



**Municipal Building
Council Chambers
200 S. Fourth St., 2nd Floor
DeKalb, IL 60115**

AGENDA

Building Code Board of Appeals
March 6, 2017
10:30 a.m.
Executive Conference Room

- A. **Roll Call**
- B. **Approval of Agenda** – Additions / Deletions
- C. **Public Participation**
- D. **Approval of Minutes**
 - 1. Minutes of February 1, 2017.
- E. **Old Business**
- F. **New Business**
 - 1. Follow-up Discussion of General, Mechanical, and Electrical Contractor Fees as Requested by City Council
- G. **Announcements**
- H. **Adjournment**

**MINUTES
CITY OF DEKALB
BUILDING CODE BOARD OF APPEALS
FEBRUARY 1, 2017**

The Building Code Board of Appeals held a meeting on February 1, 2017 at 9:00 A.M. at the City of DeKalb Municipal Building, 200 South Fourth Street, DeKalb, Illinois, 60115, in Council Chambers.

Chair Don Whitmore called the meeting to order at 9:04 AM.

A. ROLL CALL

The following members of the Building Code Board of Appeals were present at roll call: Chairman Don Whitmore, Steve Doonan, Christine Scholl, Lisa Sharp, Steve Irving, Keith O'Higgins, and Charles Shepard. No members were absent.

Staff present were City Attorney Dean Frieders, Don Plass of HR Green, and Administrative Assistant Natalie Nelson. At 10:10 AM, Fire Chief Eric Hicks joined the meeting.

Also present was Ken Andersen of the DeKalb County Building and Development Association.

At 10:10 AM, Ken Anderson left the meeting.

At 10:34 AM, City of DeKalb Building Division Administrative Assistant Brenda Hart joined the meeting.

B. APPROVAL OF THE AGENDA – Additions / Deletions

Lisa Sharp motioned to amend the agenda to remove item D. Approval of Minutes. C. Scholl seconded the motion. The agenda as amended was approved by voice vote.

C. PUBLIC PARTICIPATION

Ken Andersen requested and was invited to speak as desired.

D. APPROVAL OF MINUTES – Additions / Deletions

None.

E. OLD BUSINESS

None.

F. NEW BUSINESS

Both items **1. General Contractor Registration** and **2. Contractor Registration / Revocation** were addressed during the same discussion

City Attorney Dean Frieders introduced himself to the attendees. He stated he worked as a carpenter in the past. He thanked the Board for their diligent work on developing the new the Building Code. He reminded the Board that they voted to add Section 0.03 Registration of General Contractors to the Building Code, which requires a general contractor (GC) overseeing one or more subcontractors to register with the City and provide a \$10,000 surety bond payable to the City. He also stated that if the City requires registration, a procedure for revoking and reinstating registration must be added to the Building Code. Attorney Frieders presented draft language to add to the Building Code to require contractor registration, how to obtain due process, how denial of registration may occur, and how a contractor may request reinstatement following revocation. The draft text was attached as Exhibit 1 to the memo prepared by Community Development Director Jo Ellen Charlton to the Building Code Board of Appeals (BCBA).

D. Whitmore cited that on August 12, 2016 the BCBA discussed and voted to require GC registration and surety bonds. He added that a similar bond is required by mechanical and electrical contractors, as well as street construction contractors working in the right-of-way.

L. Sharp questioned the purpose of requiring GCs to register and whether the surety bond requirement might be burdensome for a GC who works on only smaller projects. C. Shepard voiced disagreement with requiring a GC to obtain a surety bond and asked, if a surety bond is required, the dates of the bonds be allowed to differ according to the GC's insurance year, which is simpler to obtain.

D. Plass explained that the GC surety bond requirement helps homeowners who hire contractors whose work violates the Building Code resolve the violation. For larger projects, like entire homes or commercial projects, surety bonds are always required. D. Plass provided a summary of the process of revoking a surety bond. If the City finds a contractor has performed work that violates Code, the City's Chief Building Official contacts both the contractor and the property to obtain both sides of the story. If the contractor is found to be at fault and unwilling to resolve the code violation, the City files paperwork with the bond company to revoke the bond. The bond company sends the funds to the City, which distributes them to the property owner once s/he provides cost estimates for resolving the code violation.

The BCBA discussed whether or not homeowners must register as GCs if they performed some of their own work and hire subcontractors for other types of work on the same project. Chair Whitmore recalled how the BCBA agreed to remove the City from becoming involved in conflicts between roofing contractors and homeowners. At that time, the BCBA decided that a homeowner seeking a remedy would need to contact the roofing contractor's insurance company.

