

County of Putnam
Local Law #10 of 2013
(Passed at the September 3, 2013 Regular Meeting)

APPROVAL/LOCAL LAW/AMEND CHAPTER 135/CODE OF PUTNAM COUNTY ENTITLED
"CONTRACTORS."

Section 1.

Section 135-2 of Chapter 135 of the Code of Putnam County entitled "Definitions" is hereby amended to read as follows:

§ 135-2. Definitions.

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

BOARD -- The Home Improvement Board of Putnam County, as provided herein.

CUSTOM HOME -- A new single-family residence to be constructed on a parcel of land designated by a tax map number and owned by the purchaser at the time of contract, provided that such residence is intended for residential occupancy by such purchaser.

DIRECTOR -- The Director of Consumer Affairs, Weights and Measures.

HOME IMPROVEMENT

A. The repair, replacement, remodeling, refinishing, installation, construction, alteration, conversion, modernization, beautification, improvement or addition to a parcel of land designated by a tax map number or a building or that portion thereof which is used or designed to be used as a private residence apartment or dwelling place, including, but not limited to:

- (1) Asphalt or blacktop or driveway sealing.
- (2) Landscaping and gardening.
- (3) Arboriculture.
- (4) Lawn mowing/ground maintenance/leaf blowing/~~or any similar outdoor vocation.~~
(Note: shall not apply to full-time students under the age of 22 engaged in seasonal or part-time employment and who do not have employees).
- (5) Swimming pools.
- (6) Porches, patios, terraces, decks and any other outdoor stonework.
- (7) Garages and garage doors.
- (8) Central vacuum cleaning systems.
- (9) Storm windows.
- (10) Septic systems.
- (11) Insulation.
- (12) Waterproofing.
- (13) Tiling.
- (14) Fencing.
- (15) Painting and wall coverings.
- (16) Flooring and wall-to-wall carpeting.
- (17) Masonry.
- (18) Roofing.
- (19) Awnings or siding.
- (20) Antennas or satellite dishes.

- (21) Carpentry.
- (22) Excavation.
- (23) Environmental reclamation.
- (24) Other interior or exterior improvements.

- B. "Home improvement" shall also mean the construction of a custom home, the installation of home improvement goods or the furnishing of home improvement services.
- C. Notwithstanding the foregoing, "home improvement" shall not include:
- (1) The sale or construction of a new home, other than a custom home as defined in this section.
 - (2) The sale of goods or materials by a seller who neither arranges to perform nor performs directly or indirectly any work or labor in connection with the installation or application of the goods or materials.
 - (3) Work performed upon a residence by the owner, or upon a building owned by or controlled by any federal, state or local government, including school districts.
 - (4) The sale or installation of appliances, such as stoves, refrigerators, freezers, room air conditioners, dishwashers, clothes washers or dryers, which are designed to be removable from the premises without material alteration thereof
 - (5) The sale or installation of decorative goods or services, such as draperies and carpets.
 - (6) The performance of repairs, replacements, or other services pursuant to an express or implied warranty, or a maintenance agreement as defined in § 395-a of the New York State General Business Law.

HOME IMPROVEMENT BUSINESS -- The business of providing a home improvement to an owner for a profit, fee, remuneration, favor or as part of a barter agreement.

HOME IMPROVEMENT CONTRACT -- An agreement in writing or contained in one or more documents, which is signed by the parties, for the performance of a home improvement between a home improvement contractor and an owner.

HOME IMPROVEMENT CONTRACTOR -- Any person, firm or corporation who owns, operates, maintains, controls, transacts or conducts a home improvement business or who undertakes or advertises a home improvement service, or offers to undertake or agrees to perform any home improvement for the owner for a fee, remuneration, favor or as part of a barter agreement, other than a bona fide employee of the registrant. "Home improvement contractor" does not include a person, firm, corporation, landlord, cooperative corporation, condominium board of managers, joint tenant or cotenant that owns, in whole or in part, the property to be improved.

LEGISLATURE -- The Putnam County Legislature.

OWNER -- Any homeowner, tenant, or any other person who orders, contracts for or purchases a home improvement or the service of a contractor, or the person entitled to the performance of the work of a contractor pursuant to a home improvement contract.

PERSON -- An individual, firm, partnership, association, corporation, trust, owner, contractor, salesman or other legal entity.

REGISTRANT -- A person registered to engage in the home improvement business under the provisions of this chapter.

SUBCONTRACTOR -- A person, other than a supplier of materials or laborer, who enters into a contract, written or verbal, with a contractor for the performance of any part of the contractor's contract, or a subcontractor's contract, as the case may be, and who does not perform work other than as a subcontractor.

Section 2.

Section 135-3 of Chapter 135 of the Code of Putnam County entitled "Registration required; home improvement business" is hereby amended to read as follows:

§ 135-3. Registration required; home improvement business.

