

Introductory Local Law Number 11 Of 2009

County Of Ulster

A Local Law Establishing Commercial Construction And Home Improvement Contractor Licensing For The County Of Ulster

BE IT ENACTED, by the County Legislature of the County of Ulster, New York, as follows:

1. PURPOSES AND LIMITATIONS.

- A. It is the purpose of the Legislature of Ulster County in enacting this chapter to safeguard and protect employees, the homeowners and the consumer against abuses on the part of any person who performs or offers to perform any construction, repair, alteration, addition, remodeling, rehabilitation, site work, excavation, demolition or any other residential or non-residential construction by regulating the commercial construction contractor, home improvement, remodeling and swimming pool repair business, by licensing of persons engaged in such business and by mandating that contractors are responsible for their employees. The Legislature finds that a need exists for a more complete understanding between customers and contractors engaged in commercial construction contracting, swimming pool construction and the home improvement business regarding the content and conditions of transactions for commercial construction, swimming pool construction and home improvement. The Legislature also finds that many misunderstandings have arisen because of the lack of a standard body of requirements relating to such transactions and that certain sales and business practices and construction practices have worked financial and safety hardship upon the people of Ulster County.
- B. Nothing in this chapter shall limit the power of a City, Town or Village to adopt any system of permits requiring submission to and approval by the City, Town or Village of plans and specifications for an installation prior to the commencement of construction of the installation or of inspection of work done.

2. DEFINITIONS; WORD USAGE.

- A. As used in this chapter, the following terms shall have the meanings indicated:

1. APPLICANT

The qualifying individual applying for the license.

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2. BOARD

The Contractor Licensing Board.

3. CONTRACTOR

Any person, other than a bona fide employee of the owner , who owns or operates a commercial construction or home improvement business or who undertakes or offers to undertake or agrees to perform any construction, repair, alteration, addition, remodeling, rehabilitation, demolition or any other residential or non-residential construction, whether or not such person is licensed or subject to the licensing requirements of this chapter and whether or not such person is a prime contractor or subcontractor with respect to the owner.

4. DIRECTOR

The Director of Consumer Affairs of the Consumer Fraud Bureau.

5. HOME IMPROVEMENT

The repair, replacement, remodeling, alteration, conversion, modernization, demolition or removal of, or improvement or addition to any land or building, or that portion thereof which is used or designed to be used as a private residence, dwelling place for not more than six families, a condominium dwelling unit or a cooperative dwelling unit, and shall include, but not be limited to, the installation, construction, replacement or improvement of driveways, swimming pools, roofs, porches, garages, fallout shelters, central vacuum-cleaning systems, storm windows, awnings, fire or burglar alarms, installed floor coverings, landscaping, interior and exterior painting, wallpaper and wall covering installations and other improvements to structures or upon land which is adjacent to a dwelling house.

6. COMMERCIAL CONSTRUCTION

The repair, replacement, remodeling, alteration, conversion, modernization, demolition or removal of, or improvement or addition to any land or building, or that portion thereof which is used or designed to be used as a

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commercial property as enumerated by the New York State Office of Real Property codes 400 – 486.

7. CONSTRUCTION CONTRACT

An agreement between a contractor and an owner or between a contractor and a tenant for the performance of commercial construction or a home improvement, and includes all labor, services and materials to be furnished and performed there under.

8. BUSINESS ESTABLISHMENT

Any shop, establishment, place or premises where the home improvement and or commercial construction contracting business is carried on.

9. LICENSEE

A person permitted to engage in the commercial construction and or home improvement business under the provisions of this chapter.

10. OWNER

Any person, homeowner, or tenant who orders, contracts for or purchases the commercial or home improvement services of a contractor.

11. PERSON

A. An individual, firm, partnership, association or corporation.

B. All references to the masculine gender shall be interpreted to mean to include the feminine gender.

3. LICENSE REQUIRED

No person shall own, maintain, conduct, operate, engage in or transact a commercial construction and or a home improvement business after the effective date of this chapter or any amendment thereto or solicit contracts or hold himself out as being able to do so after such date unless he is licensed therefore pursuant to this chapter.

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4. CONTRACTORS LICENSING BOARD

A. There is hereby created a contractors licensing board consisting of ten members, hereinafter referred to as the "Board." The members of such Board shall be residents of Ulster County, or shall have their principal place of business in Ulster County, and shall be appointed by the Ulster County Executive, subject to confirmation by the County Legislature, and shall serve at the pleasure of the County Executive as follows:

1. Three members primarily engaged in business as home improvement contractors.
 2. Three members primarily engaged in business as commercial construction contractors.
 3. One member nominated by the Hudson Valley Building & Construction Trades Council, AFL-CIO.
 4. One member independent of the construction contracting and commercial construction or home improvement industry.
 5. One member primarily engaged in business as an architect or a licensed engineer.
 - a. The Chairman of the Ulster County Legislature shall have the right to appoint one board member.
 6. The Director of the Consumer Fraud Office shall serve as an ex officio member of the Board.
- B. Of the board members, a minimum of 2/3 shall have experience in the construction industry.
- C. The Board shall elect a Chairman from its own members. In addition, until appointment of a majority of the Board, the Director of the Consumer Fraud Office shall exercise and be vested with all powers and duties of the Board.

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D. A majority of the Board shall constitute a quorum for the transaction of business.

E. Board members and alternates shall serve a term of three years. Members and alternates may serve consecutive terms.

F. No compensation is to be paid to any member of the board. However, board members shall be entitled to be compensated for reasonable expenses in relation to their duty.

5. POWERS AND DUTIES OF THE BOARD.

The Board shall have the following powers and duties in addition to those elsewhere prescribed in this chapter:

A. To hold meetings at the call of the Chairman and at such other times as the Board may determine, when necessary or desirable for the efficient discharge of the business of the Board, but not less than quarterly. All meetings of such Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof and every decision or determination of the Board shall immediately be filed in the office of the Director of Consumer Fraud and shall be a public record.

