

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE to amend Article II of Chapter 40 of the Omaha Municipal Code entitled “Air Conditioning and Air Distribution,” consisting of Sections 40-7 through 40-123, inclusive; to amend and clarify procedures for licenses, permits, and inspections regarding air conditioning and air distribution work; to require the licensing of air conditioning/air distribution and sheet metal journeyman, and the registration of apprentice installers; to amend air conditioning/air distribution board membership requirements; to repeal Article II of Omaha Municipal Code Chapter 40, consisting of Sections 40-7 through 40-123, as heretofore existing; and to provide the effective date thereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That Article II of Chapter 40 of the Omaha Municipal Code, consisting of Omaha Municipal Code Sections 40-7 through 40-123 inclusive, is hereby amended in its entirety to read as follows:

**ARTICLE II. AIR CONDITIONING AND AIR DISTRIBUTION.**

**DIVISION 1. GENERALLY.**

**Sec. 40-7. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them as follows:

*Air conditioning/air distribution, or ACAD:* A system providing for the control of any one or more of the following factors affecting both physical and chemical conditions of the atmosphere within a structure: temperature, humidity, movement, and purity.

~~*Air conditioning commercial contractor:* A contractor certified to perform those tasks as set forth in this article for industrial and commercial establishments and family dwelling units.~~

~~*Air conditioning residential contractor:* A contractor certified to perform those tasks as set forth in this article for single family and two family dwelling units.~~

*Apprentice ACAD/sheet metal installer:* A person engaged in training to become qualified to install, alter, or replace ACAD or sheet metal systems.

*Board:* The air conditioning and air distribution board created by this article.

*Commercial:* Any work not defined as residential.

~~*Contractor:* A holder of a valid certificate of competency for air conditioning/air distribution issued under the provisions of this article.~~

*Direct supervision:* An apprentice must be assigned to a supervisor who holds a master ACAD contractor license or a journeyman ACAD license, journeyman sheet metal commercial license or journeyman sheet metal residential license issued by the board. "Direct supervision" shall mean that the supervisor and the apprentice shall be working at the same project address but need not be within sight at all times.

*Employee:* A person who is hired to perform ACAD work for a master ACAD contractor or master ACAD contractor (residential) in exchange for compensation and who does not provide these services as part of an independent business.

*Experience:* Work performed while employed by a master ACAD contractor or master ACAD contractor (residential). A minimum of 1,750 hours of work per year constitutes one year of experience.

*Journeyman ACAD license:* A license required for any person engaged in the installation, alteration, or replacement of any commercial and residential air conditioning/air distribution system governed by this article under the supervision of a master ACAD contractor.

*Journeyman sheet metal commercial license:* A license required for any person engaged in the installation of commercial or residential sheet metal ductwork. Such person shall obtain a license to do so from the board. This license will allow the holder to perform unlimited sheet metal installations.

*Journeyman sheet metal residential license:* A license required for any person engaged in the installation of residential sheet metal ductwork. Such person shall obtain a license to do so from the board. This license will allow the holder to perform only residential sheet metal installations.

*License:* A certificate of competency authorizing the holder to act as allowed by this article.

*Licensed contractor:* A holder of a valid master ACAD contractor license or a master ACAD contractor (residential) license for air conditioning/air distribution issued under the provisions of this

article.

Master ACAD contractor: A person qualified and licensed to work on all commercial and residential ACAD systems governed by this article.

Master ACAD contractor (residential): A person qualified and licensed to work on all residential ACAD systems governed by this article.

Minor service repairs and/or alterations: Replacement and/or adjustment of components initially installed in an air conditioning/air distribution system, ~~where total costs do not exceed \$300.00-~~ for repairs and/or alterations that do not include changing ductwork, plenums, ACAD equipment installation, or adding registers, grilles or diffusers. Permits will be required except as noted by section 40-111.

Project: The scope of the work defined by the permit.

Residential: Detached one- and two-family dwellings and townhouses not more than three stories above grade in height with a separate means of egress.

#### **Sec. 40-8. Complaint procedure.**

Any person having knowledge of any suspected violation of this article may file a complaint with the permits and inspections division. Each complaint may be in writing, filed in duplicate, with one copy being retained by the permits and inspections division and one copy being forwarded to the secretary of the board. Such complaint may be signed at the option of the party making the complaint. Such complaint shall contain the following information:

- (a) Name and address of suspected violator.
- (b) Location and description of suspected violation.
- (c) Nature of violation and evidence of existence of same.

Each complaint, as determined by the superintendent of the permits and inspections division, shall be investigated by the permits and inspections division. The results of such investigation shall be available to the board upon request of the board.

#### **Sec. 40-9. Enforcement authority.**

The chief mechanical inspector and his/her assistant inspectors, under the direction and supervision of the superintendent of the permits and inspections division, shall be authorized and directed to enforce this chapter.

**Sec. 40-10. Right of entry.**

Upon presentation of proper credentials, the superintendent of the permits and inspections division, or his/her duly authorized representatives, may enter, at reasonable times, any building, structure, or premises within the jurisdictional area of the city to perform any duty imposed upon him/her by this article.

**Secs. 40-11--40-25. Reserved.**

**DIVISION 2. CERTIFICATES OF COMPETENCY LICENSES AND REGISTRATIONS**

*Subdivision A. In General*

**Sec. 40-26. Required.**

In order to perform work governed by this article, a person must hold a master ACAD contractor license, a master ACAD (residential) contractor license, a journeyman ACAD license, a journeyman sheet metal commercial license, a journeyman sheet metal residential license, or be registered as an apprentice ACAD/sheet metal installer as follows:

- (a) Master ACAD contractor license. It shall be unlawful for any person within the jurisdiction of the city to engage in the business of installing, altering, repairing, servicing, or adding to, or changing in any manner any air conditioning/air distribution system on commercial properties, or any furnace, restaurant appliance hoods and their duct systems, or any other exhaust or intake ventilating systems, unless such person shall be a holder of a valid master ACAD contractor license certificate of competency issued by the permits and inspections division. Exception to this section may be allowed, for work performed by a homeowner subject to the provisions of section 40-107.
- (b) Master ACAD contractor (residential) license. It shall be unlawful for any person within the jurisdiction of the city to engage in the business of installing, altering, repairing, servicing, or adding to, or changing in any manner any air conditioning/air distribution system on residential properties, unless such person shall be a holder of a valid master ACAD contractor license or master ACAD (residential) contractor license issued by the permits and inspections division.
- (c) Journeyman ACAD license. Any person engaging in the installation, alteration, or replacement of any commercial or residential air conditioning/air distribution or exhaust system shall obtain a license to do so from the board.
- (d) Journeyman sheet metal commercial license. Any person engaged in the installation of commercial or residential sheet metal ductwork shall obtain a license to do so

from the board. This license will allow the holder to perform unlimited sheet metal installations.

(e) Journeyman sheet metal residential license. Any person engaged in the installation of residential sheet metal ductwork shall obtain a license to do so from the board. This license will allow the holder to perform only residential sheet metal installations.

(f) Apprentice ACAD/sheet metal installer. A person engaged in training to become qualified to install, alter, or replace any commercial or residential air conditioning/air distribution system as an apprentice shall first register with the board.

**Sec. 40-27. Registration required.**

Any person desiring to engage in business, as a licensed contractor within the jurisdiction of the city shall have such person's full name, residence and place of business registered with the permits and inspections division. No person shall in any case be granted a ~~contractor's certificate~~ master ACAD contractor license or master ACAD contractor (residential) license unless registered as required by this section.

**Sec. 40-28. Change of address.**

It shall be the duty of any person registered with the permits and inspections division as required by this article, in the event of a change in address, to notify the permits and inspections division at once of such change.

**Sec. 40-29. Compliance with other laws.**

Any person holding a valid current ~~certificate of competency~~ license as a contractor shall comply with all provisions of the city relating to the operation of a business within the zoning jurisdiction of the city.

**Sec. 40-30. Qualifications.**

~~Before any person shall be issued a certificate of competency under the provisions of this chapter, he shall:~~

- (a) ~~Submit a verifiable experience record showing a minimum of five years' experience in the HVAC field.~~
- (b) ~~Take and pass an examination administered by the board with a grade of 75 percent or more.~~

~~(e) Pay the required fees.~~

~~(d) Post a bond as hereinafter required.~~

(a) Master ACAD contractor license or master ACAD contractor (residential) license.

To obtain a master ACAD contractor license, the applicant must satisfy the following criteria:

(1) Experience. The applicant must meet one or more of the following experience requirements:

(A) Eight (8) or more years verifiable experience in the installation of ACAD systems; or

(B) Four (4) or more years verifiable experience in the installation of ACAD systems employed by a licensed master ACAD contractor after obtaining a journeyman ACAD technician license from the City of Omaha; or

(C) Four (4) or more years verifiable experience in the installation of ACAD systems employed by a licensed master ACAD contractor after obtaining a journeyman ACAD technician license from another city with requirements equal to the City of Omaha.

(2) Examination. The applicant must successfully complete an examination administered by the board or a third party testing agency designated by the board with a minimum grade of 75 percent.

Exception: If the applicant has completed the same examination administered by the board or a third party testing agency designated by the board with a score of 75 percent or greater, the board may waive the examination requirement.

Exception: If the applicant has a valid Bellevue, Nebraska, or State of Iowa master ACAD contractor license with an examination score of 75 percent or greater, the board may waive the examination requirement.

(3) The applicant must pay the required fees per section 40-43.

(4) The applicant must post a bond and proof of insurance per section 40-32.

(5) Applications shall be received in writing by the board along with supporting documentation and the application fee. All applicants must be present at the next scheduled board meeting to answer questions.

(b) Journeyman ACAD license, or journeyman sheet metal commercial license, or

journeyman sheet metal residential license. To obtain a journeyman ACAD license, or a journeyman sheet metal commercial license, or a journeyman sheet metal residential license, the applicant must satisfy the following criteria:

- (1) Experience. The applicant must meet one or more of the following experience requirements:
  - (A) Five (5) or more years verifiable experience in the installation of ACAD systems; or
  - (B) Four (4) or more years verifiable experience employed by a licensed master ACAD contractor in the installation of ACAD systems; or
  - (C) Applicants may apply one of the following credits towards the experience requirements:
    1. Up to two (2) years for post high school education.
    2. Two (2) years for NATE “Core” and installation certifications.
- (2) Examination. The applicant must successfully complete an examination administered by the board or a third party testing agency designated by the board with a minimum grade of 75 percent. For a journeyman sheet metal residential license the applicant must successfully complete an examination administered by the board or a third party testing agency designated by the board with a minimum grade of 70 percent.
- (3) Exception: If the applicant has completed the same examination administered by the board or a third party testing agency designated by the board with a score of 75 percent or greater, the board may waive the examination requirement. For a journeyman sheet metal residential license the minimum examination grade of 70 percent is required.
- (4) Exception: If the applicant has a valid Bellevue, Nebraska, or State of Iowa journeyman ACAD license with an examination score of 75 percent or greater, the board may waive the examination requirement. For a journeyman sheet metal residential license the minimum examination grade of 70 percent is required.
- (5) Exception: For a period of six (6) months following the enactment of this section, an applicant who has been employed by a master ACAD contractor licensed by the City of Omaha for four (4) or more years may apply for and be granted a journeyman ACAD license or a journeyman sheet metal commercial license, or a journeyman

sheet metal residential license without completing an examination. This exception shall automatically expire six (6) months following the effective date of the section.

