

ARTICLE 4 — CONTRACTOR LICENSING CODE.

9-401 (a) TITLE. This Article may and will hereafter be referred to as the “Miami County Contractor Licensing Code”.
(R01-05-048, Sec. 101.2)

(b) INTENT. The purpose of this Article is to protect the public health and safety by assuring that the persons acting in the capacity of a contractor that are responsible for the construction, alteration, repair, or demolition of structures in Miami County are qualified to perform such services.

It is further the intent that owners of single-family residential properties be permitted without special qualification to perform any work on residential structures that they personally occupy.

(R01-05-048, Sec. 101.1, R05-10-062 Sec. 101.1)

9-402 LICENSING AUTHORITY. The Miami County Code Official shall issue contractor licenses for the classes of contractors specified by Section 9-410 upon verification of credentials of applicants required by Section 9-410, and the payment of fees as prescribed by Table 9-411 for each class of license being requested.

(R01-05-048, Sec. 101.3)

9-403 DEFINED. A “contractor”, within the meaning of this Article, is any individual person, corporation, limited liability company, joint venture, or other legal entity or enterprise that undertakes with or for another, with or without compensation, to construct, alter, repair, or demolish any structure or any portion thereof.

Unless provided otherwise by this code, no building permit shall be issued to any person who is not a licensed contractor.

EXCLUSIONS. The following persons are not contractors within the meaning of this Article;

(a) An employee, or agents working for and under the supervision of a contractor licensed under this Article;

(b) An electrician, plumber, mechanical installer, or other specialized trades-person for whom another license is required under provisions of this Article;

(c) A homeowner that owns and personally occupies property, who undertakes the construction, alteration, repair, or maintenance of such homeowner’s single-family residence or an accessory structure thereto. Notwithstanding the foregoing, for purposes of this Article, any person who undertakes the construction of a new residence that they will own and occupy more than once in any three (3) year period or substantial improvement to existing residences more than three (3) times in any five year period shall be deemed to be a “contractor” under this Article.

(d) A home owner may demolish a residential structure, agricultural building or detached accessory building when the building or structure being demolished is setback from any property line or right-of-way a minimum distance of 25 feet.

(R01-05-048, Sec. 101.4)

9-404

LICENSE REQUIRED. No building permit shall be issued to any contractor who has not first obtained a license or who is delinquent in payment of his annual license fee, or whose Certificate of Insurance has expired, or whose license has been suspended or revoked by action of the Miami County Code Board of Appeals (CBOA). It is further unlawful for any person to enter into a contract with another so as to bring himself under the classification of a contractor as defined in Section 9-403, or to perform any work as a contractor, or any work under a contract, without having first obtained a contractor's license. It is unlawful for any person issued a license to contract for any work other than specified by such license, without first obtaining the required license to perform each separate trade.

(R01-05-048, Sec. 101.5)

9-405

CONTRACTOR INSURANCE. Every contractor shall keep in force a policy of commercial general liability insurance including completed operations/products coverage. Such insurance policy shall be written with an insurance company licensed as an admitted insurance company in the State of Kansas. Contractors shall maintain general liability coverage in an amount not less than \$1,000,000.00 per occurrence combined single limit for bodily injury and property damage. In addition, every such contractor shall procure and maintain workers compensation insurance as required by law. A contractor, at the time of licensing under this Section, shall provide Miami County with an original certificate of insurance verifying the insurance coverage required by this Section..

Miami County shall be added as a "Certificate Holder" to the insurance policy by the insurance company issuing the certificate of insurance, requiring the insurance company to notify Miami County in writing of any change in coverage or cancellation of such policy at least ten (10) days prior thereto.

(R01-05-048, Sec. 101.6, R05-10-062, Sec 101.6)

9-406

ESTABLISHED PLACE OF BUSINESS REQUIRED. Every contractor who has obtained a license as set forth in this Section shall have and maintain an established place of business at a definite address and telephone number listed.

If said place of business is located in Miami County the place of business shall comply with all rules and regulations of Miami County.

Contractors holding an unexpired license shall be responsible for notifying the Miami County Building Inspection Department of any changes of address or phone contact information.

