

**ORDINANCE NO. 3
SERIES OF 2011**

AN ORDINANCE REPEALING AND RE-ENACTING CHAPTER 7, CONTRACTOR, REGISTRATION, TITLE 4, BUSINESS LICENSE AND REGISTRATION, VAIL TOWN CODE, AND SETTING FORTH DETAILS IN REGARD THERETO.

WHEREAS, the Town of Vail, in the County of Eagle and State of Colorado (the "Town"), is a home rule Town duly existing under the Constitution and laws of the State of Colorado and its home rule charter (the "Charter"),

WHEREAS, the members of the Town Council of the Town (the "Council") have been duly elected and qualified,

WHEREAS, the provisions of Chapter 4-7, Contractors, Registration, Vail Town Code, were adopted in 1977 and last updated in 1978; more than 33 years ago,

WHEREAS, the Community Development Department is charged with administering the provisions of the Chapter 4-7, Contractors, Registration, Vail Town Code,

WHEREAS, the intent of these existing regulations is for the Building Official to evaluate every contractor wanting to do construction work in the Town and only issue a contractor's license to those persons who are "qualified by training or experience and is financially responsible to fulfill the obligations of a contractor",

WHEREAS, in practice, the Building Official does not administer a written test or otherwise objectively evaluate a contractor's qualifications based upon training or experience,

WHEREAS, the current statutory process for registering contractors is outdated, time-consuming and costly and has room for improvements,

WHEREAS, improvements to the process of registering contractors can be improved such that the original intent of the regulations can be maintained and advanced yet the amount of time and cost associated with the process to the contractor and Town can be reduced, and

WHEREAS, the Vail Town Council finds it in the interest of the public health, safety, and welfare to adopt these amendments to the Vail Town Code.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL, COLORADO, THAT:

SECTION 1. Chapter 7, Contractors, Registration, Business License and Registration, Vail Town Code, is hereby repealed and re-enacted as follows:

4-7-1: DEFINITIONS:

For the purposes of this Chapter, the words and phrases contained in this Section are defined as follows:

BOARD: The Board of Appeals as defined in the International Building Code, as adopted by the Town.

BUILDING CODE: Includes the International Building Code, International Residential Code, International Fire Code, International Mechanical Code, International Plumbing Code, International Fuel Gas Code, International Energy Conservation Code, International Performance Code, Uniform Code for the Abatement of Dangerous Buildings, and the National Electrical Code, as adopted by the Town.

BUILDING OFFICIAL: The Building Official as defined in the Building Code, as adopted by the Town, or his/her designee.

PERMIT: A permit, as prescribed in the Building Code and Town ordinances, granting approval to do construction work in the Town.

CONSTRUCTION WORK: Activity including, but not limited to, new construction, additions, repairs, alterations, installations, demolition, removal, conversions, replacements, or renovations of any building or structure, or excavation that requires a permit.

CONTRACTOR: Any person, firm, partnership, corporation, association, or other organization who undertakes, or offers to undertake for another, construction work. For the purposes of this Chapter, a contractor may be a general contractor, plumbing contractor, electrical contractor, excavation contractor, fire protection contractor, or a subcontractor.

PERSON: An individual, corporation, business, trust, estate, business trust, partnership, or association, or any other legal entity.

REGISTRATION: Issued by the Town in accordance with the provisions of this Chapter.

PUBLIC WAY PERMIT: Such permit as is prescribed by Title 8, Chapter 1 of this Code.

TOWN: Town of Vail, Colorado.

4-7-2: CONTRACTOR REGISTRATION:

A. Registration Required: All contractors shall be registered under the terms and provisions of this Chapter, prior to undertaking any construction work or contract and/or applying for any type of permit required by applicable State statutes or Town ordinances.

B. Exemption to Registration: Any person may make application for a building permit to do such person's own construction work on any dwelling unit that such person occupies whether owned by him/her or leased, without being registered when such work is limited to minor alterations, maintenance, and decorating, providing such work does not alter or affect the structural integrity of the building.

C. Registration is Not a License or Certification: The registration of a contractor by the Town neither expresses nor implies any level of qualification, competency, licensing, certification or other assessment of the contractor's ability to complete contracted work.

