

## Chapter 335

### LICENSES AND PERMITS

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[HISTORY: Adopted by the Borough Council of the Borough of South Waverly as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Uniform construction codes — See Ch. 215.

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#### ARTICLE I Contractors

[Adopted 6-1-2015 by Ord. No. 6-2-15-01 (Ch. 80, Art. I, of the 1992 Code)]

#### § 335-1. Definitions; word usage.

- A. The following words and phrases, as used in this article, shall have the meanings ascribed to them in this section, unless the context indicates a different meaning:

**BOROUGH** — The Borough of South Waverly.

**CODE ENFORCEMENT OFFICER** — The Code Enforcement Officer of the Borough of South Waverly.

**CONTRACT** — An agreement, whether oral or written and whether contained in one or more documents, between a contractor and an owner or another contractor for the performance of work, including all labor, services and materials to be furnished and performed thereunder.

**CONTRACTOR** — Any person, other than a bona fide employee of the owner, who in pursuit of full-time independent business for compensation undertakes to perform a job or piece of work, retaining in himself/herself control of means, method and manner of accomplishing the desired result and who undertakes or offers to perform any of the

following services: backhoe operation, bulldozing, building additions, construction of any structure, including decks, porches, garages and out buildings, concrete installation, demolition, drainage, driveways, drywall, electrician work, excavation, fencing, fertilizer, foundation work, gutters, heating and air conditioning, hauling and removal for building renovation, kitchen and bath installation, mason, brick and stone installation, landscaping and professional lawn care, painting, paper hanging, patios, paving, plumbing, professional cleaning services interior and exterior, power washing, remodel, repair, replacement of windows and doors, roadways, roofing, septic systems, sewer installation, sidewalks, siding, sign installation, site preparation, snow removal utilizing an attached plow to a motorized vehicle (excluding small sidewalk tractors and riding lawn mowers), swimming pools, topsoil, tree removal, tree trimming, utilities, waterproofing, well drilling; whether as a general contractor, subcontractor, specialty contractor or home improvement contractor with respect to the owner.

#### HOME IMPROVEMENT —

- (1) The term includes all of the following done in connection with land or a portion of the land adjacent to a private residence or a building or a portion of the building which is used or designed to be used as a private residence for which the total cash price of all work agreed upon between the contractor and owner is more than \$500.
  - (a) Repair, replacement, remodeling, demolition, removal, renovation, installation, alteration, conversion, modernization, improvement, rehabilitation or sandblasting.
  - (b) Construction, replacement, installation or improvement of driveways, swimming pools, pool houses, porches, garages, roofs, siding, insulation, solar energy systems, security systems, flooring, patios, fences, gazebos, sheds, cabanas, landscaping of a type that is not excluded under Subsection (2)(f) of this definition, painting, doors and windows and waterproofing.
  - (c) Without regard to affixation, the installation of central heating, air conditioning, storm windows or awnings.
- (2) The term does not include:
  - (a) The construction of a new home.
  - (b) The sale of goods or materials by a seller who neither arranges to nor performs, directly or indirectly, any work or labor in connection with the installation or application of the goods or materials.
  - (c) The sale of services furnished for commercial or business use or for resale, if the service takes place somewhere other than at a private residence.
  - (d) The sale of appliances, including stoves, refrigerators, freezers, room air conditioners and others which are designed for and are easily removable from the premises without material alteration.
  - (e) Any work performed without compensation by the owner of the owner's private residence or residential rental property.

- (f) Any work performed by a landscaper certified by the Department of Agriculture under the Act of December 16, 1992 (P.L. 1228, No. 162), known as the Plant Pest Act,<sup>1</sup> except to the extent that the work involves any of the following at a private residence:
- [1] The construction, replacement, installation or improvement of buildings, driveways, swimming pools, porches, garages, roofs, siding, insulation, solar energy systems, security systems, flooring, patios, nondecorative fences, doors, lighting systems, concrete walkways and windows.
  - [2] The placement of retaining walls, fountains or drainage systems.
- (g) Emergency work pursuant to Section 7 of the Act of December 17, 1968 (P.L. 1224, No. 387), known as the "Unfair Trade Practices and Consumer Protection Law."<sup>2</sup>
- (h) The conversion of existing commercial structures into residential or noncommercial structures.