(R01-05-048, Sec. 101.7)

9-407

CONTRACTOR RESPONSIBLE FOR ALL WORK. No person shall perform any work as a contractor in Miami County without first obtaining a Contractors License from Miami County. No building permit shall be issued to any person who does not have a current license as required by this Section. Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including work done by the contractor's employees, agents, and subcontractors. Licensed contractors shall be responsible for all funds or property received by him for prosecution or completion of a specific contract or for a specific purpose.

(R01-05-048, Sec. 101.8)

9-408

LICENSES AUTHORIZED. There shall be separate classes of licenses authorized for contractors as provided in Subsections 9-410 (a) through (h).

(a) MULTIPLE CLASSES. A contractor may become licensed in any classification by submitting to the examination as set forth in Subsection 9-410 for the particular class involved and paying the fee required for the classification as set forth in Table 9-411.

A Class A, B or C General Contractor may perform foundation, roofing or site utility installation work on projects for which they are the permit holder or are listed as the primary General Contractor without being required to obtain the appropriate Class S, Special Trades License. No contractor shall undertake any electrical, plumbing or mechanical work for which a license is required without first obtaining the required license for each separate trade.

(R01-05-048, Sec. 101.9, R05-10-062, Sec. R101.9.1)

(b) BUSINESS ENTITIES. A corporation, limited liability company, partnership, joint venture, or other legal entity or enterprise may obtain, in the entity's name, a building permit provided that such entity has in its regular employ a person who is licensed as a contractor under this Article and such individual is the signatory on the building permit on the entity's behalf. Only a contractor licensed under provisions of this Article may obtain a building permit on behalf of a corporation, partnership, limited liability company, joint venture, or other business entity or enterprise. Every contractor by obtaining a building permit in the name of such corporation, partnership, limited liability company, joint venture, or other business entity or enterprise, shall certify that such contractor is the employee or principal of such business entity or enterprise.

(R01-05-048, Sec. 101.9)

9-409

a) Examinations; Contractor Qualifications. Contractors making application for a license shall satisfy one or more of the following provisions prior to a license being granted:

(1) Contractors making application for a new Class A, B or C General Contractor License on or after January 1, 2005 shall submit a certificate of competency with their application.

Contractors that possess a current Miami County Class A General Contractors License shall submit the appropriate certificate of competency to renew the license for the 2005 license year.

Contractors that possess a current Miami County Class B or C General Contractors License shall submit the appropriate certificate of competency to renew the license for the 2006 license year.

In lieu of the required certificate of competency applicant's for a Class A, B or C General Contractor License may submit evidence of holding a bachelor's degree in engineering, architecture, or construction science from an accredited college or university.

(2) Contractors making application or renewing an Electrical Contractors license shall submit a Master Electrician certificate of competency with their application.

Exception: Existing contractors holding a valid Provisional Electrical Contractors License as allowed by Section 9-410 (e) of this code.

(3) Contractors making application or renewing a Plumbing Contractors license shall submit a Master Plumbing with Gas certificate of competency with their application.

Exception: Existing contractors holding a valid Provisional Plumbing Contractors License as allowed by Section 9-410 (e) of this code.

(4) Contractors making application or renewing a Mechanical Contractors license shall submit a Master Mechanical Contractor with Gas certificate of competency with their application.

Exception: Existing contractors holding a valid Provisional Mechanical Contractors License as allowed by Section 9-410 (e) of this code.

(R01-05-048, Sec. 101.10; R05-10-062, Sec. 101.10.1)

(b) Special Provisions for Contractors From Cities Entering Licensing Program.

(1) When any city enters into an agreement with Miami County as allowed by Section 9-416 of this code to allow Miami County to administer their Contractor Licensing Program, applicants for a contractor license that do not possess the required certificate of competency may be allowed to obtain a special provisional license within the following limitations.

(A) Applications for special provisional licenses shall be received by Miami County within 90 days of a city entering into the agreement for Miami County to administer their Contractor Licensing Program.