4-7-3: ISSUANCE:

A. Forms: Registration forms shall be available at the Community Development Department office.

B. Registration Information: Registration information shall consist of the business name, name of the principal party/business owner, current mailing address, electronic mail address, and telephone number. Electrical and plumbing contractors shall provide their current registration number with the State of Colorado Department of Regulatory Agencies, Division of Registrations. Fire protection contractors shall provide their Vail Fire and Emergency Services contractor registration number.

4-7-4: FEE SCHEDULE:

The registration fees applicable to the registrations enumerated in this Chapter shall be as adopted by the Town Council annually and shall be set forth on the schedule of fees maintained in the Community Development Department office.

4-7-5: PERIOD OF VALIDITY:

The registration of a contractor shall be valid for a maximum of three years and shall expire on April 30th of the expiration year.

4-7-6: PROOF OF REGISTRATION

All contractors shall provide proof of registration upon request by the Building Official.

4-7-7: INSURANCE

A. Insurance Required: All contractors shall maintain proof of insurance under the terms and provisions of this Chapter while applying for a permit or undertaking construction work.

B. Insurance Types and Amounts: Every contractor granted registration under the provisions of this Chapter shall maintain the following minimum types and amounts of insurance:

1. Employee liability.

2. Worker's compensation.

3. Public liability with the following limits:

- a. Option 1: one million dollars (\$1,000,000.00) in the aggregate, for bodily injury and one million dollars (\$1,000,000.00) in the aggregate, for property damage.

- b. Option 2: combined single limit of one million dollars (\$1,000,000.00).

C. Excavation Contractors: Excavation contractors shall to have at least twenty five thousand dollars (\$25,000.00) worth of "XCU" (explosion, collapse, underground)

insurance in addition to the required general liability and worker's compensation insurance.

4-7-8: PROOF OF INSURANCE:

All contractors shall provide proof of insurance upon request by the Building Official.

4-7-9: CONTRACTOR RESPONSIBILITY:

A contractor shall be responsible for all construction work included in the permit or undertaking whether or not such work is done by such person directly or by a subcontractor.

4-7-10: VIOLATION AND PENALTY:

A. Violation: It is a violation of this Chapter for any person to violate any provision or to fail to comply with any of the requirements of this Chapter and to commit any of the following acts:

1. Applying for permits or undertaking construction work without a valid registration when required.
2. Failure to provide proof of registration upon request by the Building Official.
3. Fraudulent use of a registration to obtain permits for another person, firm, or corporation.
4. Applying for permits or undertaking construction work not entitled under one's respective registration.
5. Failure to obtain a permit for construction work when required.
6. Failure to obtain inspections for construction work when required.
7. Failure to maintain proof of insurance as required by this Chapter while applying for permits or undertaking construction work.
8. Failure to provide proof of insurance upon request by the Building Official.
9. Failure to maintain construction site grounds and structures in a clean and safe manner, or causing damage to property adjoining the construction site.
10. Any violation of Town ordinances or codes governing construction work.

B. Construction Work without a Valid Registration: If the Building Official determines that a person has undertaken construction work without a valid registration as required by this Chapter, said person must register as a contractor and shall pay a fine in an amount equivalent to two times the adopted registration fee.

C. Revocation or Suspension of Registration; Nullification of Permits: If the Building Official determines that a person has acted in violation of the provisions of this

Chapter the Building Official shall waive, for good cause shown, any penalty; issue a warning; revoke or suspend the registration of said person for whatever time it deems reasonable; and/or nullify any associated permits filed in degradation of this Chapter.

D. Remedies Not Exclusive: In addition to the remedies expressly provided by this chapter, the Town may pursue any other remedies available at law or in equity.

E. Other Penalty: In addition to any other penalty provided in this chapter, any person who violates any provision of this chapter shall be subject penalty as provided in Section 1-4-1, General Penalty, of this Code.

4-7-11: APPEALS:

A. Appeal of Building Official Actions:

1. Authority: The Board of Appeals shall have the authority to hear and decide appeals from any order, decision, determination or interpretation by the Building Official with respect to the provisions of this Chapter.

