

CHAPTER 11.

CONTRACTORS

ARTICLE 1.

IN GENERAL

**SECTION 40-11-20.** Definitions.

For purposes of this chapter:

(2) "Bid" means an offer to furnish labor, equipment, or materials or other services regulated by this chapter.

(4) "Contractor" means a general or mechanical contractor regulated under this chapter.

(7) "Entity" means a sole proprietorship, partnership, limited liability partnership, limited liability company, association, joint venture, cooperative, corporation, or other legal entity authorized by law and approved by the board.

(10) "License classification" or "subclassification" means the type of construction for which a contractor may be licensed to do business.

(11) "License group" means the financial limitations for bidding and performing general or mechanical construction.

(17) "Prime contractor" means an entity which contracts directly with an owner to perform general or mechanical construction.

(19) "Public owner" means the State and any of its political subdivisions.

(21) "Sole prime contractor" means the prime contractor for a project on which there is only one prime contractor.

(22) "Subcontractor" means an entity who contracts to perform construction services for a prime contractor or another subcontractor.

(23) "Total cost of construction" means the actual cost incurred by the owner, all contractors, subcontractors, and other parties for labor, material, equipment, profit, and incidental expenses for the entire project. This does not include the cost of design services unless those services are included in a construction contract.

**SECTION 40-11-30.** Licensing requirement.

No entity or individual may practice as a contractor by performing or offering to perform contracting work for which the total cost of construction is greater than five thousand dollars for general contracting or greater than five thousand dollars for mechanical contracting without a license issued in accordance with this chapter.

**SECTION 40-11-260.** Financial statements; net worth requirements.

(A) An applicant for a general contractor's license ... must provide an acceptable financial statement with a balance sheet date no more than twelve months before the date of the relevant application showing a minimum net worth for each license group as follows:

(1) Group One

- (a) bids and jobs not to exceed \$30,000.00 per job;
- (b) required net worth of \$6,000.00;
- (c) on initial application, an owner-prepared financial statement with an affidavit of accuracy;
- (d) on renewal, an owner-prepared financial statement with an affidavit of accuracy;

(2) Group Two

- (a) bids and jobs not to exceed \$100,000.00 per job;
- (b) required net worth of \$20,000.00;

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(3) Group Three

- (a) bids and jobs not to exceed \$350,000.00 per job;
- (b) on initial application, a financial statement compiled by a licensed certified public accountant or a licensed public accountant ... indicating a required net worth of seventy thousand dollars;
- (c) on renewal, an owner-prepared financial statement with an affidavit of accuracy indicating a required net worth of seventy thousand dollars, or ...;

(4) Group Four

- (a) bids and jobs not to exceed \$750,000.00 per job;
- (b) on initial application, a financial statement compiled by a licensed certified public accountant or a licensed public accountant ... indicating a required net worth of one hundred fifty thousand dollars;

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(5) Group Five

- (a) bids and jobs unlimited;
- (b) required net worth of \$250,000.00;
- (c) on initial application, a financial statement audited by a licensed certified public accountant or a licensed public accountant ...;
- (d) on renewal, a financial statement reviewed by a licensed certified public accountant or a licensed public accountant ... ;

(B) An applicant for a mechanical contractor's license ... must provide an acceptable financial statement with a balance sheet date no more than twelve months before the date of the relevant application showing a minimum net worth for each license group as follows:

(1) Group One

- (a) bids and jobs not to exceed \$17,500.00 per job;
- (b) required net worth of \$3,500.00;

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(2) Group Two

- (a) bids and jobs not to exceed \$30,000.00 per job;
- (b) required net worth of \$6,000.00;

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(3) Group Three

- (a) bids and jobs not to exceed \$50,000.00 per job;
- (b) on initial application, a financial statement ... indicating a net worth of ten thousand dollars;

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(4) Group Four

- (a) bids and jobs not to exceed \$125,000.00 per job;

(b) on initial application, a financial statement ... indicating a net worth of twenty-five thousand dollars;

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(5) Group Five

(a) bids and jobs unlimited;

(b) required net worth of \$100,000.00;

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**SECTION 40-11-270.** Licensee confined to limitations of license group; licenses in more than one classification; use of unlicensed subcontractors.

(A) A licensee is confined to the limitations of the licensee's license group and license classifications or subclassifications as provided in this chapter.

(B) An entity may apply for and be licensed in more than one classification or subclassification if all qualifications for licensure prescribed by this chapter have been met. An applicant may apply for a license in more than one classification or subclassification on the same application form.

