

BOROUGH OF NUANGOLA

Luzerne County, Pennsylvania

ORDINANCE NO. ____ of 2008

AN ORDINANCE REGULATING AND REGISTERING ALL CONTRACTORS ENGAGED IN BUSINESS IN THE BOROUGH: INCLUDING BUT NOT LIMITED TO: GENERAL BUILDING CONTRACTORS, MOVING CONTRACTORS, DEMOLITION CONTRACTORS, ELECTRIC CONTRACTORS, PLUMBING CONTRACTORS, LANDSCAPING CONTRACTORS, HEATING/AIR CONDITIONING CONTRACTORS, ETC.

NOW, THEREFORE IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Nuangola, Luzerne County, Pennsylvania, that it is hereby enacted and ordained by the authority of the laws by which Boroughs are governed as follows:

Whereas, Nuangola has adopted ordinances regulating construction in the form of building permits, zoning, subdivision, and storm water management as well as others of less general application: and,

Whereas, in isolated instances, contractors have performed work without obtaining necessary permits or proper disposal of construction waste or without proper onsite water and toilet facilities for workers: and,

Whereas, the Borough desires to protect itself and its residents by establishing a comprehensive system of registration of contractors within the Borough.

Now: therefore, be it ordained and enacted the date set forth below, upon due advertisement and deliberation at a public meeting, the Nuangola Borough Council hereby adopt the following ordinance requiring all contractors to obtain a license and to as a condition thereof, to demonstrate compliance with minimum standards set below.

1. Definitions

- A. **CONTRACTOR.** Any person, partnership, association, firm or corporation who provides labor and/or materials necessary to construct, repair, replace or improve any structure or utility line or any real estate located within the borough limits. This shall include but not be limited to a general contractor, electrical contractor, plumbing contractor, masonry contractor, carpenter, landscaping contractor, excavating contractor or demolition

contractor. A property owner who works exclusively within his or her boundary limits is not to be considered a contractor within the meaning of this ordinance.

- B. CONSTRUCTION SERVICE. This service shall mean any of the activities commonly referred to as construction and shall include but not limited to: plumbing, heating, roofing, interior/exterior remodeling, excavating, blasting, etc.
- C. CONTRACTING WORK. Contracting work is any work performed to erect, add to, alter, repair or otherwise improve a structure.
- D. BLASTING CONTRACTOR. The person, company or corporation responsible for the managing and conducting blasting operations.
- E. DEMOLITION CONTRACTOR. A Demolition Contractor is any person, firm or corporation qualified to remove or demolish structures or buildings on real property.
- F. ELECTRICAL CONTRACTOR. An Electrical Contractor is any person, firm or corporation qualified to install, alter, or repair electrical wiring systems and fixtures in, on, or about a structure.
- G. GENERAL BUILDING CONTRACTOR. Any person, firm or corporation qualified to erect a structure in its entirety or add to, alter or repair an existing structure or any of its components systems, other than electrical, plumbing, air conditioning and heating, etc. A General Building Contractor is one who is held accountable for the work of all separate contractors and subcontractors employed by said General Building Contractor.
- H. HEATING/AIR CONDITIONING CONTRACTOR. A Heating/Air Conditioning Contractor is any person, firm or corporation qualified to install, alter or repair any heating and/or air conditioning systems and fixtures in, on or about a structure.
- I. LANDSCAPING CONTRACTOR. Any individual or corporation who alters the terrain by planting shrubs, trees, flowers, cuts trees or shrubs, or cuts grass, plants grass, treats lawns with biodegradable chemicals or builds decorative walls for the purpose of improving the structural appearance of a property.
- J. MOVING CONTRACTOR. A Moving Contractor is any person, firm or corporation qualified and equipped to move any building, or the contents of any building, including personal property and fixtures.
- K. MISCELLANEOUS CONTRACTORS. All contractors not defined but intending to do work on, in or about a structure or property in the borough.
- L. PERSON. A person shall mean any individual person, corporation, partnership, any other legal entity or other form of origination.
- M. PLUMBING CONTRACTOR. A Plumbing Contractor is any person, firm or corporation qualified to install, alter or repair any plumbing systems and fixtures in, on or about a

structure.