The BCBA then discussed revising or removing the new GC registration requirement from the Building Code. C. Shepard supported deleting section 0.03 in its entirety. S. Doonan stated that, in his experience, is not uncommon for a municipality to require GCs to register by providing contact information, proof of insurance, and small fee, but a surety bond is not typically required. C. Shepard agreed that requiring GCs to register with the City is appropriate, so they can be contacted day or night if an emergency arises at a job site.

S. Doonan stated that GC registration could be even more critical for residential projects like kitchen remodels, which require multiple trades, than for multi-million dollar projects like 3M. D. Whitmore reported that he researched other municipalities handling of GC registration and found a variety of practices, including requiring GC registration for residential projects only, not commercial.

The BCBA turned its attention to who should be required to register as a GC. They agreed that residential property owners who self-perform work, and those who self-perform some of the work and hire contractors for some of the work on the same project, should not be required to register as GCs. They agreed that commercial property owners who hire contractors to perform work, whether or not the commercial property owner self-performs any work, should be required to register as a GC.

The BCBA discussed whether proof insurance is sufficient or if the current surety bond requirement is necessary for GCs, electrical contractors, and mechanical contractors. They agreed that all contractors performing work on property they do not own should be required to obtain insurance. S. Irving recommended the City require proof of general liability insurance, auto insurance, and workman's compensation insurance, allowing sole-proprietor/non-employee GCs to exempt themselves on their workman's compensation insurance.

The BCBA decided that surety bonds are not necessary for most jobs smaller projects, and they did not think the City has ever revoked a bond for an electrical or mechanical contractor. They agreed to continue requiring surety bonds from contractors working on larger projects that require temporary or permanent occupancy approval and contractors working in the right-of-way. D. Plass stated that he has had some experience with revoking a contractor's bond, but it is a relatively rare occurrence and requires significant paperwork.

The BCBA discussed the definition of a General Contractor. Ken Anderson read from USLegal.com the definition of "general contractor."

"A general contractor is the contractor with main responsibility for the construction, improvement, or renovation project under contract, and is the party signing the prime construction contract for the project. The general contractor is the person or entity who hires all of the subcontractors and suppliers for a project. It is an individual, partnership, corporation, or other business entity that is capable of

performing construction work as a contractor with overall responsibility for the satisfactory completion of a project using its own forces to perform or supervise part of the work.” (from <https://definitions.uslegal.com/g/general-contractor/>).

Mr. Anderson reiterated that a GC must be able to perform some work and supervise at least one subcontractor; he emphasized that a Construction Manager (CM) who does not perform any work is not the same as a GC.

The discussion returned to surety bonds. S. Doonan proposed a scenario in which a contractor does not finish a job and leaves a code violation, for which the homeowner is cited. If no surety bond is required by the City, the City would not be involved in the financial aspects of resolving the problem. The BCBA agreed that the City should not be involved in disputes between property owners and contractors.

The BCBA agreed to recommend the following revisions to Article 0, section 0.03:

- Delete in its entirety a) Certification of Registration
- Delete in its entirety b) Bond
- Add text stating that GCs and CMs are required to:
 - Register with the City by providing contact information and paying an initial registration fee of \$50, renewable annually at \$25
 - Provide proof of general liability, auto, and worker’s compensation insurance, the latter of which a General Manager and a Construction Manager may be exempted.

The BCBA agreed that since the City would no longer be administering electrical and mechanical tests or issuing those licenses, it would be appropriate to reduce the current initial \$250 registration fee to be the same as that assessed for GCs and CMs. Additionally, if no licenses are issued, no license revocation can occur. Consequently, the Exhibit 1 of the staff memo is no longer necessary. It was noted that if the City’s building inspector finds code violations during an inspection, the Certificate of Occupancy can be withheld until resolved. In this type of situation, a contractor can appeal to BCBA to resolve a disagreement. If the City’s building inspector finds a code violation in a smaller project that does not require a Certificate of Occupancy, the property owner may request the contractor to fix the violation or may seek assistance from the contractor’s insurance company. The City would not be involved in this type of situation.

