

ORDINANCE NUMBER 350

STATE OF TEXAS
COUNTY OF BELL
CITY OF NOLANVILLE

An Ordinance establishing a General Construction License for all construction operations within the City limits; providing for the application and update of that license, fees and other administrative provisions; suspensions, hearings, and appeals, penalties for violations, and enforcement and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOLANVILLE:

ARTICLE I

SECTION 101 Definitions

Building Official: the officer or other designated authority, or his duly authorized representative, charges with the administration and enforcement of this ordinance.

City: the City of Nolanville

Department: the Public Works Department of the City of Nolanville.

License: the General Construction License issued by the City under this ordinance.

License Year: Calendar Year January 1 to December 31

Person: An individual, corporation, firm, partnership, association or business entity.

Note, Notice, or Letter: The note, notice, or letter seeking an appeal, identifying the decision to be appealed. The note, notice, or letter need not have any particular language or formality. The note, notice, or letter may give reasons for asking for a different result but such reasons are not required.

SECTION 102 License Required

Before any person, firm, or corporation shall perform or contract to perform a construction operation within the City limits for which a permit is required in the City under this ordinance, he shall first obtain a General Construction License issued by the City. This license is issued in lieu of requiring a surety bond from the contractor for any construction operation governed by this ordinance. This license does not substitute for any permit required under this ordinance, nor does it substitute for any license required under this ordinance or under State law.

Issuance of the license is conditioned that the person, firm, or corporation engaged in the construction operation will faithfully observe all the ordinances pertaining to this ordinance, as

now written or as they may hereafter be amended, and will faithfully observe, as well, any and all State laws governing construction operations performed under this ordinance or as they may hereafter be amended; further, that the City shall be indemnified and saved harmless from all claims arising from accidents and any damage of any character whatsoever caused by the negligence of such person, firm, or corporation engaged in any construction operation, or by any other unfaithful or inadequate work done either by such person, firm corporation, or its agents or employees.

It shall hereafter be unlawful to perform or contract to perform a construction operation within the City limits without first obtaining a General Construction License issued by the City as described in this article.

However, no General Construction License shall be required for a construction operation done by a property owner in a building owned or occupied by him as his homestead. Requirements for applicable permits, inspections, and fees remain in effect.

Any person who knowingly employs or allows an unlicensed contractor to perform work shall be guilty of violation of this article and be subject to the penalties set forth.

SECTION 103 Application for License; Updates

Persons, firms, or corporations shall file an application for a license with the Department, on a form provided by the Department, giving full name, residence address, name and address of business, type of construction operations(s) to be performed, proof of State or City License(s) where required, and such additional information as may be needed for proper guidance of the Department in issuing the license.

Licensee shall update the application for license upon the expansion of types of construction operations or upon addition of State or City licensed workers not already recorded on the original application. Such update shall be recorded by the department at no charge to the Licensee.

In case of removal from one residence or business address to another, Licensee shall notify the Department of such new address.

SECTION 104 Fees

Fees for licenses shall be paid at time of application. Fees shall be \$100.00 per calendar year (January 1 - December 31) as established in this ordinance, renewable each January 1.

When an applicant has not engaged in business until after the expiration of part of the current license year, the fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business had been or will be conducted.

Upon initial application, when an applicant is currently covered by quarters and the fee paid for each quarter or fraction thereof during which the surety bond is not effective. Upon license renewal, a full fee shall be paid without pro-ration, regardless of surety bond coverage.

All license fees shall become part of the general fund of the city.

SECTION 105 Expiration of License

Each license issued shall expire on the thirty-first (31st) day of December following the issuance thereof.

SECTION 106 Issuance or Refusal

The license shall be issued or refused in writing not more than ten (10) days after the application has been made. If the license is refused, the reasons for the refusal shall be given in writing. Nothing in this ordinance shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or to refuse to issue a license. licenses shall be issued to each applicant complying with all applicable state laws and city ordinances, and licenses shall be refused for any applicant failing to comply with all such applicable laws and ordinances.

SECTION 107 Restriction Imposed

The license shall show on its face the restrictions placed therein by reason of the types of construction operations to be performed, including but not limited to General, Electrical, Plumbing, Mechanical.

SECTION 108 Transfer of License Prohibited

It shall be unlawful for any person, firm or corporation holding a general construction license to transfer same, or to allow the use of same directly or indirectly by any other such person, firm, or corporation, for the purpose of obtaining a permit to do any construction operation work herein specified.

SECTION 109 Presentation of License

It shall be the duty of any person conducting a licensed construction operation in the city to keep his license in such convenient location so as to be able to present such license upon the request of the Building Official or his designated inspector.

SECTION 110 Suspension

a. Generally. Any license issued may be suspended at any time during the life of the license for any violation by the licensee of the ordinance provisions relating to the license or the subject matter of the license, as outlined below. Such suspension may be in addition to any fines imposed.

b. Grounds. The City may suspend the license of any licensee for a period of not more than one year, after determining at a proper hearing as set out in this Article that the licensee has done any of the following:

1. Taken out a permit in the name of the person authorized to do the work and thereafter permitted a person not authorized by this Code to do the work;

2. Tampered with, diverted from, or in any way interfered with the proper action or registration of any public utility service;
3. Employed any person not then licensed as provided in this Code to do work which requires a license under State law or City ordinance;
4. Permitted an unlawful or fraudulent use of the license issued under this Article;
5. Is a habitual violator of this Code, where "habitual" means three or more separate violations;
6. Performed any work that is in violation of this Code and then failed or refused to make corrections necessary for the work to conform to this Code; or
7. Performed any work in violation of any restrictions imposed on a license issued to him.