2. Registration Required.

- A. Prior to commencing any activity which would be classified as Contracting Work, every Contractor shall be registered within the borough for such activity as provided herein.
- B. Registration Procedure. An application for registration pursuant to this Ordinance shall be made in writing, signed by the applicant, and submitted to the Zoning Officer. The application in the case of a firm or corporation, should be made by an agent or member of the firm or corporation. The registration may then be issued in the name of the person, firm or corporation but this registration shall be valid and in effect only if the registered individual is still a member, officer or agent of such firm or corporation.
- C. All applications must be accompanied by a certificate of workers' compensation insurance specifying the name of the workers' compensation insurance company, the number of employees of the contractor and the federal and state employer identification number.
 - 1. If a contractor or person signs an affidavit stating that he has no employees and is not required to carry workers' compensation insurance, the Borough of Nuangola may issue the permit stating the contractor's federal or state employer tax identification number, and a notation that the contractor has no other employees and does not carry workers' compensation insurance, and that the contractor is not permitted to employ any individuals or companies to perform work pursuant to his license.
- D. A contractor shall also be required to maintain property damage, bodily injury and products liability insurance. Blasting and demolition insurance shall be required for Blasting and Demolition Contractors.
- E. The amount of the required insurance shall be as set by the Building Code Enforcement Officer or other designated official.
- F. If the above insurance is not supplied as required, then there will be no building permits issued to the contractor who fails to comply herewith.
- G. The application shall contain the following information and tendering of the fee set forth in the schedule below, or as modified by future resolution of the Borough Council:
 - 1. Full name and address of the person making the application or the full name and address of the firm or corporation on whose behalf the application is made including Tax Identification Number or Social Security Number (for an individual).
 - 2. The permanent address and telephone number of the firm or corporation on whose behalf the application is made.
 - 3. A statement that the person applying for the registration is at least eighteen (18) years of age and a citizen of the United States.
 - 4. In the case of a partnership, the names, address and telephone numbers of all

partners.

5. In the case of a firm or corporation, the name and address of the principal officer of the firm or corporation.
6. The classification for which the applicant seeks to be registered for.
7. Details as to the experience and qualification in the classification of business or activity for which registration is being sought.
8. Statement of the amount of public liability insurance and workers' compensation carried.
9. The application shall be accompanied by an indemnification agreement, approved by the Borough Solicitor, wherein the contractor indemnifies and holds harmless the borough officials, agents and employees of and from any damages caused by negligence of the Contractor performing his/hers/its duties.
10. The application shall be accompanied by the payment of a fee duly adopted by Resolution as the Borough Council may set by from time to time.
11. The application shall be in writing on such printed forms as shall be prescribed and approved by Borough Council, if any. Otherwise, any writing conforming to the requirements of this Ordinance shall be sufficient.
12. The types of registration issued under this Ordinance are defined above. A separate registration shall be issued for each classification. In the case of a Miscellaneous Contractor when the registration is issued, it shall specify the type of definition Miscellaneous Contractor pursuant to this Ordinance.

3. Prohibition

- A. No contractor shall perform construction services within the Nuangola Borough, Luzerne County, without first registering with the Borough.
- B. No contractor shall perform construction services within Nuangola Borough without providing a source of potable water either by a well or bottled water and toilet facilities connected outside to an on-lot septic system or by a "portable toilet" where the waste will be legally disposed of off site. Both the water supply and the toilet facilities must be located within 100 feet of the area of actual construction, but not within any Borough right-of-way or any other private property.

4. Action of the Registration Application

- A. The issuance of registration under this Ordinance shall be made by the zoning enforcement officer.
- B. A 3-day waiting period, not including weekends or holidays, shall be required between the submission of the application and the action on the application by the zoning enforcement officer.
- C. During this 3-day waiting period, the Chief of Police may investigate the information on the application including whether any person, partner or officer of the firm or corporation has been convicted of any crime and/or is actually located at the temporary address provided in the application. The Chief of Police shall advise the zoning enforcement officer of the

results of this investigation in writing.

D. The zoning enforcement officer has the right to disapprove of any application for the following reasons:

1. If any person named in that application has been convicted of a felony or misdemeanor.
2. If the Chief of Police has not been able to confirm the authenticity of the address proved on the application.
3. If the application is incomplete.
4. If the applicant has previously violated the terms of this Ordinance during the preceding three-year period prior to this application.
5. If it is determined that the applicant lacks the experience or qualifications to qualify as a contractor in the classification of business or business or activity for which the registration is sought.

5. Registration Fees

A. Fees for registration under this Ordinance and for all renewals thereof shall be as fixed by Council from time to time by resolution of said Council.

6. Registration Term

A. The term of each registration under this Ordinance shall be for one year. Registration shall be valid for one calendar year, from January 1 of each year. The year shall be considered the calendar year in which the registration is issued, which will expire on December 31st of that year.

7. Not Transferable

A. Under no circumstance shall a registered contractor under this Ordinance be able to transfer his/her registration to another party.

8. Revocation of Registration

A. The zoning enforcement officer is hereby authorized to revoke or suspend a registration without the return of fees under the following circumstances. The applicant who has his license revoked shall be entitled to request a hearing from the Borough Council within thirty (30) days to appeal the zoning enforcement officer's revocation.

1. If any person named on the registration is convicted of a felony or misdemeanor.
2. If it is determined that the applicant has given false information.
3. If any provisions of the Ordinance have been violated.
4. Fraud, misrepresentation or other unjustified failure to perform the contract in the Borough, which a registration under this Ordinance is required.
5. Failure of the licensee to maintain, during the license year, the policies of insurance required under the provisions of this Ordinance.

6. If the licensee violates any condition or requirement of a building permit, sewer construction permit or highway permit issued by the borough.
7. If the licensee wilfully 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 zoning enforcement officer of any such changes.
8. If the licensee does any business through any person who is subject to the licensing requirement of this Ordinance and who is not licensed as required by this Ordinance.
9. If the licensee conducts a contractor's business in the Borough under any name other than that for which he is licensed.
10. If the licensee fails to comply with an order, demand or requirement lawfully made by the zoning enforcement officer under the authority of this Ordinance.