- (6) The applicant shall pay the fees required by this article.
- (7) Applications shall be received in writing by the board along with supporting documentation and the application fee.
- (c) Apprentice registration.
  - (1) Every apprentice shall register his/her name, address, and place of employment with the board by December 31<sup>st</sup> of each year and pay a registration fee as required by this article. Changes of address or employment must be filed within 30 days, but no fee is required.
  - (2) Applications shall include proof of employment by a licensed master ACAD contractor.

**Sec. 40-31. Appeal from denial.**

Any person who has been denied a ~~certificate of competency~~ master ACAD contractor license, master ACAD contractor (residential) license, journeyman ACAD license, journeyman sheet metal commercial license, or journeyman sheet metal residential license by the board under the provisions of this article may appeal the decision of the board to the administrative appeals board by complying with the provisions of section 2-171 et seq. of this Code.

**Sec. 40-32. Bond and insurance.**

(a) Prior to receiving a master ACAD contractor license or master ACAD contractor (residential) license ~~certificate of competency~~ required by the provisions of this article, an applicant who has successfully passed the examination required by this article shall furnish a corporate surety bond in the penal sum of not less than \$10,000.00 conditioned that the applicant shall, in all material by him/her furnished and in all work by him/her done and performed within the jurisdictional area of the city in installing, altering or repairing any air conditioning/air distribution system, strictly comply with this code and ordinances of the city related thereto as now existing or hereafter enacted.

(b) Said bond shall be executed by a qualified surety company licensed to do business in the state. Said bond, before being accepted by the permits and inspections division, shall be approved as to form by the city law department, and shall further be conditioned, among other things, to indemnify the city against any lawsuits brought or judgments obtained against the city, or any of its officials, employees or the board, and to hold the same harmless from any costs or expenses occasioned by any injury or casualty happening to any person, persons or property, real or personal, either directly or indirectly through the installation, altering, cleaning or adding to, or

change in any manner of any air conditioning/air distribution system, or any furnace, restaurant appliance hoods and their duct systems, or any exhaust or intake ventilating systems as set forth in this article, at any and all places within the jurisdictional area of the city by the applicant or by his/her or their employees.

(c) The bond for an individual holding a master ACAD contractor license or master ACAD contractor (residential) license ~~certificate of competency~~ in his/her own behalf shall name said individual as principal. The bond for an individual holding a license on behalf of a firm or corporation shall name both the individual and the firm or corporation as principals.

(d) In addition to the aforementioned bond, prior to the issuance of a master ACAD contractor license or master ACAD contractor (residential) license ~~certificate of competency~~, an applicant shall furnish a certificate of insurance, which provides a combined coverage for bodily injury and property damage in a minimum amount of \$300,000.00.

(e) Inactive status may relieve an individual of the above requirements subject to the provision of section 40-92.

**Sec. 40-33. Issuance ~~generally~~ and restriction.**

(a) Upon certification that an applicant has successfully passed the required examination, the permits and inspections division shall issue ~~a certificate of competency~~ the appropriate license when the applicant pays the license fees and, in the case of the master ACAD contractor license or master ACAD contractor (residential) license, files the bond and insurance as required by section 40-32.

(b) A master ACAD contractor license or a master ACAD contractor (residential) license required by the provisions of this article may only be issued to an individual on behalf of one firm or one corporation actively engaged in the business of a contractor.

(1) Exception: If the license holder owns 50 percent or more of any additional company, firm or corporation, he/she may also use his/her license for that company, firm or corporation.

(c) Licenses issued under the provisions of this article shall not be transferable to any other person.

(d) If the holder of a master ACAD contractor license or a master ACAD contractor (residential) license for a firm or corporation leaves the firm or corporation due to termination of employment or death, the firm or corporation may apply to the board, and the board may issue a temporary master ACAD contractor license or master ACAD contractor (residential) license

provided that the requirements of sections 40-32, and the fees required by sections 40-34 and 40-87 are paid. The temporary license shall be valid for up to six months from the date of issuance

**~~Sec. 40-34. Issuance restricted; use of certificate.~~**

~~A certificate of competency required by the provisions of this article may only be issued to an individual on behalf of one firm or one corporation actively engaged in the business of a contractor.~~

**~~Sec. 40-35. Transfer.~~**

~~Certificates of competency issued under the provisions of this article shall not be transferable to any other person.~~

**~~Sec. 40-36. Temporary certificates.~~**

~~If the only certificate holder of a firm or corporation leaves the firm or corporation, as in case of death of the holder of a certificate of competency or the termination of the employment of the holder of a certificate of competency, the estate or business may be issued a special temporary certificate of competency permitting such firm or business to engage in business as a contractor so long as the legal representative or proposed certificate holder is of good character, has first obtained and posted the required bond and insurance and is found by the board to be competent to hold such certificate. In no event shall such temporary certificate be valid for more than six months from the date of its issuance.~~

**~~Sec. 40-37~~ 34. **Renewal.****

(a) ~~A holder of a certificate of competency may renew the license certificate by paying a fee of \$50.00 having on file a bond and insurance as required by section 40-32, all before the expiration date of the certificate. All renewal fees shall be paid on or before December 31 of each year for the ensuing year.~~

(b) ~~Should the person fail to pay the application renewal fees by December 31, no work shall be performed thereafter in regard to air conditioning and air distribution by any such person and quadruple the fee as stated in section 40-37(a) shall be paid for the renewal of such certificate. If said person is delinquent in his renewal in excess of 60 days from December 31, it shall become necessary for said person to be re-qualified by the board as required for the original certificate.~~

All licenses or registrations issued as provided in this chapter shall be renewed upon payment of the renewal fee required per section 40-43. Such renewal license shall be granted without a re-examination unless it is made to appear by affidavit or other evidence before the board that the applicant is no longer competent or entitled to such renewal license. In the event said

renewal license is not approved, the applicant shall be required to pass the examination required for such new license.

(b) Master ACAD contractor licenses and master ACAD contractor (residential) licenses shall not be renewed until the holder has submitted proof of bond and insurance as required by section 40-32.

(c) Renewal license or registration fees are due and payable by December 31<sup>st</sup> of every year. Renewal fees paid within 30 days after the due date shall be in the amount of the renewal fee plus the lapsed license fee provided in section 40-43. Renewal fees paid 31-60 days after the due date shall be in the amount of the renewal fee plus four times the lapsed license fee provided in section 40-43.

(d) Any license or registration not renewed within 60 days after expiration shall be considered permanently lapsed and the holder must re-apply per section 40-30.

**Sec. 40-38 ~~35~~. Cancellation for inactivity.**

If a master ACAD contractor license or master ACAD contractor (residential) license holder ~~certificate holder~~ does not apply for take a permit for a period of one year, the board may shall hold a hearing; and, if the license ~~certificate~~ holder shall fail to show good cause why a permit has not been taken, his/her license ~~his certificate of competency~~ may be revoked. Inactive status may be requested by an individual subject to the provisions of section 40-92.

**Sec. 40-39 ~~36~~. Revocation/suspension--Grounds.**

(a) A ~~certificate of competency~~ master ACAD contractor license, master ACAD contractor (residential) license, journeyman ACAD license, journeyman sheet metal commercial license, or a journeyman sheet metal residential license issued under the provisions of this article may be revoked or suspended ~~immediately~~ by the board if the license holder has been convicted of an offense related to work regulated by this article. The basis of the conviction must be a relevant provision of federal, state, or city law upon the conviction of the holder thereof of any state law or provision of this code relating to installation, repair, or alteration in or to any air conditioning/air distribution system.

(b) A ~~certificate of competency~~ master ACAD contractor license, master ACAD contractor (residential) license, journeyman ACAD license, journeyman sheet metal commercial license, or journeyman sheet metal residential license issued under this article may be revoked or suspended by the board when it finds that the holder thereof is guilty of any one or more of the following:

- (1) Fraud or misrepresentation in securing such ~~certificate~~ license.

- (2) Incompetence in the exercise of the privileges of such ~~certificate~~ license.
- (3) Fraudulent use of a ~~certificate~~ license.
- (4) Refusal to perform work in accordance with law.
- (5) Misuse of a license.
- (6) Performance of work in violation of any law.
- (7) Violation of the zoning law of the city.
- (8) Any other violations of law which the board finds to be contrary to the intent and purposes of this code.
- (9) Fraudulent business practice connected with the use of the ~~certificate of competency~~ license.

**Sec. 40-40 ~~37~~. Revocation/suspension ~~Same~~--Procedure.**

(a) In all cases involving revocation or suspension of a ~~certificate of competency~~ master ACAD contractor license, master ACAD contractor (residential) license, journeyman ACAD license, journeyman sheet metal commercial license, or journeyman sheet metal residential license, at least 15 days' notice of the contemplated revocation/suspension shall be served in writing by certified mail at the address of the certificate holder as shown in the permits and inspection division; and said notice shall indicate the time and place of the hearing and the general grounds of said contemplated revocation/suspension, and shall advise the holder of ~~his~~ his/her right to appear at said hearing in person or by counsel for the purpose of presenting ~~his~~ his/her defense.

(b) The board shall make a complete record of the case and may at its discretion keep a stenographic record of the testimony produced at such hearings. The board may take up such other business at such hearings, as it may deem advisable.

(c) No person whose ~~certificate~~ license has been revoked shall be granted a new license until the expiration of 12 months after the revocation aforesaid and successful reexamination and payment of all fees as in the original instance. The revocation of a ~~certificate of competency~~ license shall not entitle the holder to a refund of any part of the fees, which he/she may have paid.

(d) No person whose ~~certificate~~ license has been suspended shall be granted a new license without first making application to the board and paying all fees in the original instance. The suspension of a ~~certificate of competency~~ license shall not entitle the holder to a refund of any part of the fee, which ~~he~~ he/she may have paid.

**Sec. 40-41 38. Revocation/suspension Same--Appeal.**

The holder of a certificate of competency license issued under the provisions of this article may appeal a decision of the board revoking or suspending such certificate license to the administrative appeals board by complying with section 2-171 et seq. of this code.

**Sec. 40-39. Supervision of apprentices.**

(a) An apprentice ACAD installer shall not perform work on any commercial ACAD project unless he/she is under the direct supervision of a holder of a master ACAD contractor license, journeyman ACAD license, journeyman sheet metal commercial license, or journeyman sheet metal residential license.

(b) The supervisor shall be a full time employee of the company performing the ACAD or sheet metal work and shall have provided the bonds and insurance per section 40-32.

