Agenda Information Sheet
August 27, 2015

Agenda Item

Consider approval of an ordinance amending Section 7-2 of the Code of Ordinances, specifically related to the registration of contractors and builders within the City of Marshall.

Background & Summary of Request:

Since 2012 the City has required all general contractors who complete work within the City to obtain a Contractor's Registration License. This is a common practice among most cities and the goal is to place a little more responsibility on the contractors doing work within our city. The concern that has been raised related to the lack of requirements we have for those contractors. Currently we only require the contractor to complete an application and pay a $200 fee every two years. Most cities across the state require tax identification numbers, bonds and or general liability insurance. Below is a summary of what cities in our region require for contractor registration licenses:

Longview	Tax identification #, Surety Bond of $2,500 or $1 Million General Liability Insurance
Tyler	$1 Million General Liability Insurance
Texarkana	$50 Thousand Surety Bond, $300 Thousand General Liability Insurance, proof of workman's comp insurance
Nacogdoches	$5 Thousand Surety Bond
Lufkin	$5 Thousand Surety Bond and $1 Million General Liability Insurance

Attach is the proposed ordinance with redline mark ups but in summary, staff is recommending the following requirements:

Copy of Tax Identification #
Copy of drivers license or state issued identification
Proof of $100 thousand General Liability Insurance

Attachments:

1. Draft Ordinance
2. Redlined Version of Changes

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 7 OF THE CITY OF MARSHALL, TEXAS CODE OF ORDINANCES ENTITLED "BUILDING" SPECIFICALLY ARTICLE I SECTION 7-2.

WHEREAS, the City Commission of the City of Marshall, Texas (the "City") deems it necessary and proper and in the best interests of the citizens of the City to amend Chapter 7 of the Marshall Code of Ordinances entitled "Building" and specifically Article I Section 7-2 entitled "Amendments, International Building Code, 2009 Edition".

NOW, BE IT ORDAINED BY THE CITY COMMISSION OF MARSHALL, TEXAS THAT:

Section 1. That the findings set out in the preamble to this ordinance are hereby in all things approved.

Section 2. That Chapter 7, Article 1, Section 7-2 shall hereafter read as follows:

Sec. 7-2. - Amendments, International Building Code, 2009 Edition. Modified

Section 101.1 Title. Insert City of Marshall

Section 103 "Department of Building Safety" shall read "Section of Building Safety"

Section 105.1 is hereby rewritten in its entirety to read as follows:

105.1 Permit Required. Any owner or licensed contractor who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit. The required permit is in addition to any other license or permit required by law, including without limitation any required contractor's license.

105.1.1 Contractor's license required. Every contractor or builder who shall make contracts for the erection, construction, demolition, renovation or repair of buildings, structures or improvements for which a permit is required by the City of Marshall and every contractor or builder making such contracts and subletting or assigning the same or any part thereof shall apply to the building official of the City of Marshall for a license for such occupation and possession of such license shall be prerequisite to the exercise of the occupation described in this sentence.

105.1.2 Contractor's license requirements. Every contractor or builder, who constructs, demolishes, renovates, repairs or makes improvements to structures or buildings for which a permit is required by the City of Marshall, shall be required to obtain a contractor's license. The following is required to obtain such license:

1. A completed application as provided by the Planning & Development Department.

2. A copy of the contractor's driver's license or state issued identification.

3. A certificate of general liability insurance of at least $100,000.

4. A registration fee as approved by City Commission.

5. Other pertinent information as deemed necessary by the Building Official.

105.1.3 Registration by Building Official. The Building Official shall register the name of each licensed contractor or builder, giving the name, residence, type of license held and place of business and in case of any subsequent change, the Building Official shall make a corresponding change in the Building Official's records.

105.1.3.1 Registration of State Licensees. Each Responsible Master Plumber, Master Electrician, Master Sign Electrician, Licensed Irrigator and A or B Air Conditioning and Refrigeration Licensee shall register with the Building Official on a form prescribed by the Building Official and shall provide such proof as the Building Official shall reasonably require that the person meets the current applicable State of Texas license and insurance requirements.

105.1.4 Exemption for owners. Persons erecting, constructing, or repairing buildings on their own residential homesteads, as reflected by public records, are exempt from the licensing provisions hereof; provided that a permit as required herein shall have first been obtained by such person; provided that such person shall have complied with all other requirements of this code except the licensing provisions; and provided that the owner is responsible for the completion of the entire construction work performed.

105.1.5 Revocation of contractor's license. A contractor's license issued pursuant to this code may be denied or revoked by the Building Official for the following reasons:

(1) it has been determined that an applicant for a license or a contractor or builder holding a license knowingly gave false or misleading information on his or her application.

(2) the contractor or builder holding a license has been convicted of a violation of this code.

(3) the contractor or builder applying for or holding a license has been convicted of a felony or misdemeanor crime which directly relates to the duties and responsibilities of the licensed occupation.

In determining whether a criminal conviction directly relates to the licensed occupation, the Building Official shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously has been involved; and
(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

In addition to the other factors that may be considered under this section, the Building Official, in determining the present fitness of a person who has been convicted or a crime, shall consider the following evidence:
(1) the extent and nature of the person's past criminal activity;
(2) the age of the person at the time of the commission of the crime;
(3) the amount of time that has elapsed since the person's last criminal activity;
(4) the conduct and work activity of the person prior to and following the criminal activity;
(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release;
(6) other evidence of the person's present fitness, including letters of recommendation from: prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and Chief of Police in the community where the person resides; and any other persons in contact with the convicted person; and
(7) it shall be the responsibility of the applicant to the extent possible to secure and provide to the Building Official the recommendations of the prosecution, law enforcement, and correctional authorities as required under this ordinance; the applicant shall also furnish proof in such form as may be required by the Building Official that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

Any revocation of a contractor's license shall be for a minimum period of 30 days up to a maximum period of one year, within the discretion of the Building Official. If the Building Official suspends or revokes a valid license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of a crime and the relationship of the crime to the license, the Building Official shall notify the person in writing:
(1) of the reasons for the suspension, revocation, denial, or disqualification;
(2) of the review procedure provided by Section 105.1.5; and
(3) of the earliest date that the person may appeal.

105.1.6 Appeal of license revocation. A decision of the Building Official to revoke a contractor's license may be appealed to the Zoning Board of Adjustment by giving written notice of

intent to appeal said decision to the Building Official within ten calendar days from the date the contractor or builder is notified of the revocation of the license. Such notice shall contain the reason or reasons why the Board should reverse or modify the decision of the Building Official. Failure to state reason(s) shall result in the termination of the appeal.

Upon receipt of said notice of intent to appeal, the Building Official shall schedule a meeting of the Zoning Board of Adjustment to consider such appeal. Such meeting shall be held within ten calendar days of the Building Official's receipt of the notice of intent to appeal, unless the contractor or builder requests a longer period of time.

At the hearing set for such appeal, the Zoning Board of Adjustment shall receive evidence submitted by the appellant concerning the reason or reasons for reversal or modification as stated in the notice of intent to appeal, and shall also receive evidence from the Building Official as to why the license revocation should be sustained. The Board shall render a decision sustaining, amending, or reversing the decision of the Building Official based upon the evidence present at the hearing.

Section 3. Section 7-2 as amended above shall take effect on January 1, 2016.

Section 4. The provisions of this ordinance shall be included and incorporated in the City of Marshall Code of Ordinances as an addition and/or amendment thereto.

Section 5. All other ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

Approved first reading the 27th day of August, 2015.

Approved second reading the ____ day of _____, 2015.

Passed and adopted the _____ day of _____, 2015.

_____
Eric Neal, Chairman

Attest:

_____
Debbie Manuel, Interim City Secretary

Sec. 7-2. - Amendments, International Building Code, 2009 Edition. Modified

Section 101.1 Title. Insert City of Marshall

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Section 105.1 is hereby rewritten in its entirety to read as follows:

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105.1.1 Contractor's license required. Every contractor or builder who shall make contracts for the erection, construction, demolition, renovation or repair of buildings, structures or improvements for which a permit is required by the City of Marshall and every contractor or builder making such contracts and subletting or assigning the same or any part thereof shall apply to the building official of the City of Marshall for a license for such occupation and possession of such license shall be prerequisite to the exercise of the occupation described in this sentence.

105.1.2 Contractor's license ~~fee~~requirements. ~~It shall be the duty of e~~Every contractor or ~~building~~builder, who ~~shall make contracts for the erection, construction, demolition, renovation~~constructs, demolishes, renovates, repairs or makes improvements ~~of~~ to structures or buildings for which a permit is required by the City of Marshall, ~~and every contractor or builder making such contracts and subletting the same, or any part thereof, to pay a biennial license fee to the City of Marshall in the amount of $200.00, with no proration of said fee, which shall be due and payable on August 1 every other year beginning August 1, 2012~~ shall be required to obtain a contractor's license. The following is required to obtain such license: ~~.~~

1. A completed application as provided by the Planning & Development Department.
2. A copy of the contractor's driver's license or state issued identification.
3. A certificate of general liability insurance of at least $100,000.
4. A registration fee as approved by City Commission.
5. Other pertinent information as deemed necessary by the Building Official.