B. The Borough of Nuangola by the virtue of granting a license to this contractor, does not warrant or make 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 license by the Borough.

C. Upon suspension or revocation of a registration under this Ordinance, this registration shall be surrendered to the zoning enforcement officer who shall accept the revocation of any contractor's registration.

Likewise, every holder of a license, upon retiring from the business for which the registration in question was granted, shall notify the zoning enforcement officer, of such fact and at the same time surrender the certificate for cancellation.

9. Advertising

A. No person, partnership, firm or corporation which is not the holder of a valid contractor registration from the Borough shall falsely represent that he/she holds such a registration nor shall such person use, in advertising, the words "contractor" or any words of similar meaning or import which can be gleaned to mean registered by the Borough.

B. Any person who knowingly makes such a false statement is in violation of this Ordinance.

10. Display of Registration

A. Contractors' performing construction services within the Borough shall display a copy of the current registration at the work site in a location where it is visible from the location of the home, business, etc., entrance or in the case of new construction at the entrance to the work area.

- B. It shall be the contractors' duty and responsibility to see that the registration remains intact and readable during the duration of the construction services.

11. Penalty for Violation

- A. Pursuant to Act 172 of 1996, a violation of this Ordinance shall constitute a summary offense, and separate violations will be deemed to occur on each day that the contractor remains in violation.
- B. The following is the schedule of maximum fines established by this Ordinance:
 - 1. For violation prohibiting a contractor from performing construction services without first registering a contractor, no more than One Thousand (\$1,000.00) Dollars for each and every day that the violation continues;
 - 2. For violation requiring a contractor provide potable water and toilet facilities within the area of actual construction no more than One Thousand (\$1,000.00) Dollars for each and every day that the violation continues;
 - 3. For violation requiring the registration to be displayed continually at the work site, no more than Five Hundred (\$500.00) Dollars for each and every day that the violation continues.

12. Severability

- A. The provision of this act are intended to be severable. The portions of this Ordinance shall be severable. If any action or portion thereof shall be held to be unconstitutional illegal or otherwise invalid, such decision shall not affect the validity of the remaining portion of this Ordinance.

13. Appeals to Denials of Registration

- A. Any person whose application is denied by the zoning enforcement officer may appeal, in writing to be signed by the registered person or applicant, such action to Borough Council. Council shall set a fee by Resolution for this appeal process.
- B. Appeal hearings shall be heard at a public hearing within thirty (30) days of the filing of the appeal.

14. Exemptions and Exceptions

- A. The provisions of this Ordinance shall not apply to the official transactions of any authorized representative of the government of the United States, and political subdivision of the Commonwealth or an agency or instrumentality of the foregoing governments.
- B. No contractor's license 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. A person who is required by other state or local laws to attain standards of competency or experience and who must obtain licensing under such state or local law, as a prerequisite to engaging in a craft or profession, and who is acting exclusively within the scope of such craft or profession for which he is currently licensed pursuant to such other law.
3. Painter - No license shall be required by any individual engaged in painting of any house or building in the borough.

15. REPEALER.

- A. All previous resolutions or ordinances of borough council are inconsistent herewith and are hereby superseded.

DULY ENACTED AND ORDAINED, this _____ day of _____, 2008, by the Borough Council of Nuangola, of the Borough of Nuangola, Luzerne County, Pennsylvania, in lawful session duly assembled.

Roll Call Vote Taken:

Shari Andes: _____
Anthony DeLuca: _____
Douglas Fawbush: _____
Steven Hudak: _____
John Kochan: _____
Conrad Plodwick: _____
Regina Plodwick: _____

Enacted and Ordained into law this _____ day of _____, 2008.

ATTEST:

**BOROUGH OF NUANGOLA
Luzerne County, Pennsylvania**

Secretary

BY: _____
(President of Council)

EXAMINED AND APPROVED, this _____ day of _____, 2008.

Norman Rule
Mayor of Nuangola Borough
Luzerne County, Pennsylvania

CERTIFICATE

I, the undersigned, (Assistant) Secretary of Nuangola Borough, Luzerne County, Pennsylvania (The "Borough") certify: that the foregoing is a true and correct copy of an Ordinance which duly was approved by a majority of the members of the Council of the Borough at a meeting of said Council held on _____, 2008; said Ordinance duly was examined and approved by the Mayor of the Borough on _____, 2008; said Ordinance duly has been recorded in the Ordinance Book of the Borough; said Ordinance duly has been published as required by law; and that said Ordinance is in full force and effect, without amendment, alteration or repeal, as of the date of this Certificate.

I further certify that the Council of the Borough met the advance notice and public comment requirements of the Sunshine Act No. 1986-84 of the General Assembly of the Commonwealth of Pennsylvania, approved July 3, 1986, by advertising said meeting, by posting prominently a notice of said meeting at the principal office of the Borough or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting, all in accordance with such Act.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Borough, this _____ day of _____, 2008.

(Assistant) Secretary

(SEAL) _____