2. Initiation: An appeal may be initiated by any resident, property owner, or contractor adversely affected by any order, decision, determination or interpretation by the Building Official with respect to the provisions this Chapter. The Town Council may also call up a decision of the Building Official by a majority vote of those town council members present.

3. Procedures: A written notice of appeal must be filed with the Community Development Department within twenty (20) calendar days of Building Official's decision. If the last day for filing an appeal falls on a Saturday, Sunday, or a town observed holiday, the last day for filing an appeal shall be extended to the next business day. In the event of an appeal, the Board of Appeals, after receiving a report by the Building Official, may confirm, reverse, or modify the action of the Building Official. Failure of the Board of Appeals to act within forty (40) days of the filing of an appeal shall be deemed concurrence in the action of the Building Official. The filing of such notice of appeal will require the Building Official to forward to the Board of Appeals at the next regularly scheduled meeting a summary of all records concerning the subject matter of the appeal and to send written notice to the appellant at least fifteen (15) calendar days prior to the hearing. A hearing shall be scheduled to be heard before the Board of Appeals on the appeal within forty (40) calendar days of the appeal being filed. The Board of Appeals may grant a continuance to allow the parties additional time to obtain information. The continuance shall be allowed for a period not to exceed an additional thirty (30) calendar days. Failure to file such appeal shall constitute a waiver of any rights under this chapter to appeal any order, decision, determination or interpretation by the Building Official.

4. Findings: The Board of Appeals shall on all appeals make specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards and conditions imposed by the requirements of this Chapter have or have not been met.

B. Appeal of Board of Appeals Actions:

1. Authority: The Town Council shall have the authority to hear and decide appeals from any order, decision, determination or interpretation by the Board of Appeals with respect to the provisions of this Chapter.

2. Initiation: An appeal may be initiated by any resident, property owner, or contractor adversely affected by any order, decision, determination or interpretation by the Board of Appeals with respect to the provisions this Chapter. The Town Council may also call up a decision of the Board of Appeals by a majority vote of those town council members present.

3. Procedures: A written notice of appeal must be filed with the Community Development Department within twenty (20) calendar days of Board of Appeals decision. If the last day for filing an appeal falls on a Saturday, Sunday, or a town observed holiday, the last day for filing an appeal shall be extended to the next business day. In the event of an appeal, the Council, after receiving a report by the Board of Appeals, may confirm, reverse, or modify the action of the Board of Appeals. Failure of the Council to act within forty (40) days of the filing of an appeal shall be deemed concurrence in the action of the Board of Appeals. The filing of such notice of appeal will require the Board of Appeals to forward to the Town Council at the next regularly scheduled meeting a summary of all records concerning the subject matter of the appeal and to send written notice to the appellant at least fifteen (15) calendar days prior to the hearing. A hearing shall be scheduled to be heard before the Town Council on the appeal within forty (40) calendar days of the appeal being filed. The Town Council may grant a continuance to allow the parties additional time to obtain information. The continuance shall be allowed for a period not to exceed an additional thirty (30) calendar days. Failure to file such appeal shall constitute a waiver of any rights under this chapter to appeal any order, decision, determination or interpretation by the Board of Appeals.

4. Findings: The Town Council shall on all appeals make specific findings of fact based directly on the particular evidence presented to it. These findings of fact must support conclusions that the standards and conditions imposed by the requirements of this Chapter have or have not been met.

C. Appeal Of Town Council Actions: The final decision of the Town Council with respect to any appeal pursuant to this chapter may be appealed to an appropriate court pursuant to rule 106(a)(4) of the Colorado Rules of Civil Procedure. The Town of Vail Municipal Court shall not have jurisdiction over such civil action.

SECTION 2. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this ordinance; and the Vail Town Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 3. The Vail Town Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town of Vail and the

inhabitants thereof. The Council's finding, determination and declaration is based upon the review of the criteria prescribed by the Town Code of Vail and the evidence and testimony presented in consideration of this ordinance.

SECTION 4. The amendment of any provision of the Town Code of Vail as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

SECTION 5. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 1st day of February, 2011 and a public hearing for second reading of this Ordinance set for the 15th day of February, 2011, at 6:00 p.m. in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Richard D. Cleveland, Mayor

ATTEST:

Lorelei Donaldson, Town Clerk