The BCBA discussed electrical and mechanical contractor license/registration requirements. The definition of a mechanical contractor was determined to include anyone who performs work on HVAC systems, forced air, steam, pumps, and refrigerants for air conditioners. Currently, mechanical contractor registration with the City requires a \$250 initial registration fee, which is renewable annually at \$50, a passing score on the City-administered test, proof of experience and/or training certificate, and a \$10,000 surety bond. D. Plass confirmed that one member of a firm may take the test and provide proof of experience, and other contractors within the firm may perform the same work. Electrical contractors are currently subject to the same requirements, with a different City-administered test. D. Plass stated that he is aware of other municipalities that have

discontinued tradesman testing. The BCBA agreed that the registration fee should be reduced if tests are no longer required.

C. Shepard voiced approval for removing all barriers possible for contractors to perform work in DeKalb, so as to make the City of DeKalb as attractive as Sycamore to build in.

The BCBA agreed to recommend the following revisions to Article 0 regarding the requirements for electrical and mechanical contractors:

- Remove the requirement for a \$10,000 surety bond
- Remove the requirement to take a test administered by the City
- Add text stating that electrical and mechanical contractors are required to:
 - Register with the City by providing contact information and paying an initial registration fee of \$50, renewable annually at \$25
 - Provide proof of general liability, auto, and worker's compensation insurance.

MOTION

C. Shepard motioned that general contractors, construction managers, mechanical contractors, and electrical contractors be subject to the same requirements to perform work in the City, including removing the testing requirement, removing the surety bond requirement, and reducing the registration fees to \$50 the first year, renewable annually at \$25. S. Doonan seconded the motion.

VOTE

A roll call vote was taken. Yes votes were cast by L. Sharp, C. Scholl, Chair Whitmore, S. Irving, K. O'Higgins, C. Shepard, and S. Doonan, Christine Scholl. No no votes were cast. The motion passed 7-0-0.

At 10:20 AM, the meeting adjourned temporarily at to allow Attorney Frieders to draft revised language for continued consideration of contractor registration requirements.

At 10:34 Meeting reconvened.

Attorney Frieders distributed the newly drafted language which read as follows:

Add to Article 0:

0.01 Registration of Construction Managers and General, Electrical and Mechanical Contractors:

- a) *Contractor Registration Required: General Contractors, Electrical Contractors and Mechanical Contractors (as defined below) shall be required to register with the City of DeKalb pursuant to the requirements of this Section 0.01. Registration shall be required for any individual, firm or corporation engaged in the businesses described below; a single registration shall suffice for any*

employee of a registered company. Registration shall not indicate any endorsement of quality or ability of a registered contractor by the City.

1) *General Contractor / Construction Manager: Any person, firm or corporation that performs any building repair, installation, construction or work that requires a building permit, and any Construction manager who holds a prime contract and subcontracts for construction of any building repair, installation, construction or work that requires a building permit. Notwithstanding the foregoing, general contractor registration shall not be required for an owner, self-performing work that requires a building permit on his or her own single-family, owner-occupied structure. General contractor registration is also not required for any person who is registered as a Mechanical or Electrical Contractor, provided that such party is solely performing mechanical or electrical contractor work.*

2) *Electrical Contractor: Any person, firm or corporation that performs any manner of electrical wiring, repair, installation or work that requires a building permit, other than an owner, lawfully self-performing work on his or her own a single-family, owner-occupied structure.*

3) *Mechanical Contractor: Any person, firm or corporation that performs any manner of heating, ventilation, air-conditioning or mechanical system repair, installation or work that requires a building permit, other than an owner, lawfully self-performing work on his or her own a single-family, owner-occupied structure.*

b) *Registration Requirements: Registration shall require compliance with the following standards:*

1) *Registration shall be in form and content acceptable to the Community Development Director and shall have contact information for the contractor and key personnel employed thereby who will be performing work within the City of DeKalb. Registration shall require the payment of a \$50.00 initial application fee and shall be effective on a calendar year basis. Renewal of an existing registration shall require payment of a \$25.00 annual renewal fee and completion of a renewal application in form and content acceptable to the Community Development Director. Renewals shall be performed during or within sixty days of the end of the then-current term of registration; the failure to renew registration within such period shall terminate registration and shall require a new registration.*

2) *Applicants shall be required to provide proof of minimum insurance coverage for the full period of registration, indicating that the applicant has: a) commercial general liability insurance coverage with minimum policy limits of \$100,000 per person/\$300,000 per occurrence; b)*

automobile insurance with minimum policy limits in excess of then-current state requirements; and, c) workers compensation insurance with minimum policy limits in excess of then-current state requirements; all from insurers licensed to transact business in the State of Illinois. Sole-proprietorships may demonstrate compliance with workers compensation insurance with exemption of the owner where permitted by law.