B. To establish categories of licenses under this chapter. Commercial Construction Contractors shall be required to carry an A License. Home Improvement and Swimming Pool Contractors shall be required to carry a B. License for all jobs in which the contract is valued at more than \$1000.00. There shall also be an A/B License for those contractors that wish to perform both services.

C. To examine the qualifications and fitness of applicants for licenses under this chapter or of the representatives of such applicants designated for such purpose.

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D. To grant and issue licenses to applicants possessing or whose representatives possess the requisite qualifications for each category of license established by the Board. License shall be signed by the Chairman and Secretary of the Board.

E. To suspend or revoke licenses for cause as prescribed in this chapter.

F. To keep records of its meetings and proceedings and of all licenses issued, suspended or revoked by it and to make such records available for public inspections, the same to be filed in the office of the Director of Consumer Fraud for at least 6 years.

G. To establish qualifications for, and to grant and renew, temporary licenses not to exceed 120 days for each such grant or renewal, for each category of license established by the Board and to establish such pro-rata fee schedule as it deems advisable.

H. To prepare a manual of its rules and regulations for the conduct of examinations and qualifications and to furnish copies thereof to persons desiring the same upon payment of a fee as set by the licensing Board.

I. To adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under this chapter or any other law after a public hearing by the Board and subject to the approval of the Ulster County Legislature. Upon adoption and approval of such rules and regulations, they shall be duly filed with the Clerk of the Ulster County Legislature and Director of Consumer Fraud.

J. To employ experts, clerks and a secretary and to pay for their services and such other expenses as may be necessary and proper, subject to the appropriations that may be made therefore by the Ulster County Legislature. Said employees shall report to the Director on a day-to-day operational basis. The Ulster County Legislature is hereby authorized and empowered to make such appropriation as it may see fit for such expenses; the amount of the appropriation shall be the estimated charges and expenses less fees, if any, collected pursuant to the license required by this chapter.

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6. EXAMINATIONS, EXEPTIONS; BOND AND INSURANCE.

A. Examinations shall be in writing or in other forms as the Board may determine. A complete record of every examination given shall be kept on file until three years after the date of the examination. Examinations shall be held at such times and places as the Board may fix, at least quarterly and more frequently as deemed necessary by the Board.

B. The applicant shall present himself for examination at the time and place specified in a notice to be given by the Board.

C. An applicant who has failed in this first examination shall not be eligible for reexamination until one month from the date of such failure. One who fails twice or more shall not be eligible for further reexamination until at least three months from the date of such second or subsequent failure.

D. No license shall be granted to a person unless he shall prove to the satisfaction of the Board that he is competent and qualified to perform work. The Board may, as a condition to the granting of a license, establish a rule or regulation requiring that the applicant must have a certain number of years of experience performing work before the date of application.

E. Any person applying for a license within one year after the effective date of this chapter who shall hold a current valid license or who shall have been continuously engaged in the business and work of a contractor in the County of Ulster for a period of five years or more preceding such effective date shall be entitled to receive a license without examination upon payment of the fee prescribed by this chapter.

F. The Board may require an application for a license or a renewal application to be accompanied by a bond, approved as to form by the County Attorney, executed by a bonding or surety company authorized to do business in the State of New York, or cash security in an amount to be set by the Board, conditioned upon the assurance that during the term of such license the licensee will continue to comply with the provisions of this chapter, to assure that upon default in the performance of any contract, the advance payments made thereon, less the reasonable value of

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services actually rendered to the date of such default, or the reasonable costs of completion of the contract in the event of non-completion thereof, will be refunded to the purchaser, owner or lessee with whom such contract was made. Such bond shall run to the County of Ulster for the use and benefit of any person or persons intended to be protected thereby. The filing of the required bond in the office of the Director, pre-approved as to form by the County Attorney, shall be deemed sufficient compliance with this section. The Board may require a bond at any time during the term of the license based on the licensee's performance during such term.

G. All persons licensed pursuant to this chapter shall be required to secure comprehensive general liability insurance to protect all persons from personal injury and property damage that could occur, directly or indirectly, during or as a result of their work licensed by this chapter. Such liability insurance must include proof of personal liability and property damage coverage (with no exclusions for product-completed operations coverage) in such form and amount, and with such other kinds of coverage, as may from time to time be set forth in or required by the rules and regulations, along with proof of workers' compensation and disability insurance in such form and amount as may from time to time be set forth in or required by the rules and regulations. Such liability insurance shall be occurrence-based.

H. License suspension.

1. The Director or his designee, upon receipt of evidence that any bond required of any licensee by this subsection F. or any liability, disability, or workers' compensation insurance required of any licensee by this subsection G. or the rules and regulations is not in effect, shall promptly issue an order suspending the license of such licensee and shall promptly mail a copy of such order by regular first class mail and by certified mail to the licensee at the licensee's address provided in accordance with this law or the rules and regulations.

2. The suspension shall take effect on the date specified in the order and shall remain in effect for a period of time equal to the time from the date that the bond or insurance, as the case may be, was not in effect to the date

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on which a subsequent insurance, as the case may be, became or will have become in effect.

3. No order suspending any license shall be issued, or, if such order has been issued, it shall be terminated, if the Director or his designee shall determine either that the bond or insurance, as the case may be, had been erroneously determined not to have been continuously in effect or that both (a) the licensee was not aware of the fact that the bond or insurance, as the case may be, was not in effect and (b) the failure to have such bond or insurance in effect was caused solely by the negligence or malfeasance of a person other than such licensee. The burden of proving that the bond or insurance had been erroneously determined not to have been continuously in effect, or that the licensee did not know that the bond or insurance was not in effect and that such failure to have the bond or insurance in effect resulted solely from the negligence or malfeasance of another, shall be upon the licensee seeking to avoid suspension action. Such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the Commissioner. The Director may, as justice may require, terminate or modify any order suspending any license.

