Every contractor who applies for and receives a license as set forth in this code shall have and maintain an established place of business at a definite address and telephone number, and shall keep this information current and on file with the licensing administrator. If said place of business is located in Seward County, the place of business shall comply with all rules and regulations of Seward County. Contractors holding an unexpired license shall be responsible for notifying the licensing administrator of any changes of address or phone contact information.

**Certificate of Competency:** The qualified agent for an Electrical, Mechanical or Plumbing Contractor License shall provide a Master Certificate of Competency in the appropriate discipline. The qualified agent for a General, Building or Residential Contractor License shall provide a Certificate of Competency for the requested class of license.

Disciplines that are required to have a State of Kansas License or Registration shall provide a copy of a current state license or registration.

**Insurance:** All contractors must provide a current, valid Certificate of Liability Insurance with Seward County as the certificate holder showing coverage in an amount not less than \$1,000,000.00 per occurrence for general, building and residential contractors and trades, and not less than \$500,000.00 for limited contractors.

When insurance coverage expires, the license shall be considered invalid and the contractor shall not be entitled to new permits or inspections on any open permits until a current certificate of insurance as required by this code has been submitted.

### **License fees:**

**All fees shall be designated on the Seward County Fee Schedule adopted by the Governing Body.**

An application fee along with the annual licensing fee as set forth in the fee schedule shall accompany each application. Contractor licenses are issued on a calendar year basis and expire December 31. Application and license fees shall not be prorated.

**Renewals:** License renewal fees shall be due on the first day of January. The licensing administrator shall accept license renewals beginning December 1. License renewals completed by January 31 of the year following license expiration shall only require the annual licensing fee. Renewals completed after January 31 but before March 31 of the year following license expiration shall require the annual licensing fee and a late renewal fee. Licenses renewed after March 31 shall be considered a new license requiring a new application, and payment of the application fee along with the annual licensing fee. Business name change, organizational change or change of the qualified agent shall require a new application.

**Reciprocal License fees:** Contractors meeting all the application requirements of this code that provide a copy of a City of Liberal, Kansas Contractor's License for the same discipline and the same calendar year as the license applied for are eligible to pay a discounted fee for a Seward County License. This license fee, designated the "reciprocal license fee", shall be set forth on the fee schedule. **This is a reduced license fee only. A City of Liberal license is not a substitute for any of the licensing requirements of this code.**

**Reinstatement of Licenses:** Contractors that have had a license suspended or revoked shall pay a reinstatement fee upon re-application following expiration of the suspension or revocation.

**Provisional License:** Those contractors that do not qualify for a required certificate of competency, but who have been continuously licensed with Seward County for at least four years prior to the adoption of this licensing code shall continue to be issued a **provisional contractor license** annually for the same trade without requiring the individual to pass a certification exam. Should their license lapse for the period of 90 days, they shall be required to meet the current licensing requirements to obtain a license. This shall not negate the requirements for fees, insurance and continuing education.

## **Section 7 – Responsibilities, Restrictions and Exclusions**

### **Contractor Responsibilities:**

Contractors shall be responsible for obtaining all required permits, ensuring all subcontractors are licensed with Seward County and have obtained required permits, and scheduling all required inspections with the building official.

Contractors shall be responsible for all work undertaken pursuant to permits issued to them, for supervising all employees/agents and for ensuring proper and competent performance of all employees/agents working under his or her supervision. Contractors shall be responsible for having qualified persons performing all work authorized by issued permits.

Contractors shall ensure apprentices/helpers do not perform work unless in the presence of a qualified Journeyman or Master.

Contractors shall maintain required insurance coverage.

### **Restrictions:**

A contractor's license is not transferable.

A contractor may only engage in the scope of work covered by the license issued.

Contractors shall only obtain permits for work that they will be undertaking and shall not obtain permits for others (no license “selling”).

A contractor shall comply with all applicable state and local laws regulating the construction industry.

A contractor shall not commence or perform work or proceed on any construction job for which a permit is required without first obtaining the appropriate permits except for emergency repairs.

A contractor shall not cover or otherwise make unapproved work inaccessible to the building official.

