



PRINCE WILLIAM COUNTY
Department of Development Services – Building Development Division

PWC Code of Ordinances
Home Improvement Contractor License

Codified through Ordinance No. 09-25, adopted May 5, 2009. (Supplement No. 10)



Chapter 5 BUILDING AND BUILDING REGULATIONS
ARTICLE III. HOME IMPROVEMENT CONTRACTOR LICENSE*

***Editor's note:** Ord. No. 93-22, adopted May 18, 1993, amended former Art. III to read as herein set out. Former Art. III pertained to home improvement contractors, and derived from Ord. No. 79-35-35, §§ 6-113--6-126, adopted Oct. 2, 1979; Ord. No. 85-34, § 3(2), adopted Mar. 19, 1985; and Ord. No. 92-55, adopted June 2, 1992.

DIVISION 1. GENERALLY

Sec. 5-31. Purpose of article; article applies whether or not construction permit required.

The purpose of this article is to protect the health, safety and welfare of the citizens of the county by requiring contractors engaged in the business of home improvements to buildings and/or property, in return for payment not to exceed the contract payment limitations noted for specific home improvement license categories identified in subsection 5-52(c) of this article, when the total value referred to in a single contract or project is not more than the specified payment limitation, to obtain licenses and bonds and by prescribing the minimum elements of the contract between the contractor and the contract buyer. This article shall apply whether or not a construction permit is required for the work to be performed.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-32. Definitions.

For the purposes of this article the following words and phrases shall have the meaning ascribed to them in this section, unless the context clearly indicates a different meaning:

Class C certificate is issued by the Commonwealth of Virginia and shall be required by a general home improvement contractor when the total value referred to in a single contract or project is no more than \$7,500.00. Landscape irrigation and water well contractors shall be licensed in accordance with Code of Virginia, § 54.1-1103B regardless of contract amounts.

Class C contractor shall mean a general home improvement contractor who performs or manages construction, removal, repair or improvements when the total value referred to in a single contract or project is no more than \$7,500.00.

Contract shall mean any agreement entered into between a contract buyer and a contractor for the performance of home improvements to buildings and/or property in return for payment not to exceed the contract payment limitations noted for specific home improvement license categories identified in subsection 5-52(c) of this article.

Contract buyer shall mean any person who offers payment in return for a promise to perform home improvements.

Home improvement shall mean the contracting for, and/or providing material and labor, or labor only for, repairs, improvements and additions to residential buildings and properties and/or structures accessory thereto where any payment of money or other thing of value is required, not to exceed the contract payment limitations identified in subsection 5-52(c) of this article. Home improvement includes the following:

- Air conditioning
- Carpentry
- Chimneys
- Decks masonry
- Driveway coatings
- Driveway paving
- Drywall
- Electrical
- Fireplaces
- Gas fitting
- Heating
- Landscape irrigation
- Plumbing
- Painting
- Roofing
- Siding
- Water well

Home improvement contractor or contractor shall mean any person who engages or offers to engage in the business of home improvements to buildings and/or properties, in the county, when the total value referred to in a single contract or project does not exceed the contract payment limitation for specific license category identified in subsection 5-52(c) of this article, whether full-time or part-time, provided, however, that this requirement shall not include class A or B contractors licensed by the state pursuant to Code of Virginia, § 54.1-1106 or 54.1-1108.

Thing of value shall mean any valuable consideration and shall include, but not be limited to cash, promissory notes, installment contracts or other written promises to pay, chattel mortgages or deeds of trust.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94; Ord. No. 95-106, 11-21-95)

Sec. 5-33. Exemptions from article.

Nothing in this article shall apply to any person performing work on a building of which he is the bona fide owner, or to any public utility, its agents or employees, or to contractors licensed by the state in accordance with Code of Virginia, § 54.1-1106 or 54.1-1108.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-34. Administration and enforcement of article generally.

The administration and enforcement of this article shall be the duty of the building official or designated agent, who is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be reasonably necessary to enforce its provisions.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-35. Violations of article.

(a) It shall be unlawful and shall constitute a Class 1 misdemeanor for any person to violate any provision of this article.

(b) Notwithstanding the remedy cited in subsection (a) above, the building official may enforce the provisions of this article by any other means at law or in equity, including injunctive relief.

(c) Each day any person shall continue to violate the provisions of this article shall constitute a separate offense.

(d) The building official, or designated agent, is hereby authorized, whenever he may have reason to suspect that violations of this article have taken or are taking place, to require, by subpoena, the production of books or accounts, contract agreements, financial statements or other records which relate to the contractor's business.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-36. Responsibility as to compliance with other code provisions, state law, etc.

Nothing in this article shall be construed to exempt any home improvement contractor from compliance with all other applicable provisions of this Code. All contractors shall be responsible for seeing that required permits are obtained, that the laws of the county and state are complied with and that all work is performed in accordance with the conditions and terms of such permits.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-37. Responsibility for act or omission by salesman or other agent.

For the purposes of this article, the act or omission by any salesman or other agent of a home improvement contractor, while acting or purportedly acting on behalf of the contractor, which act or omission is in violation of this article or is cause for denial, suspension or revocation of the contractor's license, shall be considered the act of the contractor by whom such salesman or agent is employed, or for whom he purported to act, if such contractor approves the act, or after actual notice of the act or omission, retains the benefit, proceeds, profit or advantage accruing from the act or omission or otherwise ratifies it.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-38. Contract requirements generally.

(a) All agreements to perform home improvements involving a payment greater than \$100.00 shall be in writing and executed in triplicate, using the contract form submitted by the home improvement contractor in connection with his application for a license, which form shall set forth fully and completely the agreement between the parties and shall be signed by the contractor or his agent. In lieu thereof, the contractor may use a contract form substantially in compliance with a form prescribed by the building official.

(b) It shall be unlawful for a home improvement contractor to cause or permit any contract or other document relating to the performance of work to be signed by the contract buyer before all blank spaces are filled in with easily legible writing, and such contractor or his agent has submitted to the contract buyer the completed contract and other documentation and given him a reasonable opportunity to examine it. The contract buyer shall be given a copy of the contract when both parties have signed all copies of the complete contract, and a copy may be required to accompany the construction permit application when such permit is required for the work involved.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-39. Required contract terms.

All contracts shall include the following:

- (1) When work is to begin and the estimated completion date;
- (2) A statement of the total cost of the contract and the amounts and schedule for progress payments including a specific statement on the amount of the down payment;
- (3) A statement that final payment shall not be required until final approval is obtained from the building official's office, if the work involved requires a construction permit;
- (4) A listing of specified materials and work to be performed;
- (5) A "plain language" exculpatory clause concerning events beyond the control of the contractor and a statement explaining that delays caused by such events do not constitute abandonment and are not included in calculating time frames for payment or performance;
- (6) A statement of assurance that the contractor will comply with all local requirements for permits, inspections, and zoning;
- (7) Disclosure of the cancellation rights of the parties;
- (8) Contractor's name, address, license/registration number, expiration date, class of license/registration, and license classifications or specialty services; and
- (9) A statement providing that any modification to the contract, which changes the cost, materials, work to be performed, or estimated completion date, must be in writing and signed by all parties.

(Ord No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-40. Contract buyer's right to cancel without penalty.

- (a) When a contract for work involves an extension of credit to the contract buyer, the contract buyer shall have a right to cancel the contract, without penalty, until midnight of the third business day after the day on which the contract buyer signs the contract, unless the contract buyer waives this right in accordance with subsection (c) of this section. Cancellation shall be effected by the buyer giving or mailing written notice of cancellation to the contractor at the contractor's address, which shall be stated in the contract. This section is in addition to and does not replace any contract buyer's "right to cancel" granted under applicable state or federal laws.
- (b) No contract subject to cancellation by the contract buyer under the terms of this section shall be assigned until after midnight of the third business day after the day on which the contract buyer signs the contract.
- (c) The contract buyer may waive his right to cancel under this section, if he desires immediate performance of the contracted work and if he makes a written statement in a dated writing, personally signed by him, which expressly states that the buyer understands that he is waiving his right to cancel the contract under this section. Such a waiver may be on a form supplied by the contractor, if that form has been approved by the building official as provided in subsection 5-54(a).

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94; Ord. No. 95-106, 11-21-95)

Secs. 5-41--5-50. Reserved.

DIVISION 2. LICENSE

Sec. 5-51. Required.