4. No order issued, and no action taken or not taken, by the Director or his designee pursuant to this Subsection H. shall be subject to appeal to the Board or to the appeal procedures specified in this chapter but, rather, shall be deemed an administratively final determination for purposes of judicial review.

5. Nothing in this subsection shall prohibit the Board from further suspending or revoking such license pursuant to other provisions of this chapter or prohibit the Director or others specified in this chapter from proceeding further to enforce this chapter as provided in this chapter.

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7. LICENSE; DISPLAY; RENEWAL; DUPLICATES.

A. All licenses, except temporary licenses, shall be for a period of two years from the date of application and shall expire on the last day of the 24th month following the application filing date, as set forth in the rules and regulations.

B. No license shall be assignable or transferable except as hereinafter provided. A license to conduct a commercial construction and or home improvement business issued to an individual may be assigned or transferred for the remainder of the license period to a partnership or corporation if such individual is a member of such partnership or a stockholder of such corporation; such individual remaining as a member of a partnership or stockholder of a corporation that that individual is also required to be actively involved in the business. A license issued to a partnership may be assigned or transferred for the remainder of the license period to any one member of such partnership, provided that he obtains the consent of all of the other members of such partnership. The application for such transfer or assignment must be accompanied by proof satisfactory to the Board that the requirements herein provided have been complied with. No assignment or transfer shall become effective unless and until the endorsement of the transfer or assignment has been made on the face of the license by the Board and such license, so endorsed, has been returned to the assignee or transferee. All such endorsements shall be made upon payment of a fee as set forth in the rules and regulations.

C. Each license issued pursuant to this chapter shall be posted and kept posted in some conspicuous place in the business establishment.

D. Any license, except a temporary license, which has not been suspended or revoked may, upon the payment of the renewal fee, be renewed for an additional period of two years from its expiration, as set forth in the rules and regulations, upon filing of an application for such renewal on a form to be prescribed by the Board. Failure to make application for such renewal within 15 days prior to the expiration date of the license shall subject the licensee to a penalty as set forth in the rules and regulations, which shall be paid, together with the renewal fee, prior to the issuance of the renewal. After the expiration date of the license, the licensee

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established by this chapter. A licensee whose license has expired shall be required to apply for an entirely new license in accordance with this chapter, unless, within 90 days after the expiration date of the license, such licensee makes application for renewal and pays a penalty as set forth in the rules and regulations, together with the renewal fee.

E. A duplicate license may be issued for one lost, destroyed or mutilated, upon application therefore on a form prescribed therefore by this chapter. Each such duplicate license shall have the word "duplicate" stamped across the face thereof and shall bear the same number as the one it replaces.

F. A supplementary license may be issued for each additional place of business maintained by a licensee within the County of Ulster upon application therefore on a form prescribed by the Board and the payment of the fee prescribed therefore by this chapter. Each such supplementary license shall have the word "supplementary" stamped across the face thereof and shall bear the same number as the original.

8. FEES.

Application for a license, renewal of a license, supplementary, duplicate or transfer license shall be accompanied by the required fee set forth in the rules and regulations.

9. REFUSAL, SUSPENSION OR REVOCATION OF LICENSE.

A license to conduct, operate, engage in and transact a commercial construction and/or a home improvement business as a contractor may be refused, suspended or revoked at the discretion of the Board for any one or more of the following causes:

A. Fraud, misrepresentation or bribery in securing a license.

B. The making of any false statement as to a material matter in any application for a license, or in any proceeding with respect to the refusal, suspension, or revocation of a license, or in any response to any order, demand, or inquiry by the

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Board or by the Director or his designee with respect to a license or with respect to any construction contract.

C. The person or the management personnel of the contractor are untrustworthy or not of good character.

D. The business transactions of the contractor have been marked by a practice of failure to perform its contracts or the manipulation of assets or accounts or by fraud or bad faith.

E. Failure to display the license as provided in this chapter.

F. Failure to obtain or maintain the insurance required by this section, including, liability, workers compensation, disability, and unemployment coverage.

G. Failure to pay any fine imposed for violation of any provisions of this Section within ten days (10) of imposition by a final order from which all appeals have been exhausted.

H. Failure to pay a tax or charge imposed in connection with the activity licensed under this Section.

I. Repeated failure to secure required permits.

J. Repeated failure to provide the County with accurate cost estimates of construction activity on permit applications.

K. Conviction of a crime of fraud or dishonesty in connection with the licensed activity.

L. Contractor is found guilty or is debarred by any government agency.

M. Has been found in violation or fined due to any prevailing wage law, or any other state or federal labor law by final decision of a court or government agency.

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N. Has committed a serious or willful violation of federal or state safety laws as determined by final decision of a court or government agency.

O. Has been found in violation of any other law, including, but not limited to environmental laws, anti-trust laws, licensing laws, by final decision of a court or government agency.

P. Has had any business, trade, or contracting license suspended or revoked.

Q. Violation of any provision of this chapter or of any rule or regulation adopted hereunder.

R. Has outstanding judgments, liens, or it has been demonstrated through outstanding proof that present or past employees are owed wages or benefits.

10. PROHIBITED ACTS.

A. The following acts are prohibited:

1. Abandonment or willful failure to perform, without justification, any contract or project engaged in or undertaken by a contractor or willful deviation from or disregard of plans or specifications in any material respect without the consent of the owner or designee of the owner.
2. Making any substantial misrepresentation in a home improvement or commercial construction contract or in the procurement of a home improvement or commercial construction contract or making any false promise likely to influence, persuade or induce.
3. Any fraud in the execution of or in the material alteration of any contract, mortgage, promissory note or other document incident to a commercial construction or home improvement transaction.
4. Preparing or accepting any mortgage, promissory note or other evidence of indebtedness upon the obligations of a commercial construction or home improvement transaction with knowledge that it recites a greater monetary

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obligation than the agreed consideration for the commercial construction or home improvement work.