**Exclusions:**

The following are exempt from obtaining **contractor’s licenses**:

1. Owner/occupant when completing work on their primary residence. This also includes customary accessory structures. The owner/occupant must complete the work himself or herself.
  - a. This subsection **does not exempt** any person who is employed by or has a contract with the owner and is acting in the capacity of a contractor.
  - b. The owner may not delegate the owner's responsibility to complete all work to any other person unless that person is a licensed contractor as required by this Code, the work being performed is within the scope of that contractor's license and that contractor has obtained a permit.
  - c. To qualify for exemption under this subsection, an owner must personally appear, sign the building permit application and complete the required disclosure statement.
  - d. The owner/occupant is responsible for obtaining required permits, paying the standard permitting fees, complying with the requirements of all applicable codes as to the quality of the work, and scheduling all inspections as required.
  - e. Owner/occupants may only obtain building permits to construct or substantially improve one residence at any one time and additional owner/occupant permits shall not be approved until at least three years have passed since issuance of a certificate of occupancy for a previously issued owner/occupant permit (this does not limit accessory structures).
  - f. Property held by entities other than individuals (such as companies, corporations, limited liability companies, etc.) does not qualify for an owner/occupant permit.
2. Any entity when construction, alteration, improvement, or repair is carried on within the limits of property titled to the United States or to the State of Kansas.
3. Any entity responsible only for the sale or installation of any finished products, materials, or articles or merchandise which are not fabricated into and do not become a permanent fixed part of the structure, except for spas, hot tubs and swimming pools with water capacity depth over twenty-four (24) inches.
4. Any entity when work is performed by or on behalf of public utility companies, including telecommunication companies including construction, maintenance, and development work on bridges, roads, streets, highways, or railroads, which is incidental to the primary business



of the utility company.

These exemptions do not relieve any contractor from complying with disciplinary or permitting requirements, or any requirements of the Building Codes and the Zoning Regulations or any other construction, development or floodplain regulations.

## **Section 8 - Permits and Building Codes**

Permits are required for any construction activity including but not limited to new construction, remodels, additions, alterations, repairs, relocations, reroofs, replacement of siding and windows, additions, repairs or changes to electrical, gas, mechanical or plumbing systems, and demolition of structures done within this jurisdiction. Building permits may be issued to licensed contractors for work within the scope of their licensure and to owner/occupants for work they will complete themselves on their primary residence. Contractor License holders shall designate those authorized agents that may obtain permits under their license. Plans for the project shall be submitted with the permit application to the permitting authority and must be approved prior to issuance of a permit. All work shall comply with the approved plans and with the currently adopted construction codes and shall be inspected and approved by the building official. Permits **shall not** be issued to any contractor whose license has been suspended or revoked by action of the county administrator or governing body.

Any owner or contractor who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure must obtain a permit prior to commencing work for other than emergency repairs. Any owner or contractor who intends to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system must obtain a permit prior to commencing work unless an emergency situation exists.

In the event of emergency repairs, application for the required permits shall be made within the next working business day. Work completed shall be made accessible for inspection.

All work performed shall comply with the currently adopted construction codes and must be inspected for compliance.

Separate Floodplain Development permits are required for any work performed in a mapped flood hazard area in Seward County.

## **Section 9 - Violations and Penalties**

**Violations:** Any individual, business entity, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of this Code as adopted herein and amended hereafter shall be subject to the penalties and remedies provided for in this code. Each day that a violation continues may be deemed a separate offense.

**Violations Enumerated:** Penalties provided in this code may be imposed on contractors, owner/occupants or other individuals or entities that commit any violation of this code. Any of the following shall be deemed violation of this code and subject the violator to the penalties and fines allowed by this code and any other applicable codes or regulations.

- Acting or working as a contractor within this jurisdiction without a current, valid contractor's license issued by the licensing administrator.
- Submitting false information or misrepresentation of a material fact in obtaining a certificate of competency, license or permit.