- (a) No person shall engage in the home improvement business as a home improvement contractor, unless he has a current license issued in accordance with this division, or is licensed by the state pursuant to Code of Virginia, § 54.1-1106 or 54.1-1108.
- (b) The building development division shall not issue a permit for home improvement work to a contractor who does not have a current license issued in accordance with the requirements of this division.
- (c) The license issued under this division shall be in addition to the license required under Chapter 11.1 of this Code.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-52. Categories of home improvement contractor license; special requirements.

(a) One or more of the following categories, each of which may have special requirements, shall be identified on the license:

- (1) Heating or air conditioning (Abbr: HVA) are those whose work includes the installation, alteration, or repair of heating systems, ventilating systems, and cooling systems.
- (2) Plumbing (Abbr: PLB) are those whose work includes the installation, maintenance, repair, extension, alteration or removal of all piping, fixtures, appliances, and appurtenances in connection with the sanitary drainage system or the water supply systems. This category shall include water well contractors.
- (3) Electrical (Abbr: ELE) are those whose work falls within the provisions of the National Electrical Code.
- (4) Gas Fitting (Abbr: GFT) are those whose work provides for the installation, repair or improvement of gas pipes and appliances. (Note: This function can only be performed in conjunction with the plumbing, heating or air conditioning category.)
- (5) General Home Improvement (Abbr: GHI) are those home improvements that do not include the specific categories of heating or air conditioning, plumbing, electrical, or gas fitting.
- (6) All contractors licensed to perform specific categories of limited service and repair, prior to January 1, 1993, shall not be required to meet the special requirements outlined in subsection 5-52(b) until January 1, 1998.

(b) Special requirements for license categories. For each of the following categories, home improvement contractors will be required to employ the services of a master tradesman, certified by the Commonwealth of Virginia, in order to receive and maintain the license category:

- (1) *Heating or air conditioning* : requires master mechanical certification.
- (2) *Plumbing* : requires master plumber certification.

- (3) *Electrical* : requires master electrician certification.
- (4) *Gas fitting* : requires master gas fitter certification and master plumber or master mechanical certification.
- (c) Contract payment limitations for license categories in all categories shall not exceed \$7,500.00.
- (d) Surety bond requirement for home improvement license in all categories is \$10,000.00.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94; Ord. No. 95-106, 11-21-95)

Sec. 5-53. Application generally.

(a) An application for a license to engage in business as a home improvement contractor shall be submitted to the building official in such form and detail as the building official shall prescribe. Every such application shall be affirmed as true by the applicant and shall specify the individual on whom notices may be served pursuant to this chapter.

(b) Each application submitted under this section shall be accompanied by a nonrefundable processing fee in the amount prescribed by the fee schedule adopted by the board of county supervisors.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-54. Documents to accompany application.

An application for a home improvement contractor's license required by this division shall be accompanied by:

(a) A copy of the contract forms to be used by the contractor, which shall be in accordance with the provisions of this article, and which shall be approved by the building official. In lieu thereof, a contractor may use a contract form which is in substantial compliance with a form prescribed and approved by the building official, specimen copies of which shall be supplied to each applicant for a license. The applicant may also submit for approval by the building official a form to be used as an emergency waiver of the waiting period established in section 5-40 of this article.

(b) If the applicant is a nonresident of the state, a designation, by name and address of the person who is a resident of the state and who, by a signed and notarized statement, agrees to be the statutory agent of the applicant to accept service of process, notices, summons or other legal notices upon such statutory agent, which when duly made, shall constitute sufficient foundation for a personal judgment against the applicant, when the other requisites therefor exist. Such statutory agent shall notify the building official, in writing, of any change in his address or any change in the conditions of his agreement to act as agent for the applicant.

(c) A copy of the Commonwealth of Virginia's Master Tradesman Certification, if applicable for specific license category.

(d) A copy of the class C contractor certificate issued by the Commonwealth of Virginia, if applicable, for specific license category.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-55. Applicant's bond or other security.

(a) Each applicant for a home improvement contractor's license shall file with the building official a surety bond or other security approved by the county attorney, in the sum specified in subsection 5-52(d), payable to the county. Each such bond shall be in a form approved by the county attorney, shall be from a bonding company licensed to do business in the state and shall be kept in force during the entire license period or the license shall be invalid.