5. Directly or indirectly publishing any advertisement relating to commercial construction or home improvements which contains an assertion, representation or statement of fact which is false, deceptive or misleading, provided that any advertisement which is subject to and complies with the then existing rules, regulations or guides of the Federal Trade Commission shall not be deemed false, deceptive or misleading; or any means of advertising or purporting to offer the general public any commercial construction or home improvement work with the intent not to accept contracts for the particular work or the price which is advertised or offered to the public.

6. Willful or deliberate disregard and violation of the building, sanitary and health laws of this state or any political or municipal subdivision thereof.

7. Willful failure to notify the Board of any change or control in ownership, management, business name, location or person whose qualifications were the subject of review and approval by the Board as designee of a contractor.

8. Conducting business in any name other than the one in which the contractor is licensed.

9. Willful failure to comply with any order, demand or requirement made by the Board pursuant to provisions of this chapter, or the willful making of any false statement as to a material matter in any proceeding with respect to the refusal, suspension, or revocation of a license, or in any response to any order, demand, or inquiry by the Board or by the Director or his designee with respect to a license or with respect to any construction contract.

10. Willful or other refusal, failure, or neglect to pay or comply with any judgment in favor of any owner, supplier, vendor, material man, subcontractor, independent contractor, employee, or other person arising out of any commercial construction contract or home improvement activity

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entered in any court of competent jurisdiction, within 60 days after the entry of such judgment, or within 60 days after the disposition of any appeal from it, or within 60 days after the expiration of any period during which an appeal or further appeal may be taken from it, whichever is later.

11. Willful refusal or failure to make any payment, that is justly due and owing, to any supplier, vendor, material man, subcontractor, independent contractor, employee, or other person for any labor or materials in connection with any commercial construction or home improvement contract, or any willful act or omission that may expose any owner to the imposition of any lien or to any civil or other liability or penalty.

12. Failure to secure all required permits.

13. No contractor shall provide false information on any license or permit application filed with the Board.

14. No contractor shall employ an unlicensed subcontractor or subcontractors to perform any activity regulated under this section.

B. As part of or in connection with the inducement to make a construction contract, no person shall promise or offer to pay credit charges or allow to a buyer any compensation or reward for the procurement of a commercial construction or home improvement contract with others.

C. No contractor shall offer or pay a loan as an inducement to enter into a commercial construction or home improvement transaction.

D. No acts, agreements or statements of a buyer under a commercial construction or home improvement contract shall constitute a waiver of any provisions of this chapter intended for the benefit or protection of the buyer.

E. No person shall advertise or hold himself or herself out as being qualified to perform commercial construction or home improvements, as defined in this chapter, in Ulster County unless licensed as herein provided, and the license number shall appear in all such advertising.

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11. EXCEPTIONS.

A. No contractor's license shall be required of any person when acting in the particular capacity or particular type of transaction set forth in this section:

1. An individual who performs labor or services for a contractor for wages or salary.
2. A architect, professional engineer or any other such person who is required by state or local law to attain standards of competency or experience as a prerequisite to engaging in such craft or profession and who is acting exclusively within the scope of the craft or profession for which he is currently licensed pursuant to such other law.
3. Any retail Clerk, clerical, administrative or other employee of a licensed contractor as to a transaction on the premises of the contractor.
4. Owners who perform all aspects of their own construction and/or demolition work.
5. Governmental employees performing construction or demolition activity for their governmental employer as part of their official duties. This exception does not apply to contractors retained by a government entity.
6. A contractor who does not perform any job for which the contract is more than \$1,500.00.

B. This chapter shall not apply to a construction contract otherwise within the purview of this chapter which is made prior to the effective date of the respective provisions of this chapter governing such contracts.

Every commercial construction or home improvement contract where the total aggregate cost exceeds \$1,500.00 shall be subject to the provisions of this section. Every contract and any changes in the contract subject to the provisions of this section shall be in writing, shall be signed by all parties to the contract, and the writing shall contain the following:

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12. CONTRACT REQUIREMENTS.

A. The name, address, license number and federal employer identification number, if any, of the contractor.

B. The approximate dates when the work will begin and on which all construction is to be completed.

C. A description of all work to be done, the materials or material allowances and equipment to be used, the agreed consideration for the work and whether any other work is required to be performed to comply with any other law, ordinance, local law, resolution or building code governing commercial construction or home improvement work or requiring permits therefore or any requirement contained in the rules and regulations of the Board and any revisions thereof.

D. If the payment schedule contained in the contract provides for a down payment to be paid to the contractor by the owner before the commencement of work, such down payment shall not exceed \$1,000 or 15% of the contract price, excluding finance charges, whichever is the lesser. However, this Subsection D shall not be construed to prohibit any contractor from demanding or receiving from any owner at any time during the performance of any contract advance payment for any materials that are necessary for the owner's specific project, provided: (1) that the contractor has become or may become, for any reason, irrevocably committed to purchase such materials from any supplier, vendor, material man, or other person; or (2) that the contractor has become or may become, for any reason, contractually liable to pay any supplier, vendor, material man, or other person for such materials; or (3) such materials have become irreversibly customized for the owner's specific project and may not feasibly, without undue hardship to the contractor, be salvageable by the contractor from the owner's specific project; and provided, further, that the contract shall contain in bold twelve-point or larger print, immediately above the signature of the owner, the following language, which shall be separately initialed by the owner: "At any time during the performance of this contract, the contractor may demand and shall be entitled to receive in full from the owner advance payment for any materials that are necessary to perform this contract."

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E. A schedule of payments showing the amount of each payment as a sum in dollars and cents. In no event shall the payment schedule provide for the contractor to receive, nor shall the contractor actually receive, payments in excess of 100% of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial down payment and any advance payments authorized by Subsection D. The schedule of payments shall be stated in dollars and cents and shall be specifically referenced to the amount of work to be performed and to any materials and equipment to be supplied.