Delete Sections 0.01, 0.02, 0.03, 0.08, 0.09.

Amend Sections 0.04, 0.05, 0.06 and 0.07 to include the following:

Contractors who are State-licensed under this Section shall provide the City with a copy of their State-issued license, and shall provide the City with contact information in form and content acceptable to the Community Development Director.

All numbering will be updated to conform to the rest of Chapter 24.

City of DeKalb Building Division Administrative Assistant Brenda Hart voiced concern about removing the testing requirement from mechanical and electrical contractors. She also voiced concern for those contractors who have already paid \$250 and have scheduled a test or provided proof of a passed test elsewhere. C. Scholl agreed, stating she had similar concerns about these issues as well.

B. Hart explained that the current electrical and mechanical tests are open-book test and typically administered to only one contractor in a firm. She stated that she has experienced some difficulty confirming if a tested contractor is still employed by a firm if another contractor from the firm is listed on a building permit application. She and the BCBA agreed that the tests do not prove competency, but rather the ability to find answers in manuals. B. Hart confirmed that the February 1, 2017 effective date of the updated City Building Code, which includes the re-instatement of the testing requirement for electrical and mechanical contractors, had been sufficiently publicized and contractors have received notice in advance of these matters. She reported that she has already received between four and six new contractor registrations since January 1.

The BCBA confirmed with D. Plass that State of Illinois licensed contractors, namely roofing contractors, private alarm contractors, fire sprinkler contractors, and plumbers, are still required to register with the City, but no fee is paid and no proof of insurance is required by the City.

Chair Whitmore requested a motion to approve the revisions to Article 0 as presented by Attorney Frieders.

MOTION

C. Shepard motioned to approve the revisions as presented. K. O'Higgins seconded the motion.

VOTE

A roll call vote was taken. Yes votes were cast by L. Sharp, C. Scholl, Chair Whitmore, S. Irving, K. O'Higgins, C. Shepard, and S. Doonan, Christine Scholl. No no votes were cast. The motion passed 7-0-0.

G. ANNOUNCEMENTS

None

H. ADJOURNMENT

Seeing and hearing no further discussion, Chair Whitmore requested a motion to adjourn. K. O'Higgins motioned to adjourn, L. Sharp seconded the motion, and the motion was approved by unanimous voice vote. The meeting adjourned at 10:59 AM.

Respectfully Submitted,

Natalie Nelson, Administrative Assistant

Minutes approved by Building Code Board of Appeals on date of approval.

DATE: March 3, 2017
TO: Building Code Board of Appeals
FROM: Jo Ellen Charlton, Community Development Director
SUBJECT: February 2017 Building Code Amendment (Second Reading)

I. Summary

This memo describes the impact of the reduced fees proposed by the BCBA's February 1, 2017 recommendation and recommends an alternate fee for consideration.

II. Background

The BCBA's February 1, 2017 recommendation was received and filed by the Council at their February 27, 2017 meeting. Your amendment replaces existing testing, licensing and bonding requirements for electrical and mechanical contractors with a registration and insurance requirement and reduced fee structure, and modifies newly enacted registration requirements for general contractors by eliminating the bonding requirement and requiring the same insurance and fees as electrical and mechanical contractors. The Council adopted these recommendations on first reading, with direction to staff that second reading focus on the impact the proposed fee reductions would have on the City's previously approved budget.

Fees

The City's existing licensing requirements for mechanical and electrical contractors include an initial fee of \$250 to cover the cost of testing and processing, and subsequent annual fees of \$50. These fees have been historically charged in the past, and were part of the BCBA's original recommendation that is currently on the books as of February 1, 2017. As discussed at the last Council meeting, the BCBA's newest recommendation is to replace the licensing requirements with a registration requirements, which does not include testing and other administrative costs, therefor warranting a reduction in fees. The BCBA's recommendation was to reduce initial fees for electrical and mechanical registrations from \$250 to \$50, and to charge subsequent annual fees at \$25 (down from the original \$50). The fee for the registration of general contractors is a new fee and was recommended utilizing the same fee structure of \$50 and \$25. An analysis of the impact of these recommended fee changes is discussed further in Section V "Financial Analysis" below.