(b) A bond required by this section shall be conditioned upon the observance, by the principal, of all statutes, ordinances or regulations in force in the county which relate, directly or indirectly, to the conduct of the principal's business. Such bond shall also be conditioned to indemnify and save harmless any contract buyer or materialman from any expense or damage that may result to him from:

(1) The principal's violation of any statute, ordinance or regulation in force in the county which relates, directly or indirectly, to the conduct of the principal's business; or

(2) The principal's performance of any contracted work in a negligent or otherwise defective manner; or

(3) The principal's default or other material breach in the conduct of contracted work.

(c) Any person aggrieved by any act of the principal in violation of the conditions of the bond required by this section shall have, in addition to his right of action against the principal, a right to bring suit against the surety on the bond, and to recover, in an amount not exceeding the amount of the bond, any damages sustained by reason of any act of the principal which is in violation of the conditions of the bond.

(d) Any security deposited pursuant to this section shall be retained by the building official for at least three years after the expiration of the license in connection with which such security was deposited and, if the building official is notified in writing that a suit has been filed against the licensee as a result of which a judgment may be payable out of such security, it shall be held until such time as such suit has been reduced to judgment and the period for filing an appeal from such judgment has expired or until the suit is otherwise disposed of.

(e) Nothing in this section shall be construed to impose upon the surety on any bond a greater liability than the total amount thereof; or the amount remaining unextinguished after any prior recovery or recoveries.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94; Ord. No. 95-106, 11-21-95)

Sec. 5-56. Fee.

The fee for the issuance or renewal of a license required by this division, shall be the amount prescribed by the fee schedule adopted by the board of county supervisors.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-57. Issuance or denial generally; term.

(a) A license applied for under this division shall be granted by the building official, unless one or more of the following facts are found to exist and, even if facts (1), (2) and (3) exist, the license shall be granted, if the applicant produces satisfactory evidence that he will perform his contracts notwithstanding the existing of such facts:

- (1) That the applicant has failed to pay financial obligations that were outstanding during the two-year period prior to the filing of the application, or the applicant is financially insolvent.
 - (2) That the applicant has had a license similar to the license provided for by this division suspended or revoked by the State of Maryland, the State of Virginia, or any political subdivision of either, or the District of Columbia, within the three-year period prior to the filing of the application.
 - (3) That the applicant has, in the three-year period prior to filing of the application, been found guilty of fraudulent or dishonest dealing in the contracting business in the State of Maryland, the State of Virginia, or any political subdivision of either, or in the District of Columbia.
 - (4) That the applicant has made a material misstatement or concealed a material fact in the application for a license.
 - (5) That the applicant has failed to make available to the building official such information as is requested for the purpose of determining if the applicant is entitled to a license.
- (b) Upon approval of the application for a license or renewal of a license under this division, and the receipt of the required bond and the fee required by sections 5-55 and 5-56, the building official shall issue a license in such form and size as he deems appropriate and such license shall show on its face that it is valid for one year from the date of issuance. The license shall bear a warning in the nature of a disclaimer of any implied warranty by the county of any work performed by the licensee.
 - (c) When a license applied for under this division is denied, the applicant shall be entitled to a written statement, setting forth the reasons for denial, and shall be entitled to appeal the decision of the building official under the procedure set out in section 5-59 this division.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-58. Licensee's identification card.

- (a) The licensing authority shall prepare and issue to each licensee under this division an identification card which shall certify that the person whose name appears thereon is a licensed home improvement contractor. Such card shall bear a warning in the nature of a disclaimer of any implied warranty by the county of any work performed by the licensee. Each licensee shall carry on his person his identification card and shall display such card upon the request of any contract buyer, prospective contract buyer or other person with whom the licensee may deal in connection with carrying on his activities as a contractor.
- (b) Upon request by a bona fide licensee under this division and upon the receipt of a fee in the amount prescribed by the fee schedule adopted by the board of county supervisors for each duplicate, the building official shall issue to such licensee duplicate copies of the identification card provided for in this section. It shall be unlawful for any person in possession of such a duplicate identification card to represent that he is a licensee or representative of a licensee, if such permission to use the identification card has not been granted by the licensee.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-59. Grounds, procedures, etc., for suspension, revocation or denial.