F. The contract shall state that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the work a full and unconditional release from any claim of a mechanic's lien by the contractor or by a person entitled to enforce a mechanic's lien for that portion of the work for which payment has been made.

G. The requirements of Subsections D, E and F shall not apply when the contract provides for the contractor to furnish a performance and payment bond, lien and completion bond, or a bond equivalent approved by the Board, covering full performance and completion of the contract and such bonds are furnished by the contractor or when the parties agree for full payment to be made upon or for a schedule of payments to commence after satisfactory completion of the project. The contract shall contain, in close proximity to the signature of the owner, a notice in at least ten-point type stating that such owner has the right to require the contractor to have a performance and payment bond.

H. No additional work shall be performed without prior written authorization of the person contracting for the construction. Any such authorization shall be on a contract change-order form, showing the agreed terms and reasons for such changes and shall be approved by both parties in writing. Any such change-order forms shall be incorporated in, and become part of, the contract.

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I. The writing shall be legible and shall be in such form as to clearly describe any other document which is to be incorporated into the contract, and before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

J. The contract shall contain not less than a one-year warranty guaranteeing the quality of workmanship.

K. The contract shall require the contractor to obtain any necessary permits and provide to the owner a certificate of occupancy, if required, unless specifically provided otherwise in the contract. Should the contract indicate that the owner is to obtain any necessary permits and certificate of occupancy, the same shall be set forth in not less than ten-point bold lettering.

L. The writing may also contain other matters agreed to by the parties to the contract.

M. At the time a contract is signed by the parties, the contractor shall deliver a legible copy of such contract to the person contracting for the construction.

N. Each home improvement and/or commercial construction contractor shall maintain books of account, copies of all contracts with buyers and such other records as shall properly and completely reflect all transactions involving the business establishment. These records shall be maintained for five (5) years or the length of time of the contract guaranty, whichever is longer.

O. A notice to the owner that, in addition to any right to otherwise revoke an offer, the owner may cancel the contract until midnight of the third business day after the day on which the owner has signed an agreement or offer to purchase relating to such contract. Cancellation occurs when written notice of cancellation is given to the contractor. Notice of cancellation, if given by mail, shall be deemed given when deposited in a mailbox properly addressed and postage prepaid. Notice of cancellation shall be sufficient if it indicates the intention of the owner not to be bound. Notwithstanding the foregoing, this subsection shall not apply to a transaction in which the owner has initiated the contact and the work proposed is needed to meet a bona fide emergency of the owner, and the owner furnishes the

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contractor with a separate dated and signed personal statement in the owner's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the contract within three business days. For the purposes of this subsection, the term "owner" shall mean an owner or any representative of an owner.

13. CONTRACT FUNDS.

A contractor must treat all funds received from a customer pursuant to a construction contract as trust funds to be applied solely to the payment of expenses directly related to the project. Such funds may not be applied to the payment of expenses unrelated to the job unless and until the project is completed and all the expenses for direct labor, material and subcontractors related thereto have been paid by the contractor.

14. DISPOSITION OF FEES.

All fees derived by the Board from the operation of this chapter shall be turned over to the Ulster County Commissioner of Finance by the Board within 10 days after they are received.

15. LIABILITY FOR DAMAGE.

This chapter shall not be construed to relieve from nor lessen the responsibility of any home improvement or commercial construction contractor for any loss of life or damage to person or property, nor shall the County of Ulster be deemed to have assumed any such liability by reason of any license issued pursuant to this chapter.

16. OTHER LICENSES; POWERS OF MUNICIPALITIES.

A. A license issued pursuant to this chapter may not be construed to authorize the licensee to perform any particular type of work or kind of business which is reserved to qualified licensees under separate provisions of state or local law, nor shall any license or authority other than as is issued or permitted pursuant to this chapter authorize engaging in the home improvement or commercial construction business.

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B. Nothing in this chapter shall be construed to limit or restrict the power of a City, Town or Village to regulate the quality, performance or character of the work of contractors, including a system of permits and inspections which are designed to secure compliance with and aid in the enforcement of applicable state and local building laws or to enforce other laws necessary for the protection of the public health and safety. Nothing in this chapter limits the power of a City, Town or Village to adopt any system of permits requiring submission to and approval by the Town or Village of plans and specifications for an installation prior to the commencement of construction of the installation or of inspection of work done.

17. SUSPENSION OR REVOCATION OF LICENSES.

A. Any license issued hereunder may be suspended or revoked, at the discretion of the Board, after public hearing, upon due notice held, upon charges given to the licensee and an opportunity to be heard in his defense, in person or by an attorney, if the Board is satisfied that the holder of such license or any of his or its officers or employees willfully, or by reason of incompetence, have violated any provision of this chapter, any other law, ordinance, local law, resolution or building code governing commercial construction or home improvement work or requiring permits therefore or any requirement contained in the rules and regulations of the Board and any revisions thereof. The Board shall cause the proceedings of such hearing to be electronically or otherwise recorded verbatim and permanently preserved.

B. Any revocation under Subsection A. of this section shall be for not less than one year unless otherwise specified by the appeals board Section 19 pursuant to this chapter. License revocation for Subsection K, L, M, and N of Section 9 shall be for a period of five years.

18. APPEALS.

A. Any person aggrieved by the action of the Board in refusing to issue a license or renewal thereof or suspending or revoking a license or making any decision or determination may take an appeal there from to the Ulster County Legislature within 30 days after the same has been filed with the Clerk of the Ulster County Legislature as required herein. Such appeal shall be taken by filing with the Board

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and the Ulster County Legislature a notice of appeal, specifying the grounds therefore.

B. The Board shall forthwith transmit to the Clerk of the Ulster County Legislature and shall by personal delivery or by first class mail serve upon the appellant a copy of the recorded proceedings and a copy of all the papers constituting the record upon which the action appealed from was taken.