**Sec. 40-40. Reciprocal requirements.**

The holder of a valid master license from another city may apply for a corresponding City of Omaha license if either of the following criteria is met:

- (a) The applicant holds a valid license from a city of similar size and with requirements similar to section 40-30; or
- (b) The applicant has successfully passed the other city's examination with a score of 75 percent or greater, and the board finds that such examination is similar to the examination for the corresponding City of Omaha license.

**Sec. 40-41. Term and renewal.**

Master ACAD contractor licenses, master ACAD contractor (residential) licenses, journeyman ACAD licenses, journeyman sheet metal commercial licenses, and journeyman sheet metal residential licenses and apprentice registrations shall be valid for up to one year, expiring on December 31<sup>st</sup> of every year.

**Sec. 40-42. Continuing education requirement.**

During each one (1) year license term, every master ACAD contractor, master ACAD contractor (residential), journeyman ACAD license, journeyman sheet metal commercial license, and journeyman sheet metal residential license holder shall participate in continuing education activities related to their craft. Such activities shall be approved by the board or be sponsored by one of the following organizations:

American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE)  
Heating and Cooling Contractors Association (HACCA)  
Lincoln Heating and Cooling Contractors Association  
Mechanical Contractors Association of Omaha (MCAO)  
Metropolitan Utilities District (MUD)  
Omaha Public Power District (OPPD)  
RSES  
Sheet Metal Workers Local #3

Prior to renewal of any license issued by this code, the license holder shall submit proof of at least four (4) hours of approved continuing education during the past one (1) year period.

**Sec. 40-43. Licensing fees.**

<u>Application for master or journeyman license</u>	<u>\$25.00</u>
<u>Master license renewal</u>	<u>\$50.00</u>
<u>Journeyman ACAD or sheet metal license renewal</u>	<u>\$35.00</u>
<u>Lapsed license fee</u>	<u>\$15.00</u>
<u>Apprentice or senior apprentice ACAD technician registration</u>	<u>\$25.00</u>

**Secs. 40-44—40-55. Reserved.**

*Subdivision B. Board of Examiners*

**Sec. 40-56. Created.**

There is hereby created a board to be known as the air conditioning and air distribution board in and for the city.

**Sec. 40-57. Composition; qualifications of members.**

The board shall consist of four air conditioning/air distribution contractors and a registered professional mechanical engineer.

- (1) Each licensed contractor shall have the following qualifications provided that the conditions of paragraphs (a), (b) and (c) may be met by a retired contractor that has held a master ACAD contractor license certificate of competency within for the last five 10 years:
  - (a) A holder of a current, valid and registered certificate of competency master ACAD contractor license issued by the city.

- (b) Actively engaged in the business of installing, altering, repairing, or servicing air conditioning/air distribution systems in the area of the city.
  - (c) A permanently established air conditioning/air distribution business in his/her own right or shall be registered as doing business on behalf of a firm or corporation that is permanently established in the business.
  - (d) Had at least five years' experience as a certified and active contractor in the city.
  - (e) Two licensed contractors shall be representative of the residential contractors and primarily engaged in the installation and construction of all types of furnaces, air conditioning units and ventilating systems over 500 CFM in residential units. One such member shall be currently affiliated with a union shop, and one such member shall be currently affiliated with a merit or open shop.
  - (f) Two licensed contractors shall be representative of the commercial-industrial contractors and primarily engaged in the installation and construction of commercial and industrial air conditioning and air distribution systems. One member shall be currently affiliated with a merit or open shop, and one member shall be currently affiliated with a union shop.
- (2) The registered professional mechanical engineer shall have the following qualifications:
- (a) Be registered ~~in~~ by the ~~s~~State of Nebraska, and practicing in the Omaha area.
  - (b) Have had at least ~~five~~ 10 years' experience in the design of air conditioning/air distribution and ventilating systems.

**Sec. 40-58. Appointment of members.**

The members of the board shall be appointed by the mayor and approved by the city council.

**Sec. 40-59. Term of members.**

~~Of the members originally appointed to the board, the registered professional mechanical engineer shall be appointed initially for a term of three years. One contractor (residential) and one contractor (commercial industrial) shall be appointed initially for a term of two years. One contractor (commercial industrial) and one contractor (residential) shall be appointed initially for a term of one year. Each succeeding appointment thereafter shall be for a term of three years. Appointments shall be for a maximum term of three years such that no more than two members'~~

terms shall expire in any year. Members shall serve until a replacement is appointed and approved.

**Sec. 40-60. Vacancies.**

Any vacancy occurring in the membership of the board for any reason other than the expiration of a term shall be filled for the unexpired term.

**Sec. 40-61. Compensation of members.**

The compensation for each member of the board shall be \$10.00 for each meeting attended.

**Sec. 40-62. Organization.**

(a) To accomplish its duties the board shall select one of its members each year in January as chairperson, one to act as secretary, and one to act as vice-chairman.

(b) The officers shall serve from February 1 of each year to January 31 of the following year.

(c) It shall be the duty of the chairman to preside at all meetings. If the chairperson is not present for any meeting, the vice-chairperson shall preside.

(d) The secretary of the board shall keep full, true and correct minutes and records of all meetings, applications for examinations, examinations given the results thereof and ~~certificates~~ licenses issued.

(e) Board decisions shall be concurred in by at least three members of the board.

**Sec. 40-63. Office supplies and secretarial services.**

The permits and inspections division shall provide the board with a recording secretary and all stationery and stenographic services necessary for the conduct of its business and duties. The board secretary may delegate to the recording secretary the duties to keep full, true and correct minutes and records of all meetings, applications for examinations, examinations given, results of examinations and licenses issued.