(a) No home improvement contractor, nor any agent of such contractor, shall engage in any of the following acts or practices, the commission of which shall be cause for suspension or revocation of the contractor's license or for denial of an application for renewal thereof; in addition to any other penalties provided at law:

- (1) Failure or refusal to comply with the provisions of any statute, ordinance or regulation in force in the county which relates, directly or indirectly, to the conduct of the contractor's business.
- (2) Gross negligence or continued incompetence or misconduct in the practice of his profession.
- (3) Use of any substantial willful misrepresentation or concealment in the procurement of a contract for work or making any false promise likely to influence, persuade or induce any person to enter into such a contract.
- (4) Use of any fraud in the execution of; or in the material alteration of; any contract, trust deed, mortgage, promissory note or other document incident to a contract.
- (5) Use of false, misleading or deceptive advertising as an inducement to enter into any contract.
- (6) Failure to pay judgments or failure to pay just debts which may result in liens against the property owner.
- (7) Failure to use or to complete all relevant parts of the contract forms approved by the building official in connection with the license application.
- (8) Failure to complete contract work as provided for in the contract.
- (9) Failure to provide information or records requested by the building official or person or body hearing any appeal pursuant to this division, when such information or records are being requested for the purpose of determining if a license should be revoked.
- (10) Use or provision of goods or services which the contractor knows, or reasonably should know, will be ineffective to produce the benefits contracted for.

Whenever the building official receives information that a licensee may be guilty of acts which constitute grounds for suspension or revocation of the license or for denial of an application for renewal of the license, he shall investigate such matter.

(b) There is hereby established a contractor hearing panel composed of three members with two alternates as follows: The building official or designated agent and two members and two alternates appointed by the board of county supervisors for terms of two years each. At least one of the two members so appointed shall be a home improvement contractor licensed under this division.

(c) When the building official has determined that there is probable cause to deny, suspend or revoke a contractor's license, he shall notify the applicant or the licensee of this determination in writing. The notice shall include:

- (1) A statement of the facts which constitute the basis for the proposed action;
- (2) A statement specifying each separate violation of this chapter or other state or federal law;
- (3) A statement of the action the building official proposes to take; and

(4) A concise statement of the procedure which the licensee or applicant shall follow to request a hearing before the contractor hearing panel, including the deadline for a hearing request, the consequences of failure to request a hearing and the date the denial, suspension or revocation will become effective if no hearing is requested.

The notice shall be deemed properly served when a copy thereof is personally served on the applicant or licensee or when a copy is sent by certified mail, postage prepaid, to the latest address given on the application for a license.

(d) Any person who has been notified under this section that his license is being denied, revoked or suspended may request a hearing before the contractor hearing panel. A request for a hearing must be received no later than 15 days from the mailing of the notice of the impending action. The hearing shall be held no later than 30 days from receipt of a request for a hearing, unless otherwise agreed to by the applicant or licensee. Notice of the date, time and place of the hearing and of the procedures to be followed shall be given to the applicant or licensee sufficiently in advance of the hearing to allow a reasonable time to prepare for the hearing. Such hearing shall be informal. The licensee or applicant shall be advised of the evidence which tends to establish the grounds for suspension, revocation or denial of the license. The licensee or applicant shall have a right to question any person giving information and to present relevant information or testimony. It is permissible, but not required, for an applicant or licensee to have an attorney present at the hearing. A written or taped record of the proceedings shall be kept.

(e) After an opportunity for a hearing, if the building official or the hearing panel, in a case where a hearing is held, determines from a preponderance of the available evidence that there are adequate grounds to deny, revoke or suspend a contractor's license, the building official shall notify the licensee or applicant, in writing that his license is denied, revoked or suspended, stating the reasons for the decision. The notice of revocation, denial or suspension shall explain the appeal procedure and the effective date of a license revocation or suspension. A suspension shall be for at least ten days, but no longer than 180 days.

(f) Notice of revocation, suspension or denial of a license under this section shall be personally served on the applicant or licensee or sent by certified mail, postage prepaid, to the latest address given on the application for a license.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-60. Appeal from suspension, revocation or denial.

Appeal from the suspension, revocation or denial of a home improvement contractor's license shall be to the circuit court of the county. The party making such an appeal must file the appeal within ten days of the date of denial, suspension or revocation. If an appeal is made, the decision of the building official or the contractor hearing panel shall remain in effect until modified or rescinded by the court.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Sec. 5-61. Records to be kept.

The building official shall keep records of all licenses issued, suspended, revoked or denied under this division. These records shall be open to the public for inspection during regular business hours.

(Ord. No. 93-22, 5-18-93; Ord. No. 94-61, 9-6-94)

Secs. 5-62--5-70. Reserved.