**OWNER** — Any property owner, tenant or other person who orders, contracts for or purchases the services of a contractor or any person entitled to the work of a contractor pursuant to a contract, gift or otherwise.

**PERMIT YEAR** — The twelve-month period beginning the first day of January of each year.

**PERSON** — Any individual, partnership, limited partnership, association, corporation, trust or other legally recognizable entity.

- B. The masculine includes the feminine, the singular includes the plural and the plural includes the singular.

### § 335-2. Purpose.

- A. The purpose of this article is to require the registration of all contractors in the Borough who perform commercial work or work that is not included in the definition of home improvement as defined under the Home Improvement Consumer Protection Act.<sup>3</sup> The article also provides verification of all contractors, both commercial contractors and home improvement contractors, concerning their workers' compensation insurance under § 302 (see the Act of June 2, 1915, P.L. 736, No. 338)<sup>4</sup> and verification of the Borough liability insurance requirements that was adopted in May 6, 1996, in accordance with the provisions in the article.
- B. The article also requires the contractor registration of all contractors who perform work; however, it does not include home improvement contractors who perform work activity

1. Editor's Note: See 3 P.S. § 258.1 et seq.

2. Editor's Note: See 73 P.S. § 201-1 et seq.

3. Editor's Note: See 73 P.S. § 517.1 et seq.

4. Editor's Note: See 77 P.S. § 461 et seq.

in the definition of the home improvement as set forth in the Home Improvement Consumer Protection Act. The home improvement contractor must provide state registration, verification of workers' compensation insurance, and compliance with the Borough's liability insurance. The term "home improvement" is defined as set forth in § 335-1 above.

### **§ 335-3. Enforcement.**

The Code Enforcement Officer or his authorized representatives shall administer and enforce the provisions of this article.

### **§ 335-4. Compliance required.**

No person shall act as a contractor in the Borough except in compliance with the provisions of this article. Any person, including an owner, who willfully aids a contractor or participates with a contractor in violating any provisions of this article, is in violation of this article. The provisions of this article may not be waived by agreement.

### **§ 335-5. Review board.**

The review board shall be the South Waverly Code Review Board appointed by the South Waverly Borough Council which will hear all appeals of the Code Enforcement Officer's decision to deny or revoke a permit. All appeals shall be filed within 30 days of notice of the denial or revocation. Said Appeals Board shall consist of three members appointed by Council for initial terms of one year, two years, and three years. Thereafter, each Board member shall, upon the approval by Council, serve a term of five years. The Code Review Board fee shall be \$750 plus costs and may be amended from time to time by the municipality for the administration and appeals undertaken pursuant to this article and the Code shall be established by the governing body by resolution.

### **§ 335-6. Permit required; application; renewal.**

- A. For purposes of this section, if the contractor is only performing work as defined as a "home improvement" under the Home Improvement Consumer Protection Act,<sup>5</sup> then they will provide all employees' and subcontractor's information required of all contractors and pay an administration fee for verification of workers' compensation insurance and proof of Borough's liability insurance. Any home improvement contractor who does not register as a contractor will not be allowed to perform any contracting work that is not included in the "home improvement" definition (i.e., commercial work).
- B. Each successful applicant shall be issued a permit or insurance verification certification for the calendar year. Every permitted contractor, while actually acting as a contractor in the Borough, shall carry said permit or insurance verification certification or a copy

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5. Editor's Note: See 73 P.S. § 517.1 et seq.

- of the same with him and shall display it to the Code Enforcement Officer or his representatives upon demand to do so.
- C. All contractors' permits or insurance verification certification shall expire on December 31 each year unless the permit or insurance verification certification is revoked or suspended prior thereto under the terms of this article. Any contractor carrying on the business of contractor in the Borough must secure a permit or insurance verification certification under the terms of this article for each permit year during which he carries on such business.
  - D. Beginning on May 5, 1996, and every year thereafter, the Borough of South Waverly will operate a permitting program. If the contractor's permit or insurance verification certification expires, any requests for a new permit or insurance verification certification will be considered a new request and not a renewal.
  - E. Any contractor or owner demolishing a structure will be required to inform the Code Enforcement Officer as to how the material is going to be disposed of, and the disposal must be in accordance with the Department of Environmental Protection regulations.