(C) Licensees may utilize the services of unlicensed subcontractors to perform work within the limitations of the licensee's license group and license classification or subclassification; provided, the licensee provides supervision. The licensee is fully responsible for any violations of this chapter resulting from the actions of unlicensed subcontractors performing work for the licensee.

**SECTION 40-11-300.** Total cost of construction used to determine license group for project; work on project without required license.

(A) It is unlawful for an owner, a construction manager, a prime contractor, or another entity with contracting or hiring authority on a construction project to divide work into portions so as to avoid the financial or other requirements of this chapter as it relates to license classifications or subclassifications or license groups, or both. The total cost of construction must be used to determine the appropriate license group for a project.

(B) An entity or individual engaging in general or mechanical construction on a project without the required license or certificate must immediately withdraw from the construction project and may not act as a subcontractor on that construction project.

**SECTION 40-11-330.** Joint Venture Bid.

Two or more licensed contractors may combine bids and submit a "Joint Venture Bid" if the contract does not exceed the highest license group limitations of the members in the joint venture. An unlicensed contractor may not be a party to a joint venture.

**SECTION 40-11-340.** Qualifications for acting as sole prime contractor.

An entity licensed under the classifications or subclassifications in Sections 40-11-410(1), (2), or (3) may act as a sole prime contractor on a project if forty percent or more of the work as measured by the total cost of construction falls under one or more of the licensee's license classifications or subclassifications. An entity licensed under the classifications or subclassifications in Section 40-11-410(4) and (5) may act as sole prime contractor if fifty-one percent or more of the work falls under one or more of the licensee's license classifications or subclassifications.

**SECTION 40-11-350.** Evidence of license as prerequisite to issuance of building permit; reporting violations.

A building official, or other authority charged with issuing building or other similar permits, of a county, municipality, or subdivision of a county or municipality shall refuse to issue a permit for an undertaking which would classify the applicant as a contractor under this chapter unless the applicant has furnished evidence that the applicant is either licensed as required by this chapter or exempt from the requirements of this chapter. A building official, or other authority charged with issuing building or other similar permits, shall report to the department the name and address of an entity believed to have violated this chapter by bidding or contracting for work which is regulated under this chapter.

**SECTION 40-11-360.** Exemptions from application of chapter; content of posters to be distributed to building permit offices.

(A) This chapter does not apply to:

(2) The installation of finished products, materials, or articles of merchandise that are not fabricated into and do not become a permanent fixed part of the structure. ...

(8) Public owners performing all or a portion of any work on a project themselves as long as the work performed falls within the limitations of a License Group 3 General Contractor or a License Group 4 Mechanical Contractor, as adjusted by an inflation factor reflecting the Department of Labor's Consumer Price Index.

(9) Renovations and maintenance projects of the South Carolina Department of Corrections whereby all labor is supplied from that department's own labor forces.

**SECTION 40-11-410.** License classifications and subclassifications.

The following license classifications are in effect:

(1) "General Contractors-Building" which includes commercial, industrial, institutional, modular, and all other types of building construction, including residential structures. This license classification includes all work under the subclassifications of Wood Frame Structures-Class II, Interior Renovation, Masonry, Pre-engineered Metal Buildings, General Roofing, and Structural Shapes.

Licensees under this classification may perform ancillary work, including grading, associated with the building or structure which the licensee has been engaged to construct. However, if a project includes work performed under a Mechanical Contractor subclassification or any of these license subclassifications, the licensee must have a license for this work or use a contractor licensed in the appropriate license classification or subclassification to perform the work: Swimming Pools, Bridges, Boring and Tunneling, Water and Sewer Lines, Pipe Lines, Railroad Lines, Specialty Roofing, Marine, Water and Sewer Plants, and Asphalt Paving.

(2) "General Contractors-Highway" which includes work under these subclassifications:

(a) "Bridges" which include bridge construction and repairs, railroad trestles and overpasses, and work under the subclassifications of Boring and Tunneling, Concrete, Marine, and Railroad Lines.

(b) "Concrete Paving" which includes the construction, rehabilitation and repair of concrete streets, roads, highways, driveways, parking lots, airport runways and aprons, and concrete work incidental thereto including, but not limited to, sidewalks, curbs, medians, and barrier walls. This subclassification also includes work under the subclassification of Grading.

(c) "Asphalt Paving" which includes asphalt paving, repairs and rehabilitation of streets, roads, highways, parking lots, airport runways and aprons, concrete including, but not limited to, curbs, gutters, and concrete or asphalt paving of storm sewers, and includes paving with sealers, geotextile fabrics, slurry

seals, and surface treatments incidental thereto. This subclassification also includes work under the subclassification of Grading.

(d) "Grading" which includes the soil preparation and rehabilitation of streets, roads, highways, railroad beds, building sites, parking lots, and storm sewers. This subclassification also includes work under the subclassification of Highway Incidental.

(e) "Highway Incidental" which includes highway work for grooving, milling, rehabilitating, and installing guardrails, gutters, highway signs, pavement marking, and painting.

**(3) "General Contractors-Public Utility"** which includes work under these subclassifications:

(a) "Pipe Lines" which includes the construction, installation, alteration, maintenance, and repair of systems for the transmission or distribution of petroleum fuels, petroleum distillates, natural gas, chemicals, and slurries through pipeline from one station to another including all excavating, trenching, backfilling and installation of booster stations and equipment and installation and replacement of tanks connected to the system. This subclassification does not include the piping and tanks for the dispensing of any petroleum product at retail.

(b) "Water and Sewer Plants" which includes all classifications and subclassifications necessary for the construction of water treatment and wastewater treatment facilities. However, if a project includes work to be performed under any of these license subclassifications, the licensee must either have a license to perform this work or use a contractor licensed in the appropriate license classification or subclassification to perform the work: Bridges, Railroad Lines, Specialty Roofing, and Mechanical work.

(c) "Water and Sewer Lines" which includes construction work on water mains, water service lines, water storage tanks, sewer mains, sewer lines, lift stations, pumping stations and appurtenances to water storage tanks, lift stations, pumping stations, pavement patching, backfill, and erosion control as a part of construction, and which includes connection at the building of all lines to the appropriate lines contained in commercial structures, installation and repair of a project involving manholes, the laying of pipe for storm drains and sewer mains, all necessary connections, and excavation and backfilling, and concrete work incidental thereto.

Contractors in this license subclassification in license groups three, four, and five may install fire protection sprinkler system underground mains to a flanged outlet 1'-0" above the finished floor in compliance with National Fire Protection Association Standard 24. However, shop drawings must be submitted and approved by the State Fire Marshal with a copy of the approved drawings going to the licensed fire sprinkler contractor. Flushing and testing certificates must be delivered to the authority having jurisdiction and the performing licensed fire sprinkler contractor performing. General contractors in this license subclassification may not engage in water and sewer line work from the right-of-way to a residential structure unless the entity is a subcontractor to a licensee holding a plumbing subclassification.

**(4) "General Contractors-Specialty"** which includes work under these subclassifications:

(a) "Boring and Tunneling" which includes the construction of underground or underwater passageways with diameters in excess of ninety-six inches or lengths in excess of three hundred fifty feet by digging or boring through and under the earth's surface, including the bracing and compacting of passageways to make them safe for the purpose intended. This subclassification includes the preparation of ground surfaces at points of ingress and egress. Underground structures less than ninety-six inches in diameter or less than three hundred fifty feet in length are considered normal excavation.

(b) "Concrete" which includes all work in connection with concrete forming and placing; assembling of forms, molds, slipforms and pans; centering, trenching, excavating, backfill, and grading in connection with concrete construction; construction of sidewalks, driveways, curbs, medians, and barrier walls; and installing of embedded items essential to or comprising an integral part of concrete or concrete construction including reinforcing elements and accessories including, but not limited to, concrete chimneys, floors, piers, and foundations when using concrete rebar and other materials common to the concrete industry. This subclassification does not include the General Contractor-Highway- Bridge license subclassification or the construction of streets, roads, parking lots, and highways.

(c) "Interior Renovation" which includes installing, remodeling, renovations, and finishes of acoustical ceiling systems and panels, load-bearing and nonload-bearing drywall partitions, lathing and

plastering, flooring (excluding carpet) and finishing, interior recreational surfaces, window and door installation, and installation of fixtures, cabinets, and millwork; and which also includes fireproofing, insulation, lining, painting, partitions, sandblasting, interior wall covering, and waterproofing. This subclassification does not include alterations to load-bearing portions of a structure.

(d) "Marine" which includes all water activities to construct seawalls, bulkheads, docks, piers, wharves, and other water structures including, but not limited to, pile driving, boat slips, and boardwalks. Licensees under this classification may perform ancillary work including fill and grading. This license subclassification does not include structures within the scope of the General Contractor-Building classification.