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105.1.3 Registration by Building Official. The Building Official shall register the name of each licensed contractor or builder, giving the name, residence, type of license held and place of business and in case of any subsequent change, the Building Official shall make a corresponding change in the Building Official's records.

105.1.3.1 Registration of State Licensees. Each Responsible Master Plumber, Master Electrician, Master Sign Electrician, Licensed Irrigator and A or B Air Conditioning and Refrigeration Licensee shall register with the Building Official on a form prescribed by the Building Official and shall provide such proof as the Building Official shall reasonably require that the person meets the current applicable State of Texas license and insurance requirements. ~~The Building Official may require that every such person register in person. Unless otherwise required by state law, each such registrant shall pay a registration fee to the City of Marshall in the amount set by the City Commission. Additionally, each such person shall re-register biennially with the Building Official by or before the date on which said person's state license expires and each such re-registration shall be accompanied by the registration fee of $100.00.~~

105.1.4 Exemption for owners. Persons erecting, constructing, or repairing buildings on their own residential homesteads, as reflected by public records, ~~or other property under their ownership,~~ are exempt from the licensing provisions hereof; provided that a permit as required herein shall have first been obtained by such person; provided that such person shall have complied with all other requirements of this code except the licensing provisions; and provided that the owner is responsible for the completion of the entire construction work performed.

105.1.5 Revocation of contractor's license. A contractor's license issued pursuant to this code may be denied or revoked by the Building Official for the following reasons:

(1) it has been determined that an applicant for a license or a contractor or builder holding a license knowingly gave false or misleading information on his or her application.
(2) the contractor or builder holding a license has been ~~finally~~ convicted of a violation of this code.
(3) the contractor or builder applying for or holding a license has been ~~finally~~ convicted of a felony or misdemeanor crime which directly relates to the duties and responsibilities of the licensed occupation.

In determining whether a criminal conviction directly relates to the licensed occupation, the Building Official shall consider:

(1) the nature and seriousness of the crime;
(2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously has been involved; and
(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

In addition to the other factors that may be considered under this section, the Building Official, in determining the present fitness of a person who has been convicted or a crime, shall consider the following evidence:

(1) the extent and nature of the person's past criminal activity;
(2) the age of the person at the time of the commission of the crime;
(3) the amount of time that has elapsed since the person's last criminal activity;
(4) the conduct and work activity of the person prior to and following the criminal activity;
(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release;
(6) other evidence of the person's present fitness, including letters of recommendation from: prosecution, law enforcement, and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; the sheriff and Chief of Police in the community where the person resides; and any other persons in contact with the convicted person; and
(7) it shall be the responsibility of the applicant to the extent possible to secure and provide to the Building Official the recommendations of the prosecution, law enforcement, and correctional authorities as required under this ordinance; the applicant shall also furnish proof in such form as may be required by the Building Official that he or she has maintained a record of steady employment and has supported his or her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which he or she has been convicted.

Any revocation of a contractor's license ~~under this Section 105.1.4~~ shall be for a minimum period of 30 days up to a maximum period of one year, within the discretion of the Building Official. If the Building Official suspends or revokes a valid license or denies a person a license or the opportunity to be examined for a license because of the person's prior conviction of a crime and the relationship of the crime to the license, the Building Official shall notify the person in writing:

(1) of the reasons for the suspension, revocation, denial, or disqualification;
(2) of the review procedure provided by Section 105.1.5; and
(3) of the earliest date that the person may appeal.

105.1.6 Appeal of license revocation. A decision of the Building Official to revoke a contractor's license may be appealed to the ~~Construction Advisory and Appeals Board~~Zoning Board of Adjustment by giving written notice of intent to appeal said decision to the Building Official within ten calendar days from the date the contractor or builder is notified of the revocation of the license. Such notice shall contain the reason or reasons why the Board should reverse or modify the decision of the Building Official. Failure to state reason(s) shall result in the termination of the appeal.

Upon receipt of said notice of intent to appeal, the Building Official shall schedule a meeting of the ~~Construction Advisory and Appeals Board~~Zoning Board of Adjustment to

consider such appeal. Such meeting shall be held within ten calendar days of the Building Official's receipt of the notice of intent to appeal, unless the contractor or builder requests a longer period of time.

At the hearing set for such appeal, the ~~Construction Advisory and Appeals Board~~Zoning Board of Adjustment shall receive evidence submitted by the appellant concerning the reason or reasons for reversal or modification as stated in the notice of intent to appeal, and shall also receive evidence from the Building Official as to why the license revocation should be sustained. The Board shall render a decision sustaining, amending, or reversing the decision of the Building Official based upon the evidence present at the hearing.