As seen in the table below, the City issued between 250 to 300 new and renewal electrical and HVAC contractor’s licenses every year since 2013. Of these licenses, between 30 and 40 are new licenses, which have historically been charged at a rate of \$250. The remaining license renewals have been charged at a rate of \$50. Annual revenues from these licenses are between \$19,000 and \$22,000. Changing the licenses to registrations and reducing fees from the \$250 and \$50 license fees to the \$50 and \$25 registration fees proposed by the BCBA would have resulted in a loss in revenues of between \$11,000 to \$14,000 in those same years as shown in the “Difference” column in the second chart below. The BCBA reasoned that the reduced fees to \$50 and \$25 was warranted because the testing requirements would no longer be required.

HISTORICAL ELETRICAL AND HVAC FEES COLLECTED									
Atual Electrical and HVAC									
			Total				Total		
Year	# Renew	Fee	Renew	# New	Fee	New	Total	Difference	
2013	\$ 230	\$ 50	\$ 11,500	30	\$ 250	\$ 7,500	\$ 19,000		
2014	\$ 230	\$ 50	\$ 11,500	31	\$ 250	\$ 7,750	\$ 19,250		
2015	\$ 244	\$ 50	\$ 12,200	39	\$ 250	\$ 9,750	\$ 21,950		
2016	\$ 234	\$ 50	\$ 11,700	37	\$ 250	\$ 9,250	\$ 20,950		
Proposed Electrical and HVAC Fees (By BCBA)									
			Total				Total		
Year	# Renew	Fee	Renew	# New	Fee	New	Total	Difference	
2013	\$ 230	\$ 25	\$ 5,750	30	\$ 50	\$ 1,500	\$ 7,250	\$ 11,750	
2014	\$ 230	\$ 25	\$ 5,750	31	\$ 50	\$ 1,550	\$ 7,300	\$ 11,950	
2015	\$ 244	\$ 25	\$ 6,100	39	\$ 50	\$ 1,950	\$ 8,050	\$ 13,900	
2016	\$ 234	\$ 25	\$ 5,850	37	\$ 50	\$ 1,850	\$ 7,700	\$ 13,250	
Assume 100 new General Contractors @ \$50 each. Reduce above differece by \$5,000									
Proposed Electrical and HVAC Fees (Staff Recommendation)									
			Total				Total		
Year	# Renew	Fee	Renew	# New	Fee	New	Total	Difference	
2013	\$ 230	\$ 50	\$ 11,500	30	\$ 50	\$ 1,500	\$ 13,000	\$ 6,000	
2014	\$ 230	\$ 50	\$ 11,500	31	\$ 50	\$ 1,550	\$ 13,050	\$ 6,200	
2015	\$ 244	\$ 50	\$ 12,200	39	\$ 50	\$ 1,950	\$ 14,150	\$ 7,800	
2016	\$ 234	\$ 50	\$ 11,700	37	\$ 50	\$ 1,850	\$ 13,550	\$ 7,400	
Assume 100 new General Contractors @ \$50 each. Reduce difference by \$5,000									



Staff recommends a flat \$50 annual fee be charged for both new and renewal registrations. This would keep the fee the same as it has been for years for contractors used to paying for renewals, and would be a reduction from \$250 to \$50 for new contractor registrations. If implemented, lost revenues to the City could be as low as \$6,000, instead of as high as \$13,900, as shown in the “Difference” column in the second and third charts in the table on the previous page. Additionally, as also shown in the table, the City will realize a new revenue from the new registration requirement for general contractors. Staff estimates up to 100 general contractors each year, for a total new revenue of \$5,000 assuming the flat \$50 rate. This new revenue would offset the lost revenues shown in the “Difference” column by \$5,000, meaning the City would only be down \$1,000 to \$2,800 based on recent trends if the flat \$50 fee was implemented as recommended.

III. Options

This information is being provided to the BCBA for review and recommendation if desired.

IV. Recommendation

The BCBA has invested considerable time and thought into both the original building code amendments and this most recent revision. The City’s Finance Director reviews and comments on all matters involving the City’s budget, and with so many budget cuts necessary during the last budget process, changes in revenue assumptions are thoroughly evaluated.

In discussing the recommended \$50 flat fee with the Finance Director, she agreed that it is fair to the contractors seeking renewals who are used to paying a \$50 renewal fee, is a more fair fee for new contractors given the reduction in administrative handling that is required, and acceptable in terms of minimizing the lost revenue to the City. This is particularly true when considering the estimated \$5,000 additional revenue generated by the new fee for registering general contractors, which helps offset the lost revenues.

This information is being provided for the BCBA’s review, and while a recommendation from the BCBA is not required, staff would be happy to forward feedback or a recommendation if the BCBA so desires.