(e) "Masonry" which includes the installation, with or without the use of mortar or adhesives, of brick, concrete block, gypsum partition tile, pumice block, fire clay products, rough cut and dressed stone, marble panels or slate units, structural glazed tile or block, glass brick or block, solar screen tile or block, or other units and products common to the masonry industry.

(f) "Pre-engineered Metal Buildings" which includes the construction of pre-engineered metal buildings not exceeding forty feet in width with no single structural span exceeding forty feet in length, and consisting of no more than a concrete floor slab, metal frame, metal roof, metal sidewalls, and building insulation.

(g) "Railroad Lines" which includes the installation and repair of railroad lines, including setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, and signal markers. This subclassification does not include grading, trestles, or overpasses.

(h) "General Roofing" which includes the installation and repair of roofs and roof decking on commercial, industrial, and institutional structures requiring materials that form a water-tight and weather-resistant surface. This license subclassification is limited to shingles, clay and concrete tile, slate, wood-shake roofing, metal roofing, and asphalt-rolled roofing.

(i) "Specialty Roofing" which includes the installation and repair of roofs and roof decking on commercial, industrial, and institutional structures requiring materials that form a water-tight and weather-resistant surface. This license subclassification includes all work under the General Roofing license subclassification and other types of roofing not specifically included in the general roofing license subclassification.

(j) "Structural Framing" which includes the installation, repair, or alteration of metal or composite structural members for buildings or structures, including riveting, welding, and rigging. This subclassification also includes work under the subclassification of Structural Shapes.

(k) "Structural Shapes" which includes the installation, repair, or alteration of metal or composite shapes, tubing, pipes and bars, including minor field fabrication as may be necessary.

(l) "Swimming Pools" which includes the construction, service, and repair of all commercial and institutional swimming pools and spas, including concrete, gunite, plastic, vinyl-lined, and fiberglass pools and spas; pool decks, walkways, tiling, and coping; and the installation of all equipment, including pumps, filters, and chemical feeders, water and gas service lines from the point of service to the pool equipment, wiring from the pool equipment to the first readily accessible disconnect, pool piping, fittings, backflow prevention devices, waste lines, and other integral parts of a swimming pool or spa.

(m) "Wood Frame Structures" which include framing, roofing, siding, or flooring for wood-framed structures in excess of five thousand feet used for housing livestock, storage, or processing, when such structures are not used for habitation or office facilities.

(n) "Public Electrical Utility" which includes the installation, replacement, alteration, and repair of transmission lines on or off public rights-of-way, including erection of poles, guying systems, tower line erection, street lighting, and outside lighting of all voltages and all underground systems, including ducts for signal communication and similar installations, transformers, circuit breakers, capacitors, primary metering devices, and other related equipment not used in connection with this subclassification. A contract that contains electrical work above fifty volts must be performed by a licensed public utility-electrical or mechanical-electrical contractor. This subclassification does not cover athletic field lighting, stadium lighting, or lighting which is not on public easements or rights-of-way.

(o) "Boiler installation" which includes those who are qualified to install, repair, and service boilers and boiler piping including the boiler auxiliary equipment, controls, and actuated machinery and dryer rolls. To qualify for this subclassification, a person must pass a technical examination administered by the board or must be the holder of the American Society of Mechanical Engineers (ASME) "S" stamp or hold the National Board of Boiler and Pressure Vessel Inspectors (NBBPVI) "R" stamp and meet the requirements for licensure according to this chapter.

(p) "Glass and Glazing" which includes, but is not limited to, commercial, residential, industrial, institutional, modular, and all other types of glass and glazing construction. The construction is limited to selection, cutting, assembling, and installing all makes and kinds of glass for windows, sash and doors, metal frames, ornamental decorations, mirrors, and tub and shower enclosures. This license classification includes all work under the subclassifications of renovation, structural shapes, and architectural aluminum glazing systems which include aluminum entrance doors and frame systems, entrance and egress hardware, curtain wall systems, sliding doors/mall fronts, overhead glazing systems, and architectural window systems and accessories. Contractors engaged solely in residential construction must be licensed or registered with the South Carolina Residential Builders' Commission and are not required to have this classification. The board may require an applicant to pass an examination before licensure as provided by this chapter.

**(5) "Mechanical Contractors"** which includes work under these subclassifications:

(a) "Air Conditioning" which includes the installation, replacement, alteration, and repair of air conditioning equipment and systems which consist of a number of components necessary to produce conditioned air for environmental heating or cooling, or both, within buildings. Hot water or steam heating systems or components are not included under this classification.

(b) "Heating" which includes installation, replacement, alteration, and repair of heating equipment and systems in buildings which require the use of high or low pressure steam vapor or hot water including all piping, ducts, and mechanical equipment within, adjacent to, or connected with a building and the installation of necessary gas lines if any of this equipment is gas-fired.

(c) "Packaged Equipment" (air conditioning-heating packaged equipment limited to twenty-five tons cooling and five hundred thousand BTU/HR heating per unit) which includes the installation, replacement, alteration, or repair of air conditioning equipment and systems which consist of a number of components necessary to produce conditioned air for environmental heating or cooling, or both, within buildings, including types of heating systems and any size package equipment; and the installation, alteration, and repair of ventilation systems, including duct work, air filtering devices, water treatment devices, pneumatic or electrical controls, or control piping; thermal and acoustical insulation, vibration isolation materials and devices, liquid fuel piping and tanks, water and gas piping from service and heating circuits and air handling systems, including gas-fired furnaces and space heaters; and factory-assembled single package units and split type direct expansion equipment, including heat pumps. This subclassification does not include installing, replacing, altering, or repairing hot water or steam heating systems or components.

(d) "Electrical" which includes the installation, alteration, or repair of wiring-related electrical material and equipment used in the generating, transmitting, or utilization of electrical energy less than six hundred volts, including all overhead electrical wiring on public rights-of-way for signs and street decorations and all underground electrical distribution systems of less than six hundred volts serving private properties. This subclassification also includes, but is not limited to, installing, altering, and repairing, panels, controls, conductors, conduits, cables, devices, plates, electric ceilings, control wiring; and electric heating, lighting fixtures, lamps, general outside lighting, underground and overhead feeder distribution systems for services, and related components or work necessary to provide a complete electrical system and installing window or through-the-wall air conditioning units not to exceed three HP or three tons where no piping is necessary. Under this subclassification, general outside lighting is limited solely to within property lines and not on public easements or rights-of-way. A contract that contains electrical work above fifty volts must be performed by a contractor licensed under this subclassification or a licensed public electrical utility contractor. This license subclassification includes

installing, altering, and repairing all lighting on private property, athletic fields, stadiums, parking lots, and the design, installation, and servicing of fire alarm systems.

(e) "Lightning Protection Systems" which includes installation, replacement, alteration, or repair of necessary lightning protection conduction, cables, rods, points, anchors, fastening devices, labels, ground clamps, braces, and all related component parts necessary for a complete lightning protection system.

(f) "Plumbing" which includes the installation, replacement, alteration, and repair of all plumbing including solar water heating when performed solely within property lines and not on public easements or rights-of-way except to make connections to water meters or sewer taps as allowed by the utility owner; and the installation, alteration, and repair of all piping, fixtures, and appliances related to water supply, including pressure vessels and tanks, and excluding municipal or related water supply systems; venting and sanitary drainage systems for all fluid and semi-fluid and organic wastes; roof leaders; water-conditioning equipment; piping and equipment for swimming pools; and installation of a system of pipes, fittings, fixtures, drains, and all necessary component parts upon the premises or in a building to supply water to buildings and to convey sewage or other waste products from buildings. If this equipment is gas-fired, the necessary gas lines may be installed under this subclassification used in connection with this subclassification. Plumbing contractors in license groups three, four, and five are not required to be licensed under Chapter 45, Title 23 to install standpipe systems, including water hose connections, water hose cabinets, and related branch lines if the water hoses do not supply water to automatic fire protection sprinklers.

(g) "Pressure and Process Piping" which includes the installation, maintenance, repair, alteration, or extension of a system of piping, tubing, vessels, containers, pumps, apparatus, and appurtenances in connection with pressure piping used for circulation, transporting, holding, or processing of gas, vapor, fluid, liquid, semi-liquid, or any combination of these. However, boilers, boiler piping, piping used to convey potable water, sanitary sewage, liquefied petroleum, manufactured or natural gas or refrigeration, air conditioning and comfort heating piping are not included in this subclassification.

(h) "Refrigeration" which includes the installation, replacement, alteration, and repair of refrigeration equipment and systems used for processing, storage, and display of food products and other perishable commodities and commercial, industrial, and manufacturing processes requiring refrigeration, excluding comfort air conditioning. This subclassification also includes work on systems including related equipment for temperature, safety, and capacity controls, thermal insulation, vibration isolation materials and devices, water treatment devices, construction and installation of walk-in refrigeration boxes, liquid fuel piping and tanks, water and gas piping from equipment to service connection, and testing and balancing of refrigeration equipment and systems. An entity licensed under the air conditioning subclassification may also do work under this subclassification.