- Failure to obtain required licenses, permits and inspections, including payment of applicable fees.
- Failure to maintain insurance as required.
- Failure to comply with any lawful order of the building official, licensing administrator or permitting authority.
- Exceeding the scope of work for which the contractor is licensed.
- Failure to correct any violation upon notification of such violation by the building official.
- Commencing or performing work or proceeding on any construction job for which a building permit is required without obtaining the appropriate permits in advance and without obtaining all code required inspection approvals before proceeding or covering unapproved work, except for emergency repairs.
- Failure to obtain required permits and inspections for emergency repairs during the next working business day or failing to provide access for inspections of work that was completed as an emergency repair.
- Occupying or allow occupancy of a structure prior to issuance of a certificate of occupancy.
- Fraudulent or deceitful use of license to obtain permit for another.
- Obtaining a permit as an owner/occupant through fraud, misrepresentation or false statement. Proof of the sale/lease or the offering for sale/lease of any such structure by the owner/occupant within one (1) year after completion of work for which an owner/occupant permit was obtained (as determined by the date of issuance of a Certificate of Occupancy) shall constitute prima facie evidence that the construction was undertaken for purpose of sale/lease, in violation of this Code.
- Performing work under a permit issued to an owner/occupant when not the owner/occupant.
- Willful or repeated violations of ordinances, resolutions or building and construction codes.
- Displaying an inability to perform that work for which such contractor is licensed.
- Presenting the contractor's license of another as his or her own.
- Operating a business organization engaged in contracting without a licensed qualified agent or without notifying the licensing authority of a change in qualified agent.
- Knowingly departing from or disregarding plans, specifications or permits regarding state or local building codes, structural elements, fire/life safety, or health codes, without consent of the owner and proper county approved revision of all permit documents.
- Exceeding or changing the work permitted without first obtaining approval of the plan revisions from the permitting authority and paying any additional fees due.
- Committing any willful, careless, reckless or fraudulent act as a contractor or subcontractor causing financial injury, or safety or health threat to another.
- Aiding or abetting unlicensed contracting activities or assisting any business organization in evading any provision of this Code, or any other contracting or building code regulation.

- Committing fraud or deceit or other misconduct in the practice of contracting; including failure or refusal to correct serious construction defects after notice is given by the county building official.
- Failure to comply with or violation of any provisions of this Code, any applicable building safety code, or any other lawful order of the building official, licensing administrator or permitting authority.
- Failure to exercise regular, routine control and supervision over a construction project for which the contractor has obtained a permit.
- Failure to timely obtain a Certificate of Occupancy for a structure as required by applicable building or safety codes.
- Failure to prevent any unlicensed contractors or unsupervised employees of a licensed contractor to work when licenses are required by this code to perform work on a job site for which the contractor obtained a permit.

**Penalties:** A violation of this code shall be deemed a Class B misdemeanor and punishable by a fine not to exceed five hundred dollars (\$500.00) and/or imprisonment for not more than six (6) months for each offense. Each day such violation exists shall constitute a separate offense. Any person violating this code may be subject to fines including owner/occupant, contractor, or other individuals performing unauthorized work. Additional contractor discipline, as listed below, may also be administered.

**Complaints:** Any person may file a written complaint regarding contractor violations with the building official. Consumer complaints relating to the quality of materials, workmanship, untimely construction, contract disputes and similar issues are beyond the jurisdiction of the county. No complaint shall be considered by the county unless it is in reference to the violations listed in this code.

#### **Contractor Discipline:**

**Administrator:** The administrator may suspend the license of any contractor for a period not to exceed 30 days at any one time upon the administrator's own motion for cause or upon a complaint by the building official for cause. Cause for suspension or revocation is any violation of this code or any other relevant code, ordinance or resolution in effect. The administrator or designee shall give the contractor written notice of a hearing time for review of the complaint or the matter alleged against such contractor involving the violation. Immediate notification of suspension shall be provided to the contractor with written notification provided within three (3) business days. The administrator may forward the case to the governing body with a recommendation for additional suspension or for revocation of a license.

- **Appeal:** A contractor may appeal any decision of the administrator to the governing body by filing a notice of appeal with the governing body within fifteen (15) days of the decision. The fifteen (15) day appeal period shall commence three (3) days after the date the written decision is mailed to the contractor. The county administrator shall forward the decision to the governing body together with the summary of the meeting. Upon such appeal, the governing body may immediately terminate the suspension, or may continue such suspension, increase the length of the suspension or revoke the contractor's license. The decision of the governing body shall be final.