C. An appeal, except from an action of the Board in refusing to issue a license or renewal thereof, stays all proceedings in furtherance of the action appealed from, unless the Board certifies to the Ulster County Legislature, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Ulster County Legislature.

D. The Chair of the Legislature, subject to confirmation by the County Legislature, may designate three members of the Legislature as an appellate panel to hear the appeal.

E. A time shall be fixed for the hearing of the appeal, and notices of the hearing shall be mailed to the appellant and the Board at least 20 days before the hearing. Upon the hearing, any party may appear in person or by agent or by attorney. The appellate panel may reverse or affirm, wholly or partly, or may modify the decision or determination or action appealed from and shall make such decision or determination as, in its opinion, ought to be made in the premises and to that end shall have the powers of the Board from which the appeal is taken.

F. Any person or persons aggrieved by any decision made upon an appeal may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules, provided that the proceeding is commenced within 30 days after filing the decision in the office of the Clerk to the Legislature.

G. Said appeals shall be a hearing de novo at which the proceedings of and the evidence presented at the hearing before the Board shall be considered, together with such other evidence offered by the appellant or the Board that the three

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members of the Legislature hearing the appeal deem relevant to the issues decided by the Board.

H. All exhibits proposed by the appellant or the Board to be submitted as evidence at the hearing of the appeal shall be filed with the Clerk to the Legislature and by personal delivery or by first class mail served upon the other party at least seven days prior to said hearing.

19. CONSTRUUAL OF PROVISIONS.

Nothing contained herein shall be construed to obviate the necessity of procuring a permit for work whenever required by statute, local law, resolution, building code or ordinance of the municipality wherein such work is to be performed.

20. PENALTIES FOR OFFENSES.

A. Any willful or negligent failure by any person to comply with the provisions of Section 3. hereof shall constitute a class A misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment. The continuation of any offense shall constitute a separate and distinct misdemeanor hereunder for each day the offense is continued.

B. Any person who, with intent to defraud or deceive, knowingly makes a false statement in a home improvement or commercial construction contract, or in connection with the inducement to make a home improvement or commercial construction contract, or in securing a license, or in any proceeding with respect to the refusal, suspension, or revocation of a license, or in any response to any order, demand, or inquiry by the Board or by the Coordinator or his designee with respect to a license or with respect to any home improvement or commercial construction contract shall be guilty of a class A misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment.

C. Any willful or negligent failure by any person to comply with the other sections of this chapter shall constitute a violation and shall be punishable by a

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fine not exceeding \$250 or imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense shall constitute a separate and distinct violation hereunder for each day the offense is continued.

D. In addition to any criminal penalties provided in the preceding Subsections A, B, and C of this Section which may be imposed by a court of competent jurisdiction, an administrative notice of violation assessing a civil penalty not to exceed \$3,000 for any willful or negligent failure by any person to comply with any provision of this chapter may be issued by the Director, as designated herein, and his designees and sent by certified, registered, or ordinary mail to the person who has failed to comply. Each failure to comply with one or more separate and distinct provisions of this chapter shall constitute a separate and distinct failure to comply, for each of which the Director or his designees may issue a separate and distinct administrative notice of violation assessing a civil penalty not to exceed \$3,000. The continuation of any failure to comply shall constitute a separate and distinct failure to comply for each day the failure is continued. Any person aggrieved by the assessment of any civil penalty by the Director or his designees may, within 30 days after the mailing of the notice of violation, appeal the assessment to the Board. The Director may, with the consent of the County Executive, commence a civil action in any court of competent jurisdiction to collect any civil penalty assessed pursuant to this subsection that remains unpaid for more than 30 days after the mailing of the notice of violation or, if an appeal is taken to the Board or if a further appeal is taken from the Board to the Legislature, more than 30 days after the determination by the Board or the appellate panel, as the case may be.

E. Nothing herein contained shall prevent the Director, as designated herein, his designees, the Board, or other employee of the County designated by the Board from proceeding to enforce the requirements of this chapter by any one or any combination, successively or simultaneously, of the following: criminal proceedings as provided in Subsections A, B, C, and D of this section; civil penalty as provided in Subsection E of this section; or civil action for injunctive, declaratory, monetary, or other relief.

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F. The Director may refuse to issue a license or a renewal thereof to any person who has failed to pay any fine or civil penalty imposed pursuant to this chapter. Any person aggrieved by the refusal of the Director to issue a license or a renewal thereof pursuant to this subsection may, within 30 days after the mailing of the notice of such refusal, appeal the refusal to the Board. The Board may suspend or revoke the license of, or refuse to issue a license or a renewal thereof to, any person who has failed to pay any fine or civil penalty imposed pursuant to this chapter. The Director may refuse to issue a license or a renewal thereof to any person who has failed to pay any fine or civil penalty imposed pursuant to this chapter. Any person aggrieved by the refusal of the Director to issue a license or a renewal thereof pursuant to this subsection may, within 30 days after the mailing of the notice of such refusal, appeal the refusal to the Board. The Board may suspend or revoke the license of, or refuse to issue a license or a renewal thereof to, any person who has failed to pay any fine or civil penalty imposed pursuant to this chapter.

21. DIRECTOR's POWERS.

A. The Director and his designees may conduct initial investigations of complaints filed with his office with regard to violation(s) of this chapter or of rules or regulations adopted hereunder.

B. The Director and his designees may conduct an initial hearing or hearings for the purpose of taking testimony, reporting findings of fact, recommendations and decisions as a hearing officer concerning any investigation, inquiries or violations of this section or rule or regulation adopted hereunder.

C. Any person or persons aggrieved by the action of the Director's or his designees' recommendations and decisions may take an appeal there from to the Board within 30 days after the same has been filed with the Board.

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22. SEVERABILITY.

If any part of this chapter, or the application thereof to any person or circumstances, shall be it judged invalid by any court of competent jurisdiction, such judgment shall be confined it its operation to the parts of the provision directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to any other persons or circumstances.