**Sec. 40-64. Quorum.**

Three members of the board shall constitute a quorum for the transaction of business coming before it.

**Sec. 40-65. Adoption of rules and regulations.**

The board shall make such rules and regulations and prescribe such procedures as may be necessary for its operation in conformity with the provisions of this article.

**Sec. 40-66. Scope of authority.**

The board shall have the complete control over the examination of applicants for licenses required by the provisions of this article and shall decide upon the qualifications of all applicants.

**Sec. 40-67. Duties.**

The duties and responsibilities of the board shall include but shall not be limited to the following:

- (a) The board shall hold regular meetings when necessary for the purpose of examining applicants who have filed their written application for licenses required by the provisions of this chapter, or for the conduct of any other business upon call by the chairperson.
- (b) Examination of applicants shall be conducted at the board's discretion with a minimum of once each quarter. The written portion of the examination shall be monitored by the board or, at the board's discretion, by a duly authorized representative. All rules and regulations shall be uniformly applied. The board shall keep an accurate record of all applications for examinations and examinations given with results.
- (c) The board shall certify to the permits and inspections division the names of all successful applicants with recommendations for the issuance of licenses. It shall keep accurate minutes of all its meetings and keep such other records as may be required thereafter. The minutes of all meetings shall be available for public inspection.
- (d) The board shall adopt written examinations designed to determine if the applicant is capable of designing and installing residential or commercial and industrial air conditioning, air distribution and ventilating systems to protect and promote public safety and welfare.
- (e) The board shall review the examination grades and pass upon all applications for ~~certificates of competency~~ licenses required under the provisions of this chapter.
- (f) The board shall have the authority to accept, as equivalent, examinations taken in other jurisdictions, when authorized by this chapter.
- (g) The board shall annually review the tests given for the ~~certificate of competency~~ licenses and shall adopt such revisions as are necessary to keep tests current with

building and industry methods and requirements.

- (h) The air conditioning/air distribution examinations shall be given at the Omaha/Douglas County Civic Center or a site designated by the board.
- (i) Storage and filing facilities shall be provided by the city.
- (j) Some of the examination questions shall be taken from the various codes and regulations legally adopted by the city.
- (k) The board shall at each meeting review all complaints as filed.
- (l) The board may request legal advice from the city law department.
- (m) The board shall have authority to grant a temporary ~~certificate of competency~~ master ACAD contractor license or master ACAD contractor (residential) as required in section 40-~~36~~ 33.

**Secs. 40-68--40-85. Reserved.**

*Subdivision C. Examinations*

**Sec. 40-86. Application.**

(a) Any person desiring to engage in business as a contractor may make written application to the permits and inspections division to take the examination for a master ACAD contractor license, or master ACAD contractor (residential) license established by the board pursuant to section 40-30. The examination fee shall be paid at the time of making such application. Once approved, permission to take the examination shall be valid for 180 days.

(b) Any person wishing to engage in the installation, alteration, repair, or replacement of any commercial air conditioning/air distribution system may make written application to the permits and inspection division to take the examination for journeyman ACAD license established by the board per section 40-30. Once approved, the application shall be valid for 180 days.

(c) Any person wishing to engage in the installation, alteration, repair, or replacement of any commercial sheet metal system may make written application to the permits and inspection division to take the examination for journeyman sheet metal commercial license established by the board per section 40-30. Once approved, the application shall be valid for 180 days.

(d) Any person wishing to engage in the installation, alteration, repair, or replacement of any residential sheet metal system may make written application to the permits and inspection division to take the examination for journeyman sheet metal residential license established by the

board per section 40-30. Once approved, the application shall be valid for 180 days.

**Sec. 40-87. Fee.**

Any person desiring to take an examination for a ~~certificates of competency~~ license required by this division shall pay the ~~following~~ appropriate fee pursuant to section 40-43.

- (a) ~~Air conditioning commercial examination and/or reexamination . . .~~ \$25.00
- (b) ~~Air conditioning residential examination and/or reexamination . . .~~ 25.00

No part of such fee shall be refunded on account of the failure of the applicant to qualify for a ~~certificates of competency~~ license.

**Sec. 40-88. Examination.**

(a) Examinations shall be held at the Omaha-Douglas Civic Center or alternate location designated by the board within 30 days of the approval of an application.

(b) The examination shall be conducted by the board or a third-party testing agency designated by the board.

**Sec. 40-88-89. Notice on failure.**

In case the applicant shall fail to satisfy the board that he/she possesses the necessary knowledge and skill to properly and safely perform the things set forth in this chapter, he/she shall not be granted the requested license ~~a certificate of competency~~. The board shall notify the applicant of his/her failure to pass the examination.

**~~Sec. 40-89. Waiting period for reexamination.~~**

~~No new application for a certificate of competency required by this article shall be accepted by the board for an applicant who has failed to pass the required examination before 90 days has elapsed since the date of the examination which was failed; however, such waiting period may be waived by the board in cases involving extreme hardship to the applicant.~~

**Sec. 40-90. Request for reexamination.**

~~In the event of a failure to successfully pass the examination required by this division, an applicant may request reexamination, in writing, paying the required reexamination fee.~~

(a) If an applicant fails to achieve a passing score, he/she may re-take the exam for a six month period from the date his/her original application was authorized. The applicant shall pay the

designated testing agency an examination fee for any reexamination.

(b) If an applicant fails to achieve a passing score during the original six month authorization period, he/she may re-apply after a period of not less than one year from the date that his/her original application for examination was authorized. The applicant shall provide documentation of eight (8) hours of continuing education and shall pay an application fee.

**Sec. 40-91. Certification of successful applicants.**

The board shall, at its next regular meeting after an examination has been given, certify to the permits and inspections division the names of ~~all each~~ successful applicants with recommendations for the issuance of ~~a certificate of competency~~ the appropriate license for said person ~~to act as a contractor within the meaning of this article.~~

**Sec. 40-92. Inactive status of certificate license.**

(a) If any person holding a current ~~certificate of competency~~ master ACAD contractor license, or a master ACAD (residential) contractor license, wishes to be relieved of the provisions of sections 40-32 and ~~40-38-35~~ 35 of this code, he/she shall apply to the air conditioning and air distribution board in writing or in person, stating the reason for requesting an inactive status of the ~~certificate of competency-license~~.

(b) Upon approval by the air conditioning and air distribution board, the ~~certificate of competency-license~~ shall then be marked "inactive" and coded numerically as such. Additionally:

- (1) No bond or certificate of insurance as stated in section 40-32 shall be required by the holder of such ~~certificate license~~.
- (2) No permit shall be taken out by the holder of such ~~certificate license~~, nor shall any work as a contractor is done by said person.
- (3) An annual renewal fee of ~~\$50.00~~ shall be paid as provided in section ~~40-37~~ 43 of this code.
- (4) After a five-year period of inactive status, the ~~certificate license~~ holder shall appear before the board to renew his/her inactive status.

(c) If a holder of a ~~certificate of competency license~~, wishes to put the ~~certificate license~~ into an active status again, the provisions of sections 40-32 and ~~40-38~~ 35 shall apply as before.

**Secs. 40-93—40-105 Reserved.**

**Sec. 40-106. Permit required.**

(a) The installation, alteration, repair or replacement of any air conditioning/air distribution system or equipment or exhaust system or equipment shall not be undertaken within the jurisdiction of the city without a permit issued by the permits and inspections division prior to said installation work.

(b) Except as allowed by section 40-107, only the holder of a master ACAD contractor license or a master ACAD (residential) contractor license may apply for a permit for ACAD work. In order to apply for a permit, the applicant must be a full time employee of the company providing the bonds and insurance per section 40-32.

**Sec. 40-107. Work by homeowners.**

(a) Any homeowner doing air conditioning/air distribution work in a single-family dwelling which he owns and in which he resides shall notify the permits and inspections division of the nature of the work he/she intends to do and pay an inspection fee equal to the permit fees listed herein. The work must be inspected and approved by the permits and inspections division. He/she will not be required to have a license provided acceptable proof of ownership and residence is provided.

(b) The applicant shall live in the house the permit is applied for and it must be his/ her postal address. The house for which the permit is being applied for must be a single-family dwelling. The permits and inspections division will supply a suitable form on which proof of ownership and residence shall be submitted.

**Sec. 40-108. Application for permit to be signed by ~~certificate~~ license holder.**

Each application for an installation permit required by this article shall be signed by the ~~certificate~~ license holder responsible for the job.

**Sec. 40-109. Fees generally.**

Before any permit shall be issued under the provisions of this article, the applicant therefor shall pay a fee computed as follows:

*Domestic—Residential*

**A/C UNITS AND HEAT PUMPS**

1 <sup>ST</sup> Unit	\$50.00
2 <sup>ND</sup> Unit	<u>\$40.00</u>

3 <sup>RD</sup> Unit	<u>\$30.00</u>
4 <sup>TH</sup> Unit	<u>\$20.00</u>
More than 4 Units	<u>\$15.00 Each</u>

**FURNACES AND AIR HANDLERS**

1 <sup>ST</sup> Unit	<u>\$50.00</u>
2 <sup>ND</sup> Unit	<u>\$40.00</u>
3 <sup>RD</sup> Unit	<u>\$30.00</u>
4 <sup>TH</sup> Unit	<u>\$20.00</u>
More than 4 Units	<u>\$15.00 Each</u>

**DUCTWORK** \$20.00

**EXHAUST FANS** \$20.00 (Total)

**ELECTRONIC AIR FILTERS** \$30.00 (Total)

**POWER HUMIDIFIERS**

1 <sup>ST</sup> Unit	<u>\$15.00</u>
More than (1) one Unit	<u>\$25.00 (Total)</u>

**REPLACEMENT**

Heating Only	<u>\$50.00</u>
Cooling Only	<u>\$50.00</u>
Heating and Cooling	<u>\$75.00</u>

**REPAIRS AND/OR ALTERATIONS**

<del>\$0 - \$300.00</del>	<del>No Fee</del>
\$300.00 to \$750.00	<u>\$35.00</u>
Over \$750.00	<u>\$55.00</u>

*Industrial and commercial.* This schedule is based on the installation value per building of the heating, air distribution, ventilating and exhaust systems to be installed, which installation value shall include the cost of all labor, material and equipment installed into the project:

<i>Installation Value</i>	<i>Fee</i>
<del>Under \$300.00</del>	<del>No permit required</del>
\$300.00 to \$5,000.00	\$56.65
\$5,001.00 to \$10,000.00	<u>\$108.15</u>

\$10,001.00 to \$20,000.00	<u>\$180.25</u>
\$20,001.00 to \$50,000.00	<u>\$319.30</u>
\$50,001.00 to \$99,999.00	<u>\$530.45</u>
\$100,000.00 to \$1,000,000.00	<u>\$5.30/1,000.00</u>
Over \$1,000,000.00	<u>\$5,304.50</u>

*Reinspections.* In case the air conditioning/air distribution inspector is required to make more than one trip from his/her office for the purpose of inspecting any work on account of violation of rules, wrong address, or any other irregularities caused by the contractor or any of his/her employees, the following charges will be made and paid before the certificate of inspection is issued:

First additional trip: No charge.

Second additional trip and each additional trip thereafter: \$50.00

**Sec. 40-110. Quadruple fees for commencing work without permit.**

If any work coming under the provisions of this article is started without first obtaining a permit as provided in this article, the person doing such work shall be in violation of this code, and a fee quadruple the amount due under this article, or \$100.00, whichever is greater, shall be imposed for the required permit in addition to any other penalty which may be imposed for the violation of this code.

**Sec. 40-111. Exclusions from permit requirement.**

A permit shall not be required under the provisions of this article for the installation or construction of the following items:

- (a) Window air conditioning units of two and one-half hp or less that are not connected to ductwork.
- (b) ~~Exhaust systems of 500 CFM or less.~~
- (~~e~~) Minor repairs such as cleaning, adjusting and replacement of minor parts.
- (c) Repairs that do not include changing ductwork, plenums or adding registers, grilles or diffusers. ~~These minor repairs do not include any change in the ductwork, plenum or the adding of registers, in which case a permit must be taken and fees charged according to this article.~~

**Sec. 40-112. Issuance of permits restricted.**

- (a) A ~~certificate holder~~ licensed contractor may only secure permits for the person named

on the bond filed by such licensed contractor holder. The licensed contractor holder cannot secure permits individually and for a firm or corporation.

(b) No permit shall be issued to a licensed contractor for work other than his/her own, and installed by other than such licensed contractor's employees.

(c) Before a permit can be issued, the licensed contractor certificate holder must have an established usual place of business.

(d) All trucks used by the licensed contractor in business must have the firm name noted thereon.

**Sec. 40-113. Responsibility for work.**

When a ~~certificate holder~~ licensed contractor obtains a permit required by the provisions of this article, it is the responsibility of such ~~holder~~ licensed contractor that the work be completed in compliance with the provisions of this chapter.

**Sec. 40-114. Request for inspection.**

It is the responsibility of the ~~certificate holder~~ licensed contractor to notify the permits and inspection division when the jobs are ready for inspections.

**Sec. 40-115. Approval of work required prior to connection or use of fuel or power.**

Fuel or power shall not be supplied or turned on until defects have been corrected and the system has been approved by the permits and inspections division. The permits and inspections division may, on inspection and approval, grant permission for operation on a temporary basis.

**Sec. 40-116. Temporary operation of equipment.**

Temporary operation of equipment coming under this article shall only be allowed in an unoccupied building where heat is necessary during construction work. Such operation shall cease before occupancy unless final inspection has been made.

**Sec. 40-117. Inspection required.**

It shall be unlawful for any person to operate any air conditioning/air distribution or ventilating system installed, altered or repaired until such systems have been inspected and approved by the permits and inspections division.

**Sec. 40-118. Covering work prior to inspection.**

Upon the completion of the framing of a building or structure and when the erection of all structural or component parts of a building or structure has been completed, and before any air conditioning/air distribution system, ventilating or exhaust system is covered with insulation, lath, wall board, wall paneling or other interior finish materials, the licensed contractor shall ~~eat~~ contact the permits and inspections division for a rough-in inspection of the air conditioning/air distribution, ventilating and exhaust system to determine whether all requirements relative to air conditioning/air distribution ventilating and exhaust systems rough-in work has been installed to comply with the provisions of this article.

**Sec. 40-119. Removal of covering placed prior to inspection.**

The permits and inspections division shall have the authority to cause to be removed, at the licensed contractor's or builder's expense, all covering which has been placed over any air conditioning/air distribution or rough-in work without having first obtained the inspection and approval thereof as herein before required.

**Sec. 40-120. Disapproval of work.**

Should it be found upon examination of the air conditioning/air distribution rough-in work in any building or part of a building that the same or part of the same does not comply with the terms of this article, the permits and inspections division shall attach to such work a tag or label stating that the work has been inspected and is not approved; and such air conditioning/air distribution or rough-in work must not be covered until approval of same has been obtained.

**Sec. 40-121. Failure to attach tag to unapproved work.**

Failure on the part of the permits and inspections division to attach a non-acceptance tag or label to work not acceptable shall not be construed as an acceptance by the permits and inspections division of such defective work.

**Sec. 40-122. Approval of work.**

If it is found upon inspection that all provisions of this article have been complied with, the permits and inspections division shall affix to such work a tag or label stating that the work has been inspected and approved and may be covered.

**Sec. 40-123. Annual review of building requirements.**

The board and the superintendent of the permits and inspections division shall ~~annually~~ periodically review the minimum requirements set forth above, and the board shall recommend such changes as are necessary to keep the building requirements current.

Section 2. That Article II of Chapter 40 of the Omaha Municipal Code, consisting of Omaha

ORDINANCE NO. \_\_\_\_\_

Page 26

Municipal Code Sections 40-7 through 40-123, as heretofore existing is hereby repealed.

Section 3. That this Ordinance shall be in full force and take effect on January 1, 2010.

ORDINANCE NO. \_\_\_\_\_

Page 27

INTRODUCED BY COUNCILMEMBER

\_\_\_\_\_

APPROVED BY:

\_\_\_\_\_  
MAYOR OF THE CITY OF OMAHA DATE

PASSED \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEY DATE