



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 11/20/2012

Report Type: Consent

Title: (Pass for Publication) Ordinance Amendment: Journey Level Plumbers and The Board of Plumbing Examiners

Report ID: 2012-00857

Location: Citywide

Recommendation: 1) Review an Ordinance repealing Chapter 5.36 and adding Chapter 5.36 of the Sacramento City Code relating to Journey Level Plumbers and The Board of Plumbing Examiners; and 2) Pass for Publication the Ordinance title as required by Sacramento City Charter § 32(c) to be adopted on November 27, 2012.

Contact: Steve Gorman, Deputy Building Official, 916-808-8951; Elise Gumm, Administrative Analyst, 916-808-1927

Presenter: None

Department: Community Development Dept

Division: Building

Dept ID: 21001211

Attachments:

1-Description/Analysis
2-BackgroundPlumbing
3-Proposed Ordinance

City Attorney Review

Approved as to Form
Paul Gale
11/8/2012 4:25:08 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
10/31/2012 9:34:26 AM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 11/7/2012 5:11:32 PM



Description/Analysis

Issue: In April 2010, Management Partners, Inc., recommended that the City Council evaluate the City's advisory board system. The City Council delegated the broad task of evaluating the City's boards and commissions to provide recommendations regarding potential elimination and consolidation of these boards and commissions. The Community Development Department's evaluation of their commissions found that City Code Chapter 5.36 concerning certification of journey level plumbers and the board of plumbing examiners should be modified to streamline the process of issuing the certificates of competency and to further clarify the duties of the board of plumbing examiners and the City Manager. The proposed ordinance, included as attachment 3, reflects these changes.

Policy Considerations: The proposed ordinance modification will support the recommendations by Management Partners, Inc., by evaluating the City's advisory board system and make necessary improvements.

Economic Impacts: None.

Environmental Considerations: Because this report concerns general policy and procedure making, the California Environmental Quality Act (CEQA), does not apply per section 15378 (b)(3), which states that continuing administrative or maintenance activities, which are not conducted in conjunction with a project subject to CEQA review, are not considered to be "projects" and are therefore exempt.

Sustainability Considerations: None.

Committee/Commission Action: At the June 19, 2012, Law and Legislation Committee hearing, a member of public objected to the ordinance amendment; he thought the changes would eliminate the opportunity to require continuing education units for journeyman plumbers. The Law and Legislation Committee recommended forwarding the proposed ordinance to the City Council for approval but also provided the member of the public who objected the opportunity to raise his concerns in front of the Board of Plumbing Examiners. The member of the public discussed the matter at the September 5, 2012, meeting of the Board of Plumbing Examiners. While members of the Board of Plumbing Examiners recognized the merits of continuing education, the members believed the attempt to regulate this requirement on a local level would be problematic for maintaining consistency, access, and tracking of these educational units. As a result, the Board of Plumbing Examiners voted unanimously to maintain their support of the proposed ordinance changes as they were originally presented to the Law and Legislation committee on June 19, 2012.

Rationale for Recommendation: The proposed ordinance to streamline the process of issuing the certificates of competency and to further clarify the duties of the Board of Plumbing Examiners and the City Manager is consistent with the recommendation of Management Partners, Inc., to evaluate the City's advisory board system and make improvement.

Financial Considerations: Streamlining the certification process of journey level plumbers will result in minimal savings of staff time and resources.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.



BACKGROUND

Chapter 5.36 Revisions to Streamline the Process for issuing Certificates of Competency to Journey Level Plumbers and clarifying the duties of Board of Plumbing Examiners and the City Manager

In April 2010, Management Partners Inc. recommended the City Council evaluate the City's advisory board system. The City Council delegated the broad task of evaluating the City's boards and commissions to provide recommendations regarding potential elimination and consolidation of these boards and commissions. The proposed ordinance included as attachment 3 will result in improved efficiency and streamlined processes for the certification of journey level plumbers. It will also result in savings of staff time and resources. The key provisions of the proposed ordinance include but are not limited to:

- Eliminates the requirement to renew the certificates of competency for journey level plumbers;
- Changes the term of office for the board of plumbing examiners to be five years; and
- Changes frequency of Board meetings to be held at least once a year.



ORDINANCE NO. –

Adopted by the Sacramento City Council

November 27, 2012

AN ORDINANCE REPEALING CHAPTER 5.36 AND ADDING CHAPTER 5.36 OF THE SACRAMENTO CITY CODE RELATING TO JOURNEY LEVEL PLUMBERS AND THE BOARD OF PLUMBING EXAMINERS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1

Chapter 5.36 of the Sacramento City Code is repealed.

SECTION 2

Chapter 5.36 is added to Title 5 of the Sacramento City Code to read as follows:

Chapter 5.36 Certification of Journey Level Plumbers

5.36.010 Intent

This chapter is adopted to protect the health, safety and welfare of the citizens of the city and is necessary to provide standards of qualification for journey-level plumbers who perform work within the city. Plumbing work is complex and demanding and carries a high risk of harm to persons and property if performed improperly. This chapter does not regulate either plumbing contractors licensed under the Contractors' State License Law, section 7000 et. seq. of the Business and Professions Code or apprentice plumbers regulated under an apprenticeship program pursuant to section 3070 et. seq. of the Labor Code.

5.36.020 Definitions

“Applicant” means the person signing the application for the examination for the certificate of competency or the person signing the application for a trainee certificate of registration.

“Apprentice” means a person enrolled in an apprenticeship program approved by the California Department of Industrial Relations.

“Certificate of competency” means a certificate issued by the city manager to qualified persons not otherwise regulated by the Business and Professions or Labor Code of the state of California.

“Chief building official” means the chief building official as defined by city code section 15.04.090 or designee.

“City manager” means the city manager or the city manager’s designee.

“Journey-level plumber” means a person who: installs, removes, alters or repairs plumbing systems as an employee; does not furnish materials or supplies; and holds a certificate of competency.

“Plumbing system” means and includes all potable water supply and distribution pipes, all plumbing fixtures and traps, all drainage and vent pipe and all building drains, including their respective joints and connections, devices, receptacles and appurtenances within the property lines of the premises. Plumbing systems shall include potable water piping, portable water treating or using equipment, fuel gas piping, water heaters and vents; provided, however, that for purposes of this chapter, sewer mains are specifically excluded from the definition of plumbing system.

“Public utility” means a municipal utility district or an investor owned utility regulated by the California Public Utilities Commission.

“Trainee certificate of registration” means a certificate issued by the city manager to any person who certifies that he or she desires to work as a trainee for the purpose of learning the trade of plumbing and gaining the training and experience necessary to successfully complete the examination for a certificate of competency and who pays a registration fee set by resolution of the city council.

5.36.030 Certificate of competency required

- A. It is unlawful for any person other than a contractor licensed by the state of California, a person specifically exempted by sections 5.36.010 or 5.36.040 of this chapter, or a trainee registered pursuant to section 5.36.080 of this chapter to install, remove, alter or repair plumbing systems within the city for compensation unless such person holds a certificate of competency issued by the city manager.
- B. It is unlawful for any contractor licensed by the state of California to hire an individual to install, remove, alter or repair plumbing systems within the city unless the individual is specifically exempted by sections 5.36.010 or 5.36.040 of this chapter or is a trainee registered pursuant to and working under the limitations contained in section 5.36.080 of this chapter. It shall be the obligation of the contractor hiring an individual to determine if the individual to be hired possesses a valid city certificate of competency or is otherwise exempt.

5.36.040 Exemptions

- A. Employees of the city or any other government agency or district performing work in the course and scope of their employment or contractors performing work for the city or any other government agency or district shall be exempt from the provisions of this chapter.

- B. Employees of a public utility performing work in the course and scope of their employment or any contractor performing work for a public utility shall be exempt from the provisions of this chapter.
- C. Journey-level plumbers who possess a valid certificate of competency or its equivalent, as determined by the city manager, or persons who possess a valid registration certificate or its equivalent, as determined by the city manager, issued by any other public agency, shall be exempt from the provisions of this chapter.

5.36.050 Application for examination for certificate of competency

- A. The city manager shall prepare and conduct examinations as needed for the purpose of determining the competency and knowledge of individuals to engage in plumbing work as set forth in this chapter. The city manager shall determine what constitutes “passing” the qualification examination. The examination shall test at a level which assumes sufficient knowledge of both theory and practice to enable the applicant to perform competent plumbing work. The examination shall include a written test and such other tests as the city manager in his or her discretion may determine.
- B. Persons desiring to take the examination for a certificate of competency shall file an application with the secretary of the board of plumbing examiners and pay any required fee. To be eligible for the examination for the certificate of competency, the applicant shall have at least four years of plumbing experience and shall attach proof of such experience to the application for examination.
- C. An applicant enrolled in a training or apprenticeship program that provides four or more years of plumbing experience may take the examination after attaining three years, nine months of plumbing experience; provided, however, that no certificate of competency shall be issued to such applicant until the applicant has at least four years of plumbing experience.

5.36.060 Issuance of certificate of competency

When an applicant for a certificate of competency has passed an examination as required by this chapter, the city manager shall issue to him or her a certificate of competency. The city manager may issue a duplicate copy of the certificate of competency upon payment of a fee established by resolution of the city council.

5.36.070 Posting of certificate of competency

Every journey-level plumber shall carry his or her certificate with him or her at all times while performing work regulated by this chapter and shall exhibit it when required to do so by the chief building official.

5.36.080 Trainee certificate of registration

- A. A trainee certificate of registration issued by the city manager shall be valid for five years and may be renewed upon payment of a renewal fee established by resolution of the city council.
- B. A registered trainee may perform plumbing work within the city for which a certificate of competency otherwise would be required only under the direct supervision and in the immediate presence of a person holding a certificate of competency issued pursuant to this chapter or in the immediate presence of a licensed plumbing contractor, and only if the trainee is the only trainee being supervised by the certificate holder or licensed plumbing contractor at the jobsite at that time. It shall be grounds for suspension or revocation of a trainee certificate of registration for a registered trainee to knowingly work under conditions wherein the person supervising the trainee is supervising one or more other trainees at the same jobsite at the same time.
- C. It shall be grounds for suspension or revocation of a certificate of competency for the holder of a certificate to supervise more than one registered trainee at the same jobsite at the same time in the performance of work on a plumbing system for which a certificate of competency otherwise would be required.

5.36.090 Establishing the board of plumbing examiners

The city establishes the board of plumbing examiners. The board of plumbing examiners shall consist of five members. At least two members shall be California licensed plumbing contractors and at least two members shall be journey-level plumbers. The chief building official shall act as the secretary to the board of plumbing examiners. The board of plumbing examiners shall be appointed by the mayor with the approval of the city council. The term of office for a member of the board of plumbing examiners shall be five years. If a vacancy occurs, the mayor with the approval of the city council shall appoint a replacement only for the remainder of the term. Members of the board of plumbing examiners shall not be compensated.

The board shall adopt reasonable rules for the conduct of its business. It shall select a chairman for a term of one year and shall establish procedures to be followed by the secretary of the board. Three members of the board shall constitute a quorum. Action taken by the board must be approved by a majority of the members present and voting on the matter before the board.

5.36.100 Powers and duties of the board of plumbing examiners

The powers and duties of the board of plumbing examiners shall be as follows:

- A. To hold at least one regular meeting in a calendar year.
- B. To review and provide recommendations on the development and implementation of the qualification examination.

- C. To compile and maintain a current list of individuals holding valid certificates of competency.
- D. To consider any written charges filed in the manner provided for in this chapter.
- E. To compile and keep current a list of agencies maintaining satisfactory examination and qualification procedures. This list shall be reviewed and brought up to date at least once each year. A copy of the list shall be kept on file in the office of the chief building official.

5.36.110 Loaning of certificates of competency prohibited

No individual holding a certificate of competency shall lend the certificate to any other person or allow any other person to install, remove, alter or repair plumbing systems under a certificate of competency not issued in their name. A violation of this section by any person holding a certificate of competency shall be grounds for revocation of the certificate.

5.36.120 Suspension or revocation of certificate of competency and trainee certificate of registration

- A. Any person may file with the board of examiners written charges against the holder of a certificate of competency or the holder of a trainee certificate of registration alleging that the holder of a certificate of competency or trainee certificate of registration has negligently or intentionally performed work in violation of applicable codes or otherwise violated the provisions in this chapter. Such charges shall state in detail the nature and substance of the matters charged and must be signed with the full name and correct address of the person making the charge or charges.
- B. The board shall notify the holder of the certificate of competency or trainee certificate of registration against whom charges have been filed of the next regular or special meeting of the board at which the matter shall be heard. Written notice shall be mailed by first class at least 15 days before the hearing to the address provided to the board by the holder of the certificate of competency or trainee certificate of registration.
- C. No certificate of competency or trainee certificate of registration shall be suspended or revoked until the holder has had an opportunity to appear and show cause why his or her certificate should not be suspended or revoked. In showing such cause, he or she may be represented by an attorney and may present evidence.
- D. The board may either suspend or revoke a certificate of competency or trainee certificate of registration if the board determines that the holder of the certificate of competency or trainee certificate of registration has willfully or negligently violated any of the provisions of this chapter or any ordinance, code, or regulation governing the installation, removal, alteration, or repair of plumbing systems.
- E. Should the board of plumbing examiners find that any certificate of competency or trainee certificate of registration has been obtained by fraud, it shall revoke such certificate.

- F. No refund of fees shall be made to any person whose certificate of competency or trainee certificate of registration is suspended or revoked.

5.36.130 Appeals.

Any applicant aggrieved by the decision of the city manager to grant or deny the issuance of a certificate of competency or trainee certificate of registration, or any holder of a certificate of competency or trainee certificate of registration aggrieved by the decision of the board of plumbing examiners to suspend or revoke a certificate of competency or trainee certificate of registration, may appeal such decision to the city council in accordance with the procedures set forth in sections 1.24.010 to 1.24.100 of this code. The appeal shall be made by filing a written notice of appeal with the city clerk within 20 days after the city manager's decision or the board of plumbing examiner's decision. The city council shall either conduct a hearing on said appeal or refer the appeal to a hearing officer who shall conduct the hearing pursuant to the provisions of Section 1.24.050 of this code.