SECTION 111 Procedure and Hearing

In determining any such change listed above, the Building Official shall proceed upon sworn information furnished it by:

- a. an official or inspector of the City; or
- b. any person aggrieved by the action of a Licensee in the performance of construction work for which a license is required by this Code.

Such information shall be in writing and shall be verified by the person familiar with the facts therein charged.

The Building Official, if he deems the information sufficient to support further action by the City Council, shall make a written complaint setting out the charges and shall set a hearing before the City Council at a specified time and place, and shall cause a copy of the complaint and notice of setting for the hearing to be served upon the accused by registered mail no less than 10 days before the date appointed in the notice of setting.

The accused may appear in person, or by counsel, at the time and place named in the notice of setting and may make his defense to the charges.

All such hearings shall be open to the public, as provided under Article 6252-1, V.A.C.S, Open Meetings Act.

The Building Official, the City Attorney, or his designee shall be entitled to present evidence and argument at such hearing. If the accused fails or refuses to appear, the Council may proceed to hear and determine the charges in his absence. The Council shall have the power, through its chairman, to administer oaths and to compel the attendance of witnesses before it by subpoena issued over the name of the Chairman.

When the Council has completed such hearing and made its decision, it shall cause one copy of its decision to be filed with the Building Official, one copy to be filed with the City Secretary, and one copy to be forwarded to the accused.

SECTION 111 Surrender and Return of License

Any license which has been suspended under this Code shall be surrendered to and be retained by the Building Official. At the end of the period of suspension, in the absence of further violations, the surrendered license shall be returned to the Licensee and shall be valid under the provisions of this Code. If the period of suspension extends beyond the normal expiration date of the license, Licensee shall pay all license fees without pro-ration in order to receive a valid license to continue construction operations following the suspension period.

SECTION 112 Appeals-Administrative or License

- a. Scope. This Article shall apply to all appeals from any action by any City officer or employee refusing to issue a license. This Article shall also apply to appeals from any action by the Council suspending a license.
- b. Appeal to Department Head. Any decision made by any employee of the city with a lower rank than Building Official may be taken to the Building Official. Such appeal may be taken by filing a written note, notice, or letter with the Building Official, briefly describing the decision being appealed. The person seeking the appeal must file the note, notice, or letter within ten days of the date of being notified of the decision from which the appeal is sought. The Building Official shall provide an opportunity for conference and shall decide the appeal promptly.
- c. Council Decisions. Regarding action by any city officer or employee or regarding action by the City Council concerning suspension of a license, any person affected by a decision of the Board shall have a right to file a petition for appeal within ten (10) days thereafter for a hearing before the City Council. The City Council shall set the matter for hearing upon fourteen (14) days written notice to the aggrieved person and thereupon take testimony, examine the facts of the case, and determine whether the petitioner is entitled to a license or is subject to suspension of this license under the provision of this Article.

SECTION 113 Penalties

Any person violating any of the terms and conditions of this article, section of this article, or any amendment to this article shall be fined in an amount not to exceed five hundred dollars (\$500.). Each day that a violation is allowed to exist shall constitute a separate offense. The provision of a fine herein for the violation of any provisions of this article, or any amendment to this article shall not be deemed an exclusive remedy and the city in the enforcement of this article, may, if it so chooses, resort to any and all other remedies at law or in equity in order to see that the provisions of this article are obeyed.

SECTION 114 Enforcement

In addition to any other remedy provided by law, the city and its officers shall have the right to enjoin any violation of this article by injunction issued by a court of competent jurisdiction.

ARTICLE II

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

ARTICLE III

That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

ARTICLE IV

That the Code of Ordinances of the City of Nolanville, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

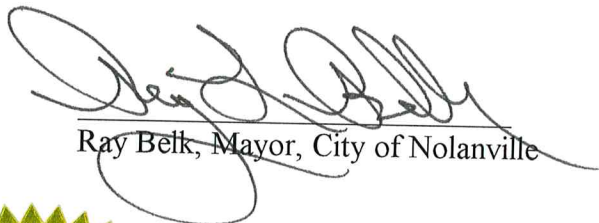
ARTICLE V


That it is the intention of the City Council of Nolanville that this ordinance shall become a part of the Code of Ordinances of the City of Nolanville, Texas and may be renumbered and codified accordingly.

ARTICLE IX ADOPTION

It being necessary for the preservation of the public peace, health and safety, this Ordinance shall be in full force and effect from and after its adoption by the Nolanville City Council and the date of its approval by the Mayor.

PASSED AND ADOPTED by the City Council of Nolanville, Texas on this 20th Day of November, 1997.


Ray Belk, Mayor, City of Nolanville

ATTEST:

Rebecca Hunt, City Clerk

