COUNCIL BILL NO. 2017-003 ORDINANCE NO.

AN ORDINANCE enacting a new Sec. 26-104, Suspension, of Chapter 26, Buildings and Building Regulations, Article V, Contractors, for the purpose of making certain changes.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, as follows:

Section 1. That a new Section 26-104, "Suspension," of the Joplin City Code is hereby enacted as follows:

(a) The Building Official shall have the authority to admonish, reprimand, and otherwise discipline any contractor subject to the provisions set forth in Chapter 26, including the suspension or revocation of the contractor's license issued under said provisions.

1. The Building Official may admonish, reprimand, or take other appropriate disciplinary action against a contractor's license if it is concluded that the contractor's action or inaction is:

i. A serious or repeated violation of the contractor licensing provisions, any applicable Code, or the failure to comply within a reasonable time to any lawful written order of the Building Official;

ii. A knowing and intentional misrepresentation of a material fact made in connection with obtaining a contractor's license or a building permit;

iii. A fraudulent or deceitful use of a contractor's license to obtain a building permit;

iv. A failure to obtain a building permit or to obtain a required inspection of an on-going project as required by any applicable code;

v. A failure to exercise regular, routine control and supervision over an on-going project for which the contractor has obtained a building permit;

vi. A failure to timely obtain a certificate of occupancy for a completed structure, prior to occupancy, as required by the applicable building code;

vii. A failure to hire a licensed electrical, plumbing, or mechanical (HVAC) contractor to perform any electrical, plumbing, or mechanical (HVAC) work on the job site for which the contractor obtained a building permit; or

viii. A failure by a contractor to maintain or pay the required application or licensing fee(s) for a building permit, contractor license, or inspection fee.

2. The Building Official may admonish, reprimand, or take other appropriate disciplinary action against such contractor, including, but not limited to:

i. Suspension of the contractor's license for a fixed period not to exceed ninety (90) days.

ii. Suspension of the contractor's license for a fixed period exceeding ninety (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.

iii. Revocation of the contractor's license for a period not less than twelve (12) months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended five (5) times during any thirty-six (36) month period.

3. The Building Official shall give notice of any action pursuant to 26-104(a) by mailing a written copy of its decision to the contractor at the address associated with the contractor's license on file with the City of Joplin Finance Department within ten (10) days of its decision. The notice required by this section shall be deposited in the United States mail, certified or registered, with postage prepaid, addressed to the contractor. The receipt issued by the United States Post Office for certified or registered mail shall constitute proof of compliance with this notice requirement.

(b) Administrative appeals.

For the purpose of administering contractor licensing provisions, the Board of Appeals, as established by Section 26-31, shall hear appeals of decisions rendered by the Building Official pursuant to 26-104(a), in accordance with the following provisions.

1. Any person directly affected by a decision of the Building Official made pursuant to Section 26-104(a), and after receiving a notice or decision issued under Section 26-104(a), shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within thirty (30) days after the day the notice or decision was received. If a person fails to appeal a decision within thirty (30) days as set forth in this subsection, the decision shall be final and no appeal shall be heard. An application for appeal shall be based on a claim that the applicable code provisions have been incorrectly interpreted or applied, or that the decision was based on erroneous facts.

2. The following information must be contained in a written appeal made by any person entitled to appeal pursuant to this section:

i. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.

ii. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.

iii. The signatures of all parties named as appellants and their official mailing addresses.

3. Upon receipt of any appeal filed pursuant to this section, the Building Official shall provide notice to the person of the date, time, and place of hearing, where the person will have full opportunity to present evidence and testimony in support of the person's appeal. The hearing shall be conducted as a contested case under the provisions of Chapter 536 RSMo. The Building Official shall bear the burden of proof at the hearing. The standard of proof shall be a preponderance of the evidence. The Board of Appeals shall issue a written Final Decision within fifteen (15) days of the hearing date. The decision shall include written findings of fact and conclusions of law. The decision of the Board shall be final for purposes of appeal pursuant to Chapter 536, RSMo. The decision shall be mailed to the person at the address listed in Section 26-104(b).2.iii.

(c) Board action.

Upon a finding by a majority of the members present at the hearing that a person has violated one or more of the provisions of Section 26-104(a).1, the Board of Appeals may vacate, affirm, or modify the decision of the building official.

PASSED BY THE COUNCIL OF THE CITY OF JOPLIN, MISSOURI, this _____ day of _____, 2017, by a vote of _____.

_____
Michael L. Seibert, Mayor

ATTEST:

_____
Barbara L. Hogelin,
City Clerk

APPROVED AS TO FORM:

_____
Peter C. Edwards,
City Attorney