(B) A city shall provide verification to Miami County that an applicant for a special provisional license either obtained a minimum of two (2) building permits or that the contractor has worked on a minimum of two (2) projects for which permits were required within the six (6) months preceding the city joining the program.

(C) A city shall provide a statement authorizing Miami County to issue special Provisional Contractors License to the applicant.

(D) A special provisional license that is issued under this section will be valid only in the city authorizing Miami County to issue the license.

Special provisional licenses may be issued annually for not more than two full calendar year licensing periods. Contractors making application for renewal of a special provisional license at the beginning of the third licensing period from the city entering the licensing program shall submit the required certificate of competency.

(R05-10-062, Sec 101.10.1.1)

(c) CONTINUING EDUCATION. The Miami County Codes Board of Appeals may establish continuing education requirements, rules, and regulations for contractors licensed under this Section. Every contractor shall demonstrate compliance with such continuing education requirements prior to license renewal.

Evidence of having completed a minimum of 8 hours of code related continuing education that is approved by the CBOA shall be submitted with applications for Contractor License Renewal for the 2006 and subsequent licensing years. A minimum of four (4) hours of the required eight (8) hours of continuing education shall be directly related to the trade for which a contractor is licensed for electrical, plumbing and mechanical contractors. It shall be the responsibility of a licensed contractor to attend a qualifying continuing education class and provide a copy of a certificate of attendance to the licensing authority. Any fees associated with attendance in continuing education is the responsibility of the contractor.

The Miami County Building Inspections Department shall keep a listing of approved educational classes and make it available to licensed contractors.

(R05-10-062, Sec. 101.10.1 & 101.10.2)

9-410 CATEGORIES OF CONTRACTOR LICENSES; TYPES OF WORK
AUTHORIZED.

(a) GENERAL CONTRACTOR; CLASSES.

(1) CLASS "A", GENERAL CONTRACTOR. A Class A license shall entitle the holder thereof to build, remodel, repair, move or demolish any structure without limitation of use, type of construction, height or area.

(2) CLASS "B", GENERAL CONTRACTOR. A Class B license shall entitle the holder thereof to build, remodel, repair, move or demolish all structures not exceeding three stories in height. A Class B License holder shall also entitle the license holder to perform non-structural remodeling, tenant finish, repairs, and demolition of any structure.

(3) CLASS "C", RESIDENTIAL GENERAL CONTRACTOR. A Class C license shall entitle the holder thereof to build, remodel, repair, move or demolish single family or duplex residences and buildings accessory thereto.

(4) CLASS "D", GENERAL CONTRACTOR. A Class D license shall entitle the holder thereof to build, remodel, repair, move or demolish detached agricultural buildings, detached residential accessory buildings, residential swimming pools and minor ancillary structures associated with single family dwellings.

(5) CLASS "MH", GENERAL CONTRACTOR. A Class MH license shall entitle the holder thereof to install manufactured homes onto permanent foundation systems. A Class MH license holder is not authorized to install foundations, construct buildings or structures of any type, or perform any electrical, plumbing or mechanical work without first obtaining the license required for such work. The license fee for a Class MH General Contractor License shall be the same as for a Class C General Contractor License as specified by Table 9-411 of this code.

(R01-05-048 Sec. 101.11.1; R01-12-121, Sec. 101.11.1; R05-10-062, Sec. 101.11.1)

(b) ELECTRICAL CONTRACTOR. An electrical contractors license shall entitle the holder thereof to perform electrical contractor services in Miami County and any cities participating in the Contractor Licensing Program administered under this code.

(R01-05-048 Sec. 101.11.2; R05-10-062, Sec. 101.11.2)

(c) A plumbing contractors license shall entitle the holder thereof to perform plumbing contractor services in Miami County and any cities participating in the Contractor Licensing Program administered under this code.

(R01-05-048 Sec. 101.11.3; R05-10-062, Sec. 101.11.3)

(d) MECHANICAL CONTRACTOR. A mechanical contractors license shall entitle the holder thereof to perform mechanical contractor services in Miami County and any cities participating in the Contractor Licensing Program administered under this code.

(R01-05-048 Sec. 101.11.4; R05-10-062, Sec. 101.11.4)

(e) CLASS F, PROVISIONAL LICENSES. Any contractor that holds a current provisional license that was granted under the authority of Section 101.11.5 of Resolution R01-05-048 may maintain their provisional status without being required to submit proof of qualification subject to the following limitations:

(1) The provisional license shall be renewed annually and the certificate of insurance required by Section 9-405 of this code is submitted to the Miami County Building Inspection Department to verify continuous insurance coverage within the limits established by Section 9-405 of this code.

(2) The provisional license will only entitle the holder to perform work on single family or duplex structures.

(3) Failure to renew a provisional license or to cause the filing of the required certificate of insurance for any period of 90 days or more will result in the provisional license being revoked and require the applicant to submit the required certificate of competency required by Section 9-409 of this code to

obtain an unrestricted contractor license in the trade or trades for which they will qualify themselves to work.

The Code Board of Appeals may require that the holder of a provisional license obtain the qualifications required by Section 9-409 if just cause is found during any disciplinary action taken under provisions of Section 9-412 and 9-413 of this code.
(R01-05-048, Sec. 101.11.5; R05-10-062, Sec. 101.11.5)

(f) CLASS S, SPECIAL TRADES LICENSE. A Class S license shall entitle the holder thereof to act as either the primary contractor or a subcontractor in the following trades:
(R01-12-121, Sec. 101.11.6)

(1) FOUNDATION CONTRACTOR. A foundation contractors license shall entitle the holder thereof to contract for and to install, repair and replace building foundations.
(R01-12-121, Sec. 101.11.1)

(2) RESERVED
(R01-05-048, Sec. 101.11.6.3; R01-12-121, Sec. 101.11.6.3; R05-10-062, Sec. 101.11.6.3)

(3) FIRE PROTECTION CONTRACTOR. A fire protection contractor license shall entitle the holder thereof to install, maintain, repair, service, test, and inspect automatic sprinkler and standpipe systems for all structures, including all spray and deluge, carbon dioxide, foam, dry chemical, and inert gas systems, and all related lines, tanks, fire control systems, and appurtenances to any of the foregoing. Such contractor shall be responsible for the training and oversight of all tradesmen in its employment as well as the means, method, and manner of the fire protection installation including construction, improvement, renovation, repair, and maintenance on a construction project.
(R01-12-121 Sec. 101.11.6.4; R05-10-062, Sec. 101.11.6.4)

(4) ROOFING CONTRACTOR. A roofing contractors license shall entitle the holder thereof to contract for and to install, repair and replace roof coverings. Work may include roof deck and roof deck insulation, roof coating, painting, covering, and may include use of sheet metal and installation of other sheet metal products incidental to roofing work or other material in connection therewith, or any combination thereof.
(Resolution R01-12-121 Sec. 101.11.5)

(5) SITE UTILITY INSTALLER. A site utility installers contractors license shall entitle the holder thereof to contract for and to install, repair and replace water service piping, conduit and conductors for electrical service laterals and underground gas piping on residential or agricultural property.
(Resolution R01-12-121 Sec. 101.11.6)

9-411

CONTRACTOR LICENSE APPLICATION.

(a) APPLICATION FORM. The Miami County Building Inspections Department shall receive and process contractor license applications. An application fee as set forth in Section 9-411 and Table 9-411 shall accompany each original application. An application fee shall not be required in connection with a license renewal.
(R01-05-048, Sec. 101.12.1)

(b) APPLICATION AND LICENSE FEES. Application for contractor's license, name change, organizational change, or change of the qualified person shall include information as the Code Board of Appeals may prescribe and shall be accompanied by the application fee required by Table 9-411.

Where required by Section 9-409, each application must list a qualified person. The qualified person is considered the applicant for a license, and must have the ability to sign contracts that legally bind the individual, partnership or corporation. The qualified person shall be: the individual, for an individual license; one of the partners, for a partnership license; an officer or active member in the corporation for a corporate license.

Upon approval of the application and verification of qualifications in accordance with Section 9-409 and insurance requirements in accordance with Section 9-405, the code official shall issue the requested license upon payment of the annual fee required by Table 9-411.

Application and license fees shall not be prorated because part of the year has elapsed.

(R01-05-048, Sec. 101.12.2; R05-10-062, Sec. 101.12.2)

(c) RENEWAL OR RE-INSTATEMENT OF LICENSE. Every contractor license shall be issued on a calendar year basis to expire on December 31st of each year. License renewal fees shall be due on the first day of January. A license renewal application may be submitted to the county beginning on December 1st through and including the last day of January without a late fee being assessed. Thereafter, a late fee in accordance with Table 9-411 shall be collected to off set administrative costs incurred as a result of such late renewal.

When insurance coverage expires the license shall be considered to expire by limitation and notice will be sent to the license holder. The license will not be reinstated until an original certificate of insurance as required by Section 9-405 of this code has been submitted and a reinstatement fee in accordance with Table 9-411 is paid.

Any construction permits that the license holder possesses shall be considered to be null and void when the holder of the license or one of the designated contractors on the construction project authorized by a construction permit has expired or when insurance coverage has lapsed.

(R01-05-048, Sec. 101.12.3)

**TABLE 9-411
LICENSE AND REGISTRATION FEES**

Application Fee	*\$50.00
Class A General Contractor	\$250.00
Class B General Contractor	\$250.00
Class C Residential General Contractor	\$150.00
Electrical Contractor	\$150.00
Plumbing Contractor	\$150.00
Mechanical Contractor	\$150.00
Class F, Provisional License The fee for a provisions license shall be as required for each class license	
Class S, Special Trades Contractor	\$75.00
Late Renewal Fee	\$50.00
Re-instatement Fee	\$75.00

Contractors holding a current license at the time of the enactment of this code shall not be required to pay an application fee

(R01-05-048 Table 101.12; R01-12-121, Table 101.12; R05-10-062, Table 101.12)

9-412

CONTRACTOR DISCIPLINE. The CBOA shall have the authority to discipline any contractor subject to the requirements of this Section including the suspension or revocation of the contractor's license issued under the provisions of this Article. Before any contractor's license is suspended or revoked, a hearing shall be held by the Board upon not less than ten (10) days notice to the affected contractor. The CBOA may suspend or revoke a contractor's license if the Board concludes, following a hearing, that the contractor's action or inaction is:

- a) A violation of the provisions of this code, any applicable building safety code, or any lawful order of the code official;

- b) A misrepresentation of a material fact made in connection with obtaining a contractor's license or building permit;
- c) A fraudulent or deceitful use of a contractor's license to obtain or to allow an unlicensed contractor to obtain a building permit;
- d) A failure to obtain a building permit or a timely inspection as required by any applicable building safety code;
- e) A failure to exercise regular, routine control and supervision over a construction project for which the contractor has obtained a building permit or has established responsibility for a specific trade thereof;
- f) A failure to timely obtain a Certificate of Occupancy for a structure as required by applicable building safety codes;
- g) A failure to prevent any unlicensed contractors when licenses are required by this code to perform work on a job site for which the contractor obtained a building permit; or
- h) A failure to pay any required application or licensing fees, building permit fees, inspection fees or other fees required by the Miami County Building Code.

(R01-05-048, Sec. 101.13)

9-413

BOARD ACTION. Upon a finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of Section 9-412 (a) through (h) of this code, the Board may admonish, reprimand, or take appropriate disciplinary action against such contractor including, but not limited to:

- a) Suspension of the contractor's license for a fixed period not to exceed ninety days;
- b) Suspension of the contractor's license for a fixed period exceeding 90 days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the Board at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension. Such reconsideration may, at the Board's option, include a hearing.
- c) Revocation of the contractor's license for a period not less than 12 months from the date of revocation. A contractor's license shall be revoked if the contractor's license has been suspended three (3) times during any 36 month period.

A contractor may appeal any decision of the Board to the Board of County Commissioners by filing notice of appeal with the Board of County Commissioners within 15 days following the Board's written decision.

