

Yeas: Chairman Daley, Vice Chairman Sims, Commissioners Butler, Fritchey, Gainer, Garcia, Gorman, Goslin, Murphy, Reyes, Silvestri, Steele, Suffredin, and Tobolski (14)

Nays: Commissioners Beavers, Collins and Schneider (3)

The motion carried and the amendment to the Environment Code (Communication No. 315197) was approved and adopted.

315198 ASBESTOS AND RELATED SUBSTANCES ORDINANCE AMENDMENT (PROPOSED ORDINANCE AMENDMENT). Submitting a Proposed Ordinance Amendment sponsored by Toni Preckwinkle, President and Jerry Butler, John P. Daley, Gregg Goslin and Robert Steele, County Commissioners.

PROPOSED ORDINANCE AMENDMENT

ASBESTOS AND RELATED SUBSTANCES

BE IT ORDAINED, by the Cook County Board of Commissioners that Chapter 30 Environment, Article VI, Sec. 30-541 and Sec. 30-547 of the Cook County Code is hereby amended as follows:

Sec. 30-541. - Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Asbestos” means any fiber or any mixture containing fiber of hydrated silicate mineral, which, on the basis of its crystalline structure, falls into one of two categories:

(1)Pyroxenes (chrysotile fiber);

(2)Amphiboles (crocidolite, amosite, tremolite, actinolite or anthophyllite fiber).

Asbestos Abatement Contractor means any Person, firm or corporation engaged in asbestos removal and abatement activities in Cook County, outside of the limits of the City of Chicago.

Certificate of Registration means the physical documentation issued by the Cook County Department of Environmental Control.

“Commercial activity” means any activity done for hire or having financial profit as a primary aim.

“Cook County” or *“County”* means the County of Cook, Illinois

“Debris” means asbestos-containing waste produced by the demolition of a structure.

“Department” means the County Department of Environmental Control.

“Director” means the Director of the County Department of Environmental Control.

“Engage in Asbestos Abatement Activity” shall refer to those activities provided in Sections 30-541 through 30-550 of the Ordinances of Cook County.

“Federal, State, or Local Regulations” means a law, administrative rule, or regulation of the federal government, any state in the United States of America, or any unit of local government, including but not limited to cities, counties, municipalities, or townships.

“Person” or *“Persons”* means any individual, corporation, partnership, joint venture, trust, association, limited liability company, sole proprietorship or other legal entity.

“Project Supervisor” means a licensed asbestos abatement contractor, foreman, or person designated as the asbestos abatement contractor's representative who is responsible for the onsite supervision of the removal, encapsulation, or enclosure of asbestos-containing materials.

“Spraying” means the pneumatic application of material used for fireproofing or insulation.

“Waste” means any asbestos-containing matter which has been or is intended to be discarded.

Sec. 30-547. - Inspection.

(a) Any factory, plant or enterprise for which a permit is sought or has been granted pursuant to Section 30-542(c) shall be subject to inspection by the Agency Department at any reasonable time, without prior notice.

(b) In the event the Department inspects a work site where Asbestos Abatement Activity is taking place, the Asbestos Abatement Contractor must cooperate with the Department's attempts to monitor activity to ensure that safety concerns are appropriately addressed. Upon request, the Asbestos Abatement Contractor will be required to produce required information, including but not limited to the following:

(1) A copy of the Certificate of Registration and

(2) Documentation verifying that all employees at that worksite have the appropriate

licensure through the Illinois Department of Public Health, if licensure is required.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners that Chapter 30 Environment, Sec. 30-551 of the Cook County Code is hereby enacted as follows:

Sec. 30-551. Asbestos Abatement Contractor registration, registration fