

ORDINANCE 2004-Or-____
By Niziolek & Ostrow

Amending Title 13, Chapter 278 of the Minneapolis Code of Ordinances relating to Licenses and Business Regulations: Heating, Ventilating and Air Conditioning, Gasfitting, Oil, Plumber/Gas Fitter, Refrigeration and Steam and Hot Water Installers

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 278.410 of the above-entitled ordinance be amended to read as follows:

278.410. Application for certification. Each person desiring a certificate of competency, such as herein provided, whether for a master or journeyman heating, ventilating and air conditioning installer, master or journeyman refrigeration installer, master or journeyman gas fitter, master or journeyman oil burner installer or master or journeyman steam and hot water systems installer or master or journeyman plumber/gas fitter shall file with the ~~Minneapolis Human Resources Department~~contracted vendor an application for certification and shall pay the appropriate filing fee to the contracted vendor. Such application shall contain information sufficient to determine whether the applicant meets the qualifications to be administered the appropriate test together with such documentation of qualifications as is required by ~~the human resources department~~ this chapter.

Once the ~~human resources department~~ contracted vendor has determined the applicant has met the qualifications ~~and has notified the contracted vendor~~, the applicant will register with and pay the appropriate fees to the contracted vendor to take the exam. No such fee so paid, shall be subject to refund to the applicant in case of failure to pass the examination. Each examination fee shall be in addition to the fee to be paid by the applicant for a certificate of competency as provided in this chapter.

Section 2. That Section 278.420 of the above-entitled ordinance be amended to read as follows:

278.420. Qualification to take an examination, other than the Minneapolis Plumber/Gas Fitter Certificate examination. (a) Each applicant for examination, ~~with the exception of the Minneapolis Plumber/Gas Fitter examination~~, must have completed at least four (4) years of appropriate job related education prior to applying for the examination. For the purposes of this requirement, one (1) year of education is defined as a minimum of one hundred forty-four (144) hours of appropriate job related education in a ~~twelve calendar~~ twelve (12) calendar month period. In the alternative, the applicant must have completed five hundred seventy-six (576) hours of appropriate job related education in the ~~five-year~~ five (5) year period preceding the application. The appropriate trade related education may include, but is not limited to, classroom education and/or training, trade association or manufacturers training programs, self study materials including videotape, CD Rom, computer or other materials used under the supervision of a sponsor. Time spent in on-the-job production shall not be considered as trade related education hours for purposes of this provision. The employee and the employer will certify that the requirements of education have been met and will provide documentation of the specific education which has been completed.

- (b) An applicant may meet the requirements for examination by:
- (1) completion of a state approved voluntary apprenticeship program;

- (2) participating in an employer sponsored training program that meets the educational, training and safety requirements of state approved programs in force at the time this article becomes effective; or
 - (3) submitting sufficient documentation of completion of any combination of employer sponsored education/training or education in an accredited educational institution that satisfies the requirements above. In no event shall standards be less than those established in paragraph (a) above.
- (c) In addition to the required educational training, each applicant for examination must demonstrate at least four (4) years of on-the-job experience in the trade prior to applying for the examination. For the purposes of this requirement one (1) year of experience is defined as a minimum of one thousand six hundred (1,600) working hours in a twelve-calendar month period. The applicant and the employer must certify that the work experience requirement has been met. Work experience may be met upon the verification of more than one (1) employer.
- (d) The requirements set forth above in paragraphs (a) and (c) must be accomplished reasonably concurrently.
- ~~(e) The Minneapolis Department of Human Resources shall establish and prepare forms and other documents to carry out the procedures set forth above and maintain records thereof, and shall verify the information submitted.~~

Section 3. That Chapter 278 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 278.425 to read as follows:

278.425. Qualification to take the Minneapolis Plumber/Gas Fitter Certificate examination.

- (a) Each applicant for examination shall have successfully passed the State of Minnesota Plumber's License examination at either the journeyman or master level, and must possess a valid State of Minnesota Plumber's License, pursuant to Minnesota Statute 326.40. A copy of that license must be submitted with the application.
- b) An applicant may only apply for the same level of Minneapolis Plumber/Gas Fitter Certificate as the State of Minnesota Plumber's License that they currently hold.

Section 4. That Section 278.440 of the above-entitled ordinance be amended to read as follows:

278.440. Appeals. Any person aggrieved by any administrative decision of the ~~Minneapolis Human Resources Department~~ contracted vendor in accepting or rejecting any application for examination, certification of educational qualification, certification of on the job training, certification of an employer educational program or any issue related to the testing process ~~or an administrative decision of the human resources department or director of inspections to deny, revoke, suspend, cancel or not renew a certificate of competency~~ may appeal by filing with the inspections division written notice of appeal setting forth the specific issue(s) on appeal within thirty (30) days of notification of the decision. The notice of appeal shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00). Upon receiving notice of appeal, the director of inspections shall arrange for a hearing, which shall be held not less than ten (10) nor more than ninety (90) days from the date of receipt of the appeal. The director of inspections shall provide the appellant with not less than ten (10) days' notice of the time and place of the hearing.

Appeals shall be heard before a hearing officer who shall be an administrative law judge appointed by the chief administrative law judge of the Minnesota State Office of Administrative Hearings, pursuant to Minnesota Statutes Chapter 14. The hearing shall be a trial de novo, conducted according to the rules for contested case hearings found in Minnesota Rules Chapter 1400, and upon the evidence presented, the hearing officer shall affirm, modify or set aside the determination of the ~~human resources department or director of inspections~~ contracted vendor. The decision of the hearing officer shall be rendered in writing and shall contain the findings of fact and conclusions reached, and all parties shall be bound thereby.

Any person aggrieved by the decision of the hearing officer may appeal to the Minnesota court having jurisdiction as provided by law.

Costs of the appeal hearing, including fees charged by the office of administrative hearings and the expense of transcript preparation, but not including attorney fees of the opposing party, shall be paid by the non-prevailing party.

Section 5. That Section 278.470 of the above-entitled ordinance be amended to read as follows:

278.470. Reciprocity. Wherever a certificate of competency is required by the terms of this chapter, any applicant who has and presents a valid and subsisting card of competency from any other municipality in the State of Minnesota in which the technical and mechanical requirements for securing such card of competency are equal to or greater than those of the City of Minneapolis, as shall be determined by the ~~department of human resources in consultation with the~~ director of inspections, may receive a certificate of competency to carry on his or her trade or occupation in the city without examination or the payment of examination fees. However, nothing in this section shall exempt such an applicant from full compliance with all other requirements of this chapter, including payment of required fees.

Section 6. That Section 278.510 of the above-entitled ordinance be amended to read as follows:

278.510. Denial, revocation, suspension or cancellation of certificate of competency. Any certificate of competency issued, or proposed to be issued under this chapter may be denied, suspended, revoked, canceled or not renewed if the applicant or holder:

- (1) Is convicted of failing to comply with any of the provisions of state law or this Code relating to the construction, installation, alteration, repair, cleaning or servicing of systems regulated under this chapter or of failure to comply with a lawful order issued pursuant thereto.
- (2) As a master installer in responsible charge of work, fails to obtain appropriate permits for any work for which permits are required more than three (3) times within a one-year period.
- (3) In the application process for issuance or renewal of a certificate of competency, knowingly falsifies, conceals, misrepresents or misstates any material fact or matter bearing upon the holders eligibility or competency.

- (4) Obtains, attempts to obtain, or assists another in obtaining or attempting to obtain a competency card through fraudulent or other improper means.

If the ~~human resources department or the~~ director of inspections determines that a certificate of competency should be denied, suspended, revoked, canceled or not renewed under this section, the director of inspections shall send the applicant or holder a notice of denial, suspension, revocation, cancellation or nonrenewal of the certificate. The notice shall state the proposed action to be taken, a summary statement of the reason or reasons that such action is recommended, that the matter has been referred to the city council with a recommendation for the proposed action, that the city council will take the proposed action unless the applicant or holder appeals the determination in the manner described in ~~this article, section 278.515 and a description of how an appeal may be filed under this article.~~ this article, section 278.515 and a description of how an appeal may be filed under this article.

Section 7. That Chapter 278 of the Minneapolis Code of Ordinances be amended by adding thereto a new Section 278.515 to read as follows:

278.515. Appeals. Any person aggrieved by any administrative decision of the director of inspections to deny, revoke, suspend, cancel or not renew a certificate of competency may appeal by filing with the inspections division written notice of appeal setting forth the specific issue(s) on appeal within thirty (30) days of notification of the decision. The notice of appeal shall be accompanied by a non-refundable fee of one hundred dollars (\$100.00). Upon receiving notice of appeal, the director of inspections shall arrange for a hearing, which shall be held not less than ten (10) nor more than ninety (90) days from the date of receipt of the appeal. The director of inspections shall provide the appellant with not less than ten (10) days' notice of the time and place of the hearing.

Appeals shall be heard before a hearing officer who shall be an administrative law judge appointed by the chief administrative law judge of the Minnesota State Office of Administrative Hearings, pursuant to Minnesota Statutes Chapter 14. The hearing shall be a trial de novo, conducted according to the rules for contested case hearings found in Minnesota Rules Chapter 1400, and upon the evidence presented, the hearing officer shall affirm, modify or set aside the determination of the director of inspections. The decision of the hearing officer shall be rendered in writing and shall contain the findings of fact and conclusions reached, and all parties shall be bound thereby.

Any person aggrieved by the decision of the hearing officer may appeal to the Minnesota court having jurisdiction as provided by law.

Costs of the appeal hearing, including fees charged by the office of administrative hearings and the expense of transcript preparation, but not including attorney fees of the opposing party, shall be paid by the non-prevailing party.