**§ 335-7. Exceptions and exemptions.**

- A. The provision of this article shall not apply to the official transactions of any authorized representative of the government of the United States, any state or commonwealth of the United States, any political subdivision of any state or commonwealth or any agency or instrumentality of the foregoing governments.
- B. No contractor's permit shall be required by any person when acting in a particular capacity or particular type of transaction as follows:
  - (1) A person who performs labor or services for a contractor for wages or salary.
  - (2) This provision does not affect existing licensing standards in effect on the effective date of this article, with respect to electricians and plumbers and other trades, where licensing is conditioned on requirements of testing or possession of certificates obtained through specific training in electricity or plumbing or other trades. However, electricians and plumbers and other trades must have insurance verification of workers' compensation and the Borough's liability insurance.

**§ 335-8. Insurance requirements.**

- A. No contractor's permit shall be issued unless the applicant files a certificate of insurance with the Borough at the time of permit application. The certificate of insurance shall contain a provision that coverages afforded under the policy will provide notice of cancellation to the Borough within three business days of the cancellation. The certificate of insurance must show evidence of policies of insurance, maintained at the expense of the applicant, for comprehensive general liability or manufacturer's and contractor's liability, each of which must have a single occurrence and aggregate limit of at least \$500,000. The contractor is also required to maintain property damage, bodily injury, products liability and completed operations insurance, each of which must have a single occurrence and aggregate limit of at least \$500,000.

Blasting and demolition insurance shall also be required for blasting and demolition contractors, and the reasonable limits of such insurance shall be determined by the Code Enforcement Officer at the time of application based on the nature and extent of the applicant's proposed operations.

- B. All types and limits of insurance for which certificates are presented at the time of application and based upon which a permit is issued shall be maintained throughout the permit year, or the permit will be suspended or revoked as hereinafter set forth in this article.
- C. Effective September 1, 1993, the Borough of South Waverly will no longer issue a building permit to a contractor, subcontractor or resident (i.e., plumber, electrician, mason, heating, ventilation/air-conditioning repairman, etc.) who has not demonstrated current coverage and compliance with the requirements of the Workers' Compensation Reform Act 44 of 1993 by filing with the Code Enforcement Officer one of the following:
- (1) A certificate of insurance issued by his insurance carrier as proof of workers' compensation insurance for his employees.
  - (2) A certificate of self-insurance from the Department of Labor and Industry.
  - (3) A notarized affidavit of exemption from workers' compensation insurance stating that he will not hire any employees to work on the construction project.
  - (4) Registration via company letterhead or billhead, including address and phone number (post office box not acceptable), of his federal or state identification number.
- D. Exemption for Borough resident not employing contractor.
- (1) Borough residents and/or homeowners, please note: If residents and/or homeowners will be performing the work, they must file a notarized affidavit of exemption from workers' compensation insurance stating that they will not hire/employ any individual or subcontractor on the construction project.
  - (2) Should a resident and/or homeowner later choose or be forced to subcontract work to comply with Chapter 215, Construction Codes, Uniform, it is the responsibility of the resident to see that the subcontractor complies with the regulations as outlined in Subsection C.
- E. Building permit information requirements. Under the Workers' Compensation Act, every building permit issued by the Borough to a contractor, subcontractor or resident shall clearly set forth one of the following:
- (1) The name and workers' compensation policy and the contractor's and/or subcontractor's federal or state employee identification number.
  - (2) The contractor's federal or state employer identification number and the substance of the affirmation that the applicant is not permitted to employ any individual to perform work pursuant to the building permit.

- (3) The resident's and/or homeowner's notarized affirmation that he will not employ any individual to perform work pursuant to the building permit.
- F. These certificates shall be filed with the Borough's copy of the building permit. Upon issuance of a building permit, the Borough will be named as a workmen's compensation policy certificate holder. The issuer of the policy, the worker's compensation insurance carrier, must inform the municipality within three working days of any change in or termination of coverage.
- G. If the Borough receives notice that the contractor or resident has had coverage terminated, has lost state-approved self-insurance status or has employed persons without providing coverage, the Borough must and will, under the Workers' Compensation Act, issue a stop-work order. The stop-work order may not be lifted until the contractor and/or subcontractor obtains proper coverage.