**Governing Body:** Before any contractor's license is suspended for more than 30 days or revoked, a hearing shall be held by the Governing Body. The affected contractor shall receive notice of the hearing not less than ten (10) days in advance. Although this is an informal hearing outside the procedures of the Kansas Administrative Procedure Act, said contractor may be represented by counsel and may question any and all witnesses. The Governing Body may suspend or revoke a contractor's license if they conclude, following a hearing, that the contractor is guilty of a prohibited act or has violated any provisions of this code, any applicable building safety codes or construction codes, or any lawful order of the building official, permitting authority or licensing administrator.

Upon finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of this code, the Governing Body may admonish, reprimand, or take appropriate disciplinary action against such contractor including but not limited to:

- a) Suspension of the contractor's license for a fixed period not to exceed ninety (90) days;
- b) Suspension of the contractor's license for a fixed period exceeding ninety (90) days; provided, however, the contractor shall have the right to have the suspension reconsidered by the governing body at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension. At the governing body's option, such reconsideration may include a hearing.
- c) Revocation of the contractor's license for a period of not less than twelve (12) months. A contractor's license shall be revoked if the contractor's license has been suspended three (3) times during any 36-month period. Contractors will have to reapply for a license and pay required fees (including reinstatement fee) following revocation.

Following revocation of any license, the contractor shall not be eligible for any new license during the revocation period and shall not be eligible to be the qualified agent for any entity for a period of six months thereafter. Any paid fees are non-refundable.

It shall be unlawful to engage in the occupation or trade of contractor during the time any license of such contractor has been suspended or revoked.

- **Hearings:** All contested matters pertaining to the approval, issuance, suspension, revocation, renewal and reinstatement of licenses, including examinations, shall be heard by the governing body. The hearing shall be informal but witnesses shall testify under oath and the governing body shall render a written decision setting forth the relevant findings and conclusions for any action taken. The Chairman or the Chairman's designee shall preside over the hearing.
- **Hearing Procedure:** A hearing shall be held before the governing body after not less than ten (10) days notice to the contractor and to the complainant setting the hearing date, time and place and stating in general terms the nature of the complaint. The written complaint, including any supporting material or documents, shall be provided to the contractor prior to or at the hearing. The burden of proof shall be on the complainant to show, by a preponderance of the evidence presented, that the allegations set forth in the complaint are true. If the complainant, or a representative of the complainant, fails to appear at the scheduled hearing, the governing body may nonetheless proceed with the hearing. For good cause shown the governing body may grant a continuance, hold a hearing open, allow

additions to the record after the hearing has concluded or take other action in the interest of justice.

**Safe Harbor Provision:** A contractor shall not be found in violation of this code, nor be disciplined by the administrator or governing body, for a violation of an applicable building or safety code provision if the contractor provides substantial and compelling evidence that the violation occurred as the result of the contractor's good faith compliance with the building plans and specifications prepared or approved by an architect or engineer licensed by the State of Kansas.

**Section 10 – Amendments and Severability:**

**Amendments**

The governing body, at any regular or special meeting, may amend this Code by a majority vote of those present at such meeting. A Resolution shall be adopted amending the code and shall be published.

**Severability**

It is the intention of the governing body that this code, and any sections, paragraphs, sentences, clauses and phrases contained herein, are to be severable. Should any part of this code be declared unconstitutional or otherwise ruled to be invalid by any court of competent jurisdiction in a valid judgment or decree such decision or ruling shall not affect the validity of this code as a whole or any part other than the specific part declared to be unconstitutional or ruled to be invalid.

The provisions contained in this resolution will become effective on February 1, 2017 upon adoption by the Board of County Commissioners and publication of the adopting resolution once in the official county newspaper.

**ADOPTED BY THE BOARD OF COUNTY COMMISISONERS OF SEWARD COUNTY, KANSAS** this 17<sup>th</sup> day of January, 2017.

\_\_\_\_\_  
Nathan McCaffrey

\_\_\_\_\_  
Randy Malin

\_\_\_\_\_  
Jack Jacob

\_\_\_\_\_  
Ada Linenbroker

\_\_\_\_\_  
C.J. Wettstein

(seal)

**ATTEST:**

\_\_\_\_\_  
Stacia Long, County Clerk