New York State Office of Real Property codes 400 – 486

400 - COMMERCIAL

410 - Living Accommodations

411 - Apartments

414 - Hotel

415 - Motel

416 - Mobile Home Parks (trailer parks, trailer courts)

The mobile homes are usually owner occupied but the land and facilities are rented or leased. (See code 270 for individual mobile homes.)

417 - Camps, Cottages, Bungalows

Usually rented on a seasonal basis.

418 - Inns, Lodges, Boarding and Rooming Houses, Tourist Homes, Fraternity and Sorority Houses

Sleeping accommodations with or without meals or kitchen privileges.

420 - Dining Establishments

421 - Restaurants

Facilities which serve full course meals with or without legal beverages.

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422 - Diners and Luncheonettes

Usually year-round facilities with counter service and limited seating.

423 - Snack Bars, Drive-Ins, Ice Cream Bars

Usually seasonal, with window and/or car service, possibly limited counter service (e.g., A&W Root Beer, Tastee Freeze Ice Cream, etc.).

424 - Night Clubs

Facilities which feature an extensive menu, legal beverages and live entertainment.

425 - Bar

Facilities which serve only legal beverages, not food.

426 - Fast Food Franchises

Year-round, with counter service, limited menus and a drive-up window (e.g., McDonald's, Burger King, etc.).

430 - Motor Vehicle Services

431 - Auto Dealers - Sales and Service

Includes truck or farm machinery dealerships, auto or truck rental agencies, motor home sales and service facilities, etc.

432 - Service and Gas Stations

Sell gasoline and/or provide minor repairs and services.

433 - Auto Body, Tire Shops, Other Related Auto Sales

Specialized auto equipment and repair (e.g., Goodyear Tire Center, Firestone Stores, etc.).

434 - Automatic Car Wash

Car is pulled through a series of cleaning processes.

435 - Manual Car Wash

Car is driven into a stall; revolving brushes rotate around the car (semiautomatic).

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436 - Self-Service Car Wash

Usually a multi stall structure featuring a car owner operated coin system with spray type hoses for washing and rinsing a car.

437 - Parking Garage

Usually a multistory structure with elevators and/or ramps, used mainly for car storage.

438 - Parking Lot

A commercial open parking lot for motor vehicles.

439 - Small Parking Garage

A garage with two or more stalls, usually found in a residential area, being rented for parking.

440 - Storage, Warehouse and Distribution Facilities

The following property classification code changes will be established beginning with the 2004 assessment roll. Please make the necessary changes now, as you update your assessment roll.

New Description	New Class	Old Class	Old Description
Fuel Storage and Distribution Facilities	441	441	Gasoline, Fuel, Oil, Liquid Petroleum Storage and/or Distribution
"	441	442	Bottled Gas, Natural Gas Facilities
"	441	445	Coal Yards, Bins
Mini Warehouse (Self Storage)	442	NA	
Open - Not Used	445		

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441 - Fuel Storage and Distribution Facilities

Facility for fuel storage and distribution including gasoline, oil, liquid petroleum bottled gas, natural gas, and coal.

442 - Mini Warehouse (Self Storage)

This use reflects the partitioned warehouse space used for multiple tenant self service storage.

443 - Grain and Feed Elevators, Mixers, Sales Outlets

444 - Lumber Yards, Sawmills

445 - Coal Yards, Bins

446 - Cold Storage Facilities

Used for perishables, produce or other items.

447 - Trucking Terminals

448 - Piers, Wharves, Docks and Related Facilities

449 - Other Storage, Warehouse and Distribution Facilities

450 - Retail Services

451 - Regional Shopping Centers

Multi occupant facilities with ten or more stores, usually featuring a large department store or two, and ample paved parking.

452 - Area or Neighborhood Shopping Centers

Smaller shopping facilities which usually feature a junior department store, several other stores, and ample parking; may include a supermarket.

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453 - Large Retail Outlets

These facilities are usually complemented by a large supermarket and have ample parking (e.g., Ames, Wal-Mart, etc.).

454 - Large Retail Food Stores

These facilities usually belong to a chain and sell food and sundry items (e.g., Price Chopper, Hannaford, Topps, Wegmans, P&C, Big M, etc.).

455 - Dealerships - Sales and Service (other than auto with large sales operation)

Boats (also refer to code 570), snowmobiles, garden equipment, etc.

460 - Banks and Office Buildings

461 - Standard Bank/Single Occupant

462 - Drive-In Branch Bank

463 - Bank Complex with Office Building

464 - Office Building

465 - Professional Building

470 - Miscellaneous Services

471 - Funeral Homes

472 - Dog Kennels, Veterinary Clinics

473 – Greenhouses

474 – Billboards

475 - Junkyards

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480 - Multiple Use or Multi-purpose

A building readily adaptable, with little physical change, for more than one use or purpose.

481 - Downtown Row Type (with common wall)

Usually a two or three story older structure with retail sales/services on the first floor and offices and/or apartments on the upper floors; little or no on-site parking.

482 - Downtown Row Type (detached)

The same type of use as in code 481, above, but this is a separate structure without party walls.

483 - Converted Residence

A building usually located in a residential area, which has been partially converted or adapted for office space (e.g., a doctor's or dentist's office with an apartment upstairs).

484 - One Story Small Structure

Usually a modern, one occupant, building adaptable for several uses (e.g., retail clothing store, small office, warehouse, pet shop, etc.).

485 - One Story Small Structure - Multi occupant

Usually partitioned for two or more occupants, such as a liquor store, drug store, and a laundromat; limited parking on site.

486 - Minimart

Combination snack bar, market and gas station.