(R01-05-048, Sec. 101.14)

9-414

RESERVED

9-415

SAFE HARBOR PROVISION. A contractor shall not be found in violation of this code, nor disciplined by the Board, for a violation of an applicable building safety code provision if the contractor provides substantial and compelling evidence that the violation occurred as the result of the contractor's good faith compliance with the building plans and specifications prepared or approved by an architect or engineer licensed by the State of Kansas.

(R01-05-048, Sec. 101.16)

9-416

INTERLOCAL COOPERATION. It is contemplated that the Board of County Commissioners and several municipalities within Miami County will enter into an

interlocal agreement under K.S.A. 12-2908 for the purpose of establishing uniform or compatible contractor licensing regulations for the participating jurisdictions and to allow the Miami County Code Board of Appeals (CBOA) to oversee the licensing and regulation of contractors in such municipalities.
(R01-05-048, Sec. 101.17)

9-417 (a) COMPLAINTS. Any person may file a written complaint with the CBOA on forms provided for that purpose. Every complaint shall set forth one or more of the conditions specified by Section 9-412 (a) through (h).

(R01-05-048, Sec. 101.18)

(1) CONSUMER COMPLAINTS. Consumer complaints relating to the quality of materials, workmanship, untimely construction, contract disputes, and similar are beyond the jurisdiction of the CBOA. No complaint shall be considered by the CBOA unless it meets the requirements of Section 9-412 of this code.

(R01-05-048, Sec. 101.18.1)

9-418 BOARD ACTION. Upon a finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of the Contractor Licensing Regulations, the CBOA may admonish, reprimand, or take other appropriate disciplinary action against such contractor.

(R01-05-048, Sec. 101.19)

9-419 (a) HEARINGS. All contested matters pertaining to the approval, issuance, suspension, revocation, renewal, and reinstatement of licenses, including examinations, shall be heard by the CBOA. The hearing shall be informal but witnesses shall testify under oath and a written decision shall be rendered by the CBOA setting forth the relevant findings and conclusions for any action taken by the CBOA. The Chairman or the Chairman's designate shall preside over the hearing.

(R01-05-048, Sec. 101.20)

(1) HEARING PROCEDURE. A hearing shall be held before the CBOA after not less than ten (10) days notice to the contractor and to the complainant setting forth the hearing date, time, and place and stating in general terms the nature of the complaint. The written complaint, including any supporting material or documents, shall be provided to the contractor prior to or at the hearing. The burden of proof shall be on the complainant to show, by a preponderance of the evidence presented, that the allegations set forth in the complaint are true. If the complainant, or a representative of the complainant, fails to appear at the scheduled hearing, the CBOA may nonetheless proceed with the hearing. For good cause shown the CBOA may grant a continuance, hold a hearing open, allow additions to the record after the hearing has concluded, or take other action in the interest of justice.

(R01-05-048, Sec. 101.10.1)

(2) APPEAL. A contractor may appeal any decision of the CBOA to the Board of County Commissioners by filing a notice of appeal with the CBOA within fifteen (15) days of the decision. The fifteen (15) day appeal period shall commence three (3) days after the date the written decision is mailed to the contractor. The CBOA secretary shall forward the CBOA decision to the Board of County Commissioners together with the CBOA record.

(R01-05-048, Sec. 101.20.2)

9-420 AMENDMENT. These Rules and Regulations may be amended by the CBOA at any regular or special meeting upon a vote of not less than 2/3rds of those present at such meeting.

Recommendation for amendments to these Rules and Regulations shall be forwarded to the Board of County Commissioners for final approval before amendments become effective.

(R01-05-048, Sec. 101.21)

9-421

SEVERABILITY. It is hereby declared the intention of the Board of County Commissioners that the Articles, Sections, paragraphs, sentences, clauses and phrases contained within these Regulations are to be severable, and should any Article, Section or provision of these regulations be declared unconstitutional or otherwise ruled to be invalid by any court of competent jurisdiction in a valid judgment or decree, then such decision or ruling shall not affect the validity of the Regulations as a whole or any part of them other than the specific part declared to be unconstitutional or ruled to be invalid.

(R01-05-048, Sec. 101.22)