- A. Registration required. No person shall maintain, conduct, operate or engage in a home improvement business within the County of Putnam, or hold himself or herself out as being able to do so, unless such person is registered pursuant to this chapter.
- B. Exceptions.
 - (1) No registration shall be required of any person who performs labor or services for a contractor or subcontractor duly registered hereunder for wages or salary.
 - (2) A license issued by the Putnam County Plumbing Board or the Putnam County Board of Examiners for Electrical Contractors shall be deemed a registration in compliance with this section for the benefit of the holder thereof to perform work within the scope of his or her profession.
- C. Rules governing registration application.
 - (1) An application for an original or renewal registration required by this Subsection C shall be in writing upon a form prescribed by the Director. The Director may seek from an applicant sufficient relevant information about the applicant's character, experience, financial stability and other relevant information necessary to evaluate the applicant's qualification to be registered.
 - (2) Each application, except for a business engaged in lawn mowing/ground maintenance/leaf blowing, shall be accompanied by a surety license and permit bond in the amount of \$25,000 with a minimum policy term of two years, conditioned upon the assurance that during the term of the registration, the registrant will continue to comply with the provisions of this title to assure that upon default in the performance of any contract, the advance payments made thereon, less the reasonable value of services actually rendered to the date of such default, of the reasonable costs of completion of the contract in the event of noncompletion thereof, will be refunded to the purchaser, owner or lessee with whom such contract was made. In addition, the bond shall inure to the benefit of any owner with whom the registrant shall enter into any home improvement contract or provide any home improvement during the period of registration.
 - (3) Each applicant shall be required to provide a valid certificate of liability insurance naming Putnam County Department of Consumer Affairs as a certificate holder and additional insured.
 - (4) Each applicant shall provide proof that worker's compensation insurance is in full force and effect for all workers within the applicant's employ, including subcontractor personnel, along with the application.
 - (5) Each applicant shall provide the Director with a copy of his or her photo identification as a precondition to the issuance of a registration.
 - (6) Effective May 9, 2011, each applicant for an original or renewal registration when applicable shall provide the Director with proof of completion of a best management practices course for lawn and garden care as required per § 135-4 of this chapter.
- D. Content of registration application.
 - (1) An application for an original or renewal registration required by this section shall be in writing upon a form prescribed by the Director.
 - (2) In addition to that information sought on an application for registration, the Director, or his or her duly authorized designee, may seek from an applicant such sufficient and relevant information about the applicant's character, experience,

financial stability and other relevant information necessary to evaluate the applicant's qualifications to be registered.

- (3) All applications for an original or renewal registration certificate shall include a representation by the applicant, in a form as determined by the Putnam County Legislature, that he or she will use the E-Verify Internet-based system, operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA), to verify the employment authorization of his or her newly hired employees, and maintain records documenting his or her use of E-Verify during the term of his or her registration certificate. If such representations are not made, such registration certificate will not be issued. All applications shall also be accompanied by documentation issued by the U.S. Department of Homeland Security indicating that the applicant has registered as an E-Verify user. An applicant's failure to comply with the provisions as described herein shall constitute grounds for the imposition of a fine and/or the suspension or revocation of a registration certificate and/or the denial of an application for the renewal of a registration certificate, in accordance with the applicable provisions of this chapter. This Subsection D shall not apply to applicants who have no employees or applicants who reasonably anticipate that no employees will be hired during the term of such registration certificate.

E. Proper display of registration.

- (1) Each and every registration certificate issued pursuant to this chapter shall be posted in a conspicuous location at the registrant's place of business, and a wallet identification card, which shall contain a photograph of the holder thereof and which shall be issued by the Director, shall be carried with each contractor or employee and displayed upon request. The registration number shall be included on all documents distributed by the registrant, including all advertisements.
- (2) Each registrant shall be required to affix to a location to be determined by the Director on all vehicles owned/leased or used in the performance of the occupation so registered, a valid sticker in a form to be determined by the Director.
 - (a) Said bumper sticker shall be provided by the Putnam County Department of Consumer Affairs.
 - (b) Each registrant shall be issued one bumper sticker at no cost at the time of registration. Any additional stickers shall be provided to the registrant at a cost to be determined by the Director on an annual basis.
 - (c) A valid vehicle registration must be provided at the time of registration, renewal or at any time in which a sticker is requested.
 - (d) All stickers issued pursuant to this chapter shall remain the property of the Putnam County Department of Consumer Affairs.

F. Assignment or transfer of registration.

- (1) A registration to conduct a home improvement business issued to an individual may be assigned or transferred for the remainder of the registration period to a partnership or corporation if the registrant is a member of such partnership or a stockholder of such corporation owning not less than 25% of the outstanding stock at the time of such assignment or transfer, and the remaining stockholders or partners meet the requirements of this chapter.
- (2) Registration of a partnership may be assigned or transferred for the remainder of the registration period to any one member of such partnership, provided that he or she obtains the consent of all of the other members of such partnership and otherwise meets the requirements of this chapter.

G. Miscellaneous provisions governing registration.

- (1) Any change in status, ownership, management, address, trade name or other material change shall be communicated to the Director, in writing, within 15 days of said change.**
- (2) Unless suspended, revoked or voluntarily surrendered, any registration issued hereunder shall expire on the last day of the 24th month after issuance.**
- (3) The Director, or his or her duly authorized designee, shall use the E-Verify Internet-based system, operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA), to verify the status of all applicants for a registration certificate prior to such certificate being issued.**

Section 3.

This Local Law shall take effect immediately.