Rules and Regulations Relating to the Licensing of Commercial Construction and Home Improvement Contractors in Ulster County

1. There shall be established three categories of licenses for contractors. (A) Licenses will be designated for Commercial Construction Contractors and (B) Licenses will be designated for Home Improvement and residential Swimming Pool Contractors. (A/B) Licenses will be designated for those Contractors that wish to be licensed in both categories of license and

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conduct business in both Commercial Construction and Home Improvement and residential Swimming Pool Construction. Commercial and non-commercial property will be defined by the categories enumerated by the New York State Office of Real Property Services.

2. In order to be licensed for a specific category, an applicant must furnish proof of the requisite minimum experience and/or education for that category.
3. An applicant must furnish proof of the minimum liability insurance required for the category applied for.
4. Work performed by the contractor must be within the scope of the category for which he is licensed.
5. An applicant may apply for an A/B License with one application; provided, however, that he meets the most stringent minimum experience and/or education requirements of both licenses and provides proof that he carries the greatest amount of liability insurance specified for both licenses.

6. Fees

Item	Fee
Application for a 2-year A License	\$750
Application for a 2-year B License	\$500
Application for a 2-year A/B License	\$1,000
Renewal for a 2-year A License	\$550
Renewal for a 2-year B License	\$300
Renewal for a 2-year A/B License	\$700
Late fee for renewals not received by the 16 th of the month in which they are due	\$50
Late fee for renewals received between 30 and 60 days past their expiration date	\$100
Late fee for renewals received between 60 and 90 days past their expiration date	\$150
License sticker decal	\$10
Duplicate license	\$10

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Supplementary license	\$10
Transfer of license from business to corporation	\$25

7. All fees are nonrefundable. Payment of all fees will be by check or money order. A 25% processing surcharge will be added to the applications and renewal licenses of all out-of-state contractors.
8. Two reference letters, on business letterhead, are required to accompany all applications. They shall be from former employers, architects, engineers, inspectors, or certified contractors in the trade. These letters must contain the following information: length of time applicant known, relationship to applicant, exact dates employed, employment capacity, duties and business or profession of reference. Such letter shall also indicate what municipal or state licenses you hold, your name, address, telephone and any other additional information you wish to supply. Letters are accepted from customers, provided that verifiable contact information is provided (name; address; phone number; signature) and that they state the time frame of the job; type of work performed by applicant; and quality of the work.
9. License Issuance:
 - a. A CORPORATION must submit a copy of the filing receipt showing the filing of the corporation with the State of New York, Secretary of State.
 - b. A FOREIGN CORPORATION must submit a copy of the filing receipt from the State of New York Secretary of State granting the corporation the authority to do business in New York State.
 - c. A DOMESTIC or FOREIGN CORPORATION with an ASSUMED NAME must submit a copy of the filing receipt from the State of New York Secretary of State granting use of the assumed name in the County of Ulster.
 - d. A PARTNERSHIP, conducting business under a trade name, must submit a copy of a fully executed partnership agreement and a certified copy of the partnership certificate on file in the County Clerk's office. All information, except partnership name, address, partners' percentage of ownership, and signature page, shall be redacted.

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- e. AN INDIVIDUAL operating under a trade name must submit a certified copy of the business certificate on file in the County Clerk's office.

10. Insurance:

- a. A valid certificate of liability insurance in the amount set according to the license classification naming the County of Ulster Office of Consumer Fraud as a certificate holder for licensing purposes must be submitted at time of issuance of license and renewal.
- b. *In addition, "proof of completed operations" insurance must be submitted at the time of issuance and renewal.*
- c. In the event that a contractor has no employees and/or does not hire subcontractors, and/or is an out-of-state contractor, additional forms, as prescribed by the New York State Workers' Compensation Board, will be submitted before a license is issued and a license is renewed.
- d. The home improvement or commercial construction contractor is responsible for submitting updated certificates of insurance within 10 days from the expiration date noted on the certificate previously submitted and on file.

11. Attendance by Board members. Members of the Board shall be required to attend 60% of all regular meeting scheduled by the board in the calendar year, and failure to do so may result in the Board submitting a letter to the County Executive recommending this member be removed for failure to attend regularly scheduled Board meetings.

12. License decal stickers and truck lettering and/or job site signs:

- a. Application for license sticker decal issues by the County of Ulster shall be accompanied by motor vehicle registration for all vehicles used in the course of business.
- b. License decal stickers shall be affixed to the rear of the vehicle.
- c. All vehicles operated and used in the course of business shall be properly lettered, including company name and license number.
- d. Lettering shall be applied on both sides and rear of the vehicle.
- e. All lettering shall be a minimum of three inches in height.
- f. Magnetic signs are permissible.

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g. Job site sign shall be a minimum of 20 inches by 30 inches.

13. Change of address: licensee shall notify the Board within 30 days of any change of address.

14. Change of business name or control in ownership: licensee shall apply to Board if there is to be a change in the business name or control in ownership.

15. Surrendering license: licensee may apply for inactive status for no more than a six-month period. Licensee must submit a signed statement indicating desire to surrender license, the period that applying for, and return the license issued by Ulster County.

16. Written examination:

- a. Upon determination that a license application is complete, the applicant will be scheduled to sit for a written examination based on the Laws of Ulster County.
- b. The applicant must complete an application within 90 days from the date of filing for the first examination date to be scheduled.
- c. Said written examination shall be held at a time and place determined by the Board, and written notification shall be sent to the applicant to his or her business address on record.
- d. If the Board determines that an unreasonable and unavoidable delay prevents the scheduling of the examination, a temporary license may be granted until such time as the test can be administered and the results determined.
- e. If the applicant does not appear for the written examination as scheduled and has not previously requested an alternate test date, such a failure to appear or "no-show" will be counted as a failed examination.
- f. The passing grade for the examination shall be 75%. Three consecutive failing grades shall result in the automatic rejection of the license application. The applicant must wait a period of six months before submission of a new application.

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17. Reciprocity of licenses for Hudson Valley counties that adopt same/com-parable language).

23. EFFECTIVE DATE. This Local Law shall become effective immediately upon its filing in the Office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.

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