**§ 335-9. Fees.**

- A. At the time of application for a new permit or for the renewal of a current permit, the applicant shall pay to the Code Enforcement Officer a nonrefundable permit application fee, payable to the Borough of South Waverly, as set forth in the Borough Schedule of Fees as adopted and amended from time to time by the South Waverly Borough Council.
- B. All contractors who renew their permit annually prior to the commencement of construction shall pay the annual permit fee as set forth in the Borough Schedule of Fees adopted and amended from time to time by the South Waverly Borough Council.
- C. All contractors who commence construction without a contractor's permit or without renewing their contractor's permit shall pay, in addition to the contractor's permit fee, a late registration fee as set forth in the Borough Schedule of Fees adopted and amended from time to time by the South Waverly Borough Council.
- D. All contractors or owners who commence construction or activity requiring a building/zoning permit without obtaining a permit from the Code Enforcement Officer shall pay a late fee as set forth in the Borough Schedule of Fees adopted and amended from time to time by the South Waverly Borough Council.
- E. If an applicant is a home improvement contractor only, they will only pay an administration fee for insurance verification and receive an insurance verification certification and shall be subject to no other payment obligations under this section. The administration fee shall be \$50 and will be amended from time to time by the municipality for the administration and enforcement undertaken pursuant to this article and shall be established by the governing body by resolution. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

**§ 335-10. Issuance or denial of permits; form of application.**

- A. When an application has been filed with the Code Enforcement Officer in proper form, the Code Enforcement Officer must, within a period of 30 days from the date following the date the application is received, issue or refuse to issue the appropriate contractor's

permit to the applicant. If issuance of a permit is denied, the Code Enforcement Officer shall mail to the unsuccessful applicant a written statement setting forth the reason or reasons for the denial within the aforesaid thirty-day period and a refund of the application fee. The rejected applicant shall be entitled to request a hearing from the South Waverly Code Appeals Board of the Borough Council within 30 days to appeal the Code Enforcement Officer's decision. The same procedure will apply to a home improvement contractor who is denied a verification of their insurance because they did not have workers' compensation insurance if required or did not have the Borough-required \$500,000 liability insurance.

- B. The application for a permit shall be a printed form, provided to the applicant by the Code Enforcement Officer, and the application shall require a written answer to all questions contained thereon. Failure to answer all questions on the application form shall mean that the applicant is not entitled to consideration of his application until he has answered all questions. The application form shall be signed by the applicant under oath. The questions and information requested on the application form shall include but shall not be limited to the following:
- (1) The names of owners, partners, directors and officers of the applicant and the business address and trade names of the applicant. "Solicitors" as defined in South Waverly Borough Chapter 398, Peddling and Soliciting, as solicitors or transient merchants and/or commercial solicitors.
  - (2) Procedures for registration as a contractor. Application:
    - (a) A person shall apply to the Code Enforcement Officer in writing or electronically via a secure Internet connection, if permitted by the Code Enforcement Officer, on a form provided by the Code Enforcement Officer. The application shall include the following information:
      - [1] For an individual applicant, all of the following:
        - [a] Name.
        - [b] Date of birth.
        - [c] Home address and home telephone number.
        - [d] Driver's license number, a copy of an identification card issued by the state in which the individual resides or other form of identification as permitted by the Code Enforcement Officer.
        - [e] Business name, address and telephone number.
        - [f] Federal employer identification number, if applicable.
        - [g] Copy of home improvement application and license.
        - [h] Social security number.
        - [i] All prior business names and addresses of home improvement businesses operated by the individual.
      - [2] For a general partnership applicant, all of the following:

- [a] Name of each partner.
  - [b] Date of birth of each partner.
  - [c] Home address and home telephone number of each partner.
  - [d] Driver's license number or a copy of an identification card issued by the state in which the partner resides, of each partner.
  - [e] Partnership name, address and telephone number.
  - [f] Federal employer identification number, if applicable.
  - [g] Social security number of each partner.
  - [h] All prior business names and addresses of home improvement businesses operated by the applicant and each partner.
- [3] For a corporation, limited liability company or limited partnership, all of the following:
- [a] Name of each officer, manager and general partner.
  - [b] Date of birth of each officer, manager and general partner.
  - [c] Home address and home telephone number of each officer, manager and general partner.
  - [d] Driver's license number or a copy of an identification card issued by the state in which the individual resides, of each officer, manager and general partner.
  - [e] Entity's name, address and telephone number.
  - [f] Federal employer identification number, if applicable.
  - [g] Social security number of each officer, manager and general partner.
  - [h] Name of each director or each individual holding greater than an equity interest of 5% in the entity.
  - [i] All prior business names and addresses of home improvement businesses operated by each officer, manager and general partner.
- [4] For an out-of-state corporation, limited liability or limited partnership, the name and address of the entity's resident agent or registered office provider within this commonwealth and any registration number or license number issued to the entity by its home state or political subdivision of such other state, if applicable.
- [5] For a joint venture applicant, the name, address and telephone number of the joint venture, as well as the name, address and telephone number of each party to the joint venture. When the parties to a joint

venture include business entities, the information required from such entities pursuant to Subsection B(3) shall also be provided.

- [6] A complete description of the nature of the contracting business of the applicant.
  - [7] A statement whether:
    - [a] The individual or individuals making application, even if doing so as part of a business entity application, has ever been convicted of a criminal offense related to a home improvement transaction, fraud, theft, a crime of deception or a crime involving fraudulent business practices, as well as a statement whether the applicant has ever filed a petition in bankruptcy or, within the last 10 years, received a final civil judgment entered against the applicant or businesses in which the applicant held an interest that was related to a home improvement transaction.
    - [b] The applicant's certificate or a similar certificate or license issued by any other state or political subdivision thereof has ever been revoked or suspended pursuant to an order issued by a court of competent jurisdiction and, if so, the current status of the certificate or similar certificate or license. The statement required by this clause shall include the same information with respect to any other business in which the person making application has or has ever had an interest.
  - [8] Whether within the last 10 years the applicant has ever been suspended or debarred from participating in any federal, state, local or not-for-profit program through which public funding or other assistance is provided to owners for home improvements.
  - [9] Proof of liability insurance covering personal injury in an amount not less than \$500,000 and insurance covering property damage caused by the work of a home improvement contractor or commercial contractor in an amount not less than \$500,000. For the purpose of this subsection, proof of insurance may include information attested to by an applicant that the applicant is self-insured, and the Office of Code Enforcement shall develop forms for this purpose and make them available to applicants. The Code Enforcement Officer may determine the sufficiency of the self-insurance and the manner in which it is maintained in compliance with this article.
- (b) Information requested in Subsection B(2)(a)[1] through [5] shall be for a ten-year period, prior to the time of registration. The applicant shall provide information prior to the last 10 years or, as further clarification of the information provided, if the Code Enforcement Officer requests such information.
- (3) For insurance verification purposes, all contractors shall be required to provide a list of employees and subcontractors to the Code Enforcement Officer for each project that a permit is issued for. Each employee or subcontractor shall be

required to possess employer information which shall include name, address, and telephone number of their employer. Each employee or subcontractor shall also be required to have in their possession a valid driver's license or identification card that shall include the employee or subcontractor's name and address. Home improvement contractors will have to provide their current home improvement contract registration number.

**§ 335-11. Changes in ownership, management, address or trade name.**

Every contractor permittee shall, within 10 days after a change in ownership, directors, officers, management, address or trade name, notify the Code Enforcement Officer of such change.

**§ 335-12. Standards for permit issuance and renewal.**

No permit shall be issued or renewed under the following circumstances:

- A. If the applicant falsely answered any question or questions contained on the application form.
- B. The application for a permit shall be a printed form, provided to the applicant by the Code Enforcement Officer, and the application shall require a written answer to all questions contained thereon. Failure to answer all questions on the application form shall mean that the applicant is not entitled to consideration of his application until he has answered all questions. The application form shall be signed by the applicant under oath. The questions and information requested on the application form shall include but shall not be limited to the following:
  - (1) The names of owners, partners, directors, officers, and solicitors of the applicant and the business address and trade names of the applicant. NOTE: "Solicitors" are defined under Chapter 398, Peddling and Soliciting.
  - (2) Procedures for registration as a contractor. Application:
    - (a) A person shall apply to the Code Enforcement Officer in writing or electronically via a secure Internet connection, if permitted by the Code Enforcement Officer, on a form provided by the Office of Code Enforcement. The application shall include the following information:
      - [1] For an individual applicant, all of the following:
        - [a] Name.
        - [b] Date of birth.
        - [c] Home address and home telephone number.
        - [d] Driver's license number, a copy of an identification card issued by the state in which the individual resides or other form of identification as permitted by the Office of Code Enforcement.
        - [e] Business name, address and telephone number.

- [f] Federal employer identification number, if applicable.
  - [g] Social security number.
  - [h] All prior business names and addresses of home improvement businesses operated by the individual.
- [2] For a general partnership applicant, all of the following:
- [a] Name of each partner.
  - [b] Date of birth of each partner.
  - [c] Home address and home telephone number of each partner.
  - [d] Driver's license number, or a copy of an identification card issued by the state in which the partner resides, of each partner.
  - [e] Partnership name, address and telephone number.
  - [f] Federal employer identification number, if applicable.
  - [g] Social security number of each partner.
  - [h] All prior business names and addresses of home improvement businesses operated by the applicant and each partner.
- [3] For a corporation, limited liability company or limited partnership, all of the following:
- [a] Name of each officer, manager and general partner.
  - [b] Date of birth of each officer, manager and general partner.
  - [c] Home address and home telephone number of each officer, manager and general partner.
  - [d] Driver's license number, or a copy of an identification card issued by the state in which the individual resides, of each officer, manager and general partner.
  - [e] Entity's name, address and telephone number.
  - [f] Federal employer identification number, if applicable.
  - [g] Social security number of each officer, manager and general partner.
  - [h] Name of each director or each individual holding greater than an equity interest of 5% in the entity.
  - [i] All prior business names and addresses of home improvement businesses operated by each officer, manager and general partner.

- [4] For an out-of-state corporation, limited liability or limited partnership, the name and address of the entity's resident agent or registered office provider within this commonwealth and any registration number or license number issued to the entity by its home state or political subdivision of such other state, if applicable.
- [5] For a joint venture applicant, the name, address and telephone number of the joint venture, as well as the name, address and telephone number of each party to the joint venture. When the parties to a joint venture include business entities, the information required from such entities pursuant to Subsection B(2) shall also be provided.
- [6] A complete description of the nature of the contracting business of the applicant.
- [7] A statement whether:
- [a] The individual or individuals making application, even if doing so as part of a business entity application, has ever been convicted of a criminal offense related to a home improvement transaction, fraud, theft, a crime of deception or a crime involving fraudulent business practices, as well as a statement whether the applicant has ever filed a petition in bankruptcy or, within the last 10 years, received a final civil judgment entered against the applicant or businesses in which the applicant held an interest that was related to a home improvement transaction.
  - [b] The applicant's certificate or a similar certificate or license issued by any other state or political subdivision thereof has ever been revoked or suspended pursuant to an order issued by a court of competent jurisdiction and, if so, the current status of the certificate or similar certificate or license. The statement required by this clause shall include the same information with respect to any other business in which the person making application has or has ever had an interest.
- [8] Whether within the last 10 years the applicant has ever been suspended or debarred from participating in any federal, state, local or not-for-profit program through which public funding or other assistance is provided to owners for home improvements.
- [9] Proof of liability insurance covering personal injury in an amount not less than \$500,000 and insurance covering property damage caused by the work of a home improvement contractor or a commercial contractor in an amount not less than \$500,000. For the purpose of this subsection, proof of insurance may include information attested to by an applicant that the applicant is self-insured and the Office of Code Enforcement shall develop forms for this purpose and make them available to applicants. The Office of Code Enforcement may determine the sufficiency of the self-insurance and the manner in which it is maintained in compliance with this article.

- (3) Information requested in Subsection B(2)(a)[1] through [5] shall be for a ten-year period, prior to the time of registration. The applicant shall provide information prior to the last 10 years or, as further clarification of the information provided, if the Office of Code Enforcement requests such information.
- C. The applicant fails to comply with the following section: For insurance verification purposes, all contractors shall be required to provide a list of employees and subcontractors to the Code Enforcement Officer for each project that a permit is issued for. Each employee or subcontractor shall be required to possess employer information which shall include name, address, and telephone number of their employer. Each employee or subcontractor shall also be required to have in their possession a valid driver's license or identification card that shall include name and address of the employee or subcontractor.

### § 335-13. Revocation of permit.

- A. The Code Enforcement Officer shall revoke any permit or verification of insurance certification issued under the provisions of this article under the following circumstances. The applicant who has his permit revoked shall be entitled to request a hearing from the South Waverly Code Review Board within 30 days to appeal the Code Enforcement Officer's revocation or denial.
- (1) If the permittee falsely answered any question or questions contained on an application for licensing or renewal of licensing previously submitted to the Code Enforcement Officer.
  - (2) Failure of the permittee to maintain, during the permit year, the policies of insurance required under the provisions of this article.
  - (3) If the permittee violates any of the terms or provisions of Chapter 215, Construction Codes, Uniform, or any terms or provisions of this article.
  - (4) If the permittee violates any condition or requirement of a building permit, sewer construction permit or highway permit issued by the Borough.
  - (5) If the permittee willfully deviates from or disregards any plans or specifications for any contracting job in any substantial respect without first obtaining the consent of the owner, in writing, to any such change and without first notifying the Code Enforcement Officer of any such change or the third-party Building Inspector retained by the Borough.
  - (6) If the permittee does any business through any person who is subject to the licensing requirements of this article and who is not licensed as required by this article.
  - (7) If the permittee conducts a contractor's business in the Borough under any name other than that under which he is licensed.
  - (8) If the permittee fails to comply with an order, demand or requirement lawfully made by the Code Enforcement Officer and/or the third-party Building Inspector

retained by the Borough under the authority of this article or any other Borough ordinance.

- (9) The permittee fails to comply with the following section: For insurance verification purposes, all contractors shall be required to provide a list of employees and subcontractors to the Code Enforcement Officer for each project that a permit is issued for. Each employee or subcontractor shall be required to possess employer information which shall include name, address, and telephone number of their employer. Each employee or subcontractor shall also be required to have in their possession a valid driver's license or identification permit that shall include name and address of the employee or subcontractor.
- (10) If the permittee fails to provide all of the registration information or falsifies their registration information required under this article [required under 73 P.S. § 517.3 (2013) and the registration of solicitors as required under the Borough ordinance.]
- (11) If the permittee fails to comply with the Home Improvement Consumer Protection Act, 73 P.S. § 517.3 (2013).
- (12) If the applicant fails to provide the following information to the Code Enforcement Officer:
  - (a) Application.

[1] A person shall apply to the Office of Code Enforcement in writing or electronically via a secure Internet connection, if permitted by the Office of Code Enforcement, on a form provided by the Office of Code Enforcement. The application shall include the following information:

[a] For an individual applicant, all of the following:

- [i] Name.
- [ii] Date of birth.
- [iii] Home address and home telephone number.
- [iv] Driver's license number, a copy of an identification card issued by the state in which the individual resides or other form of identification as permitted by the Office of Code Enforcement.
- [v] Business name, address and telephone number.
- [vi] Federal employer identification number, if applicable.
- [vii] Social security number.
- [viii] All prior business names and addresses of home improvement businesses operated by the individual.

[b] For a general partnership applicant, all of the following:

- [i] Name of each partner.

- [ii] Date of birth of each partner.
  - [iii] Home address and home telephone number of each partner.
  - [iv] Driver's license number, or a copy of an identification card issued by the state in which the partner resides, of each partner.
  - [v] Partnership name, address and telephone number.
  - [vi] Federal employer identification number, if applicable.
  - [vii] Social security number of each partner.
  - [viii] All prior business names and addresses of home improvement businesses operated by the applicant and each partner.
- [c] For a corporation, limited liability company or limited partnership, all of the following:
- [i] Name of each officer, manager and general partner.
  - [ii] Date of birth of each officer, manager and general partner.
  - [iii] Home address and home telephone number of each officer, manager and general partner.
  - [iv] Driver's license number, or a copy of an identification card issued by the state in which the individual resides, of each officer, manager and general partner.
  - [v] Entity's name, address and telephone number.
  - [vi] Federal employer identification number, if applicable.
  - [vii] Social security number of each officer, manager and general partner.
  - [viii] Name of each director or each individual holding greater than an equity interest of 5% in the entity.
  - [ix] All prior business names and addresses of home improvement businesses operated by each officer, manager and general partner.
- [d] For an out-of-state corporation, limited liability or limited partnership, the name and address of the entity's resident agent or registered office provider within this commonwealth and any registration number or license number issued to the entity by its home state or political subdivision of such other state, if applicable.

- [e] For a joint venture applicant, the name, address and telephone number of the joint venture, as well as the name, address and telephone number of each party to the joint venture. When the parties to a joint venture include business entities, the information required from such entities pursuant to Subsections A(12)(a)[2] and A(12)(b) shall also be provided.
- [f] A complete description of the nature of the contracting business of the applicant.
- [g] A statement whether:
  - [i] The individual or individuals making application, even if doing so as part of a business entity application, has ever been convicted of a criminal offense related to a home improvement transaction, fraud, theft, a crime of deception or a crime involving fraudulent business practices, as well as a statement whether the applicant has ever filed a petition in bankruptcy or, within the last 10 years, received a final civil judgment entered against the applicant or businesses in which the applicant held an interest that was related to a home improvement transaction.
  - [ii] The applicant's certificate or a similar certificate or license issued by any other state or political subdivision thereof has ever been revoked or suspended pursuant to an order issued by a court of competent jurisdiction and, if so, the current status of the certificate or similar certificate or license. The statement required by this clause shall include the same information with respect to any other business in which the person making application has or has ever had an interest.
- [h] Whether within the last 10 years the applicant has ever been suspended or debarred from participating in any federal, state, local or not-for-profit program through which public funding or other assistance is provided to owners for home improvements.
  - [i] Proof of liability insurance covering personal injury in an amount not less than \$500,000 and insurance covering property damage caused by the work of a home improvement contractor or a commercial contractor in an amount not less than \$500,000. For the purpose of this subsection, proof of insurance may include information attested to by an applicant that the applicant is self-insured, and the Office of Code Enforcement shall develop forms for this purpose and make them available to applicants. The Office of Code Enforcement may determine the sufficiency of the self-insurance and the

manner in which it is maintained in compliance with this article.

[2] Information requested in Subsection A(12)(a)[1][a] through [e] shall be for a ten-year period, prior to the time of registration. The applicant shall provide information prior to the last 10 years or, as further clarification of the information provided, if the Code Enforcement Officer requests such information.

(b) Reporting of multiple registrations or licensures. Any registered contractor in this commonwealth who is registered or licensed as a home improvement contractor in any other state, or political subdivision thereof, shall report this information to the Office of Code Enforcement on the initial registration and biennial registration application. Any disciplinary action taken in such other jurisdiction shall be reported to the Code Enforcement Officer on the initial registration application or, if such action occurred subsequent to submission of an initial application, on the biennial registration application or within 90 days of final disposition, whichever is sooner. Multiple registrations or licensures shall be noted by the office of Code Enforcement on the contractor's registration, and such state, or political subdivision thereof, shall be notified by the Code Enforcement Officer of any disciplinary actions taken against such contractor in this commonwealth.

B. The Borough of South Waverly, by virtue of granting a permit to this contractor, does not warrant or make any representation regarding the quality of any of the workmanship performed by said contractor. The Borough does not assume any liability for the quality of this contractor's workmanship or lack thereof. The purpose of this licensing requirement is to guarantee that the contractor has adequate insurance and has not been convicted of any prior fraudulent activities. Furthermore, the Borough will not be held liable for any failure on its part to investigate any of the facts that may be falsely stated in any application presented by any contractor receiving a permit by the Borough.

#### **§ 335-14. Unlawful acts.**

In addition to all other acts prohibited by the terms of this article, those acts warranting revocation of a permit under § 335-13 shall also be prohibited acts and subject the violators to the fine under § 335-15.

#### **§ 335-15. Violations and penalties. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

In addition to refusal or revocation of a permit as provided under this article, any person who violates or permits a violation of this article shall, upon being found liable therefor, pay a fine of not more than \$600, plus court costs and reasonable attorneys' fees incurred by the Borough in the enforcement proceedings. If the penalty is not paid, the Borough shall initiate a civil action for collection in accordance with the Pennsylvania Rules of Civil Procedure. Each day a violation exists shall constitute a separate offense, and each section of this article

that is violated shall also constitute a separate offense. In addition to or in lieu of enforcement under this section, the Borough may enforce this article in equity in the Court of Common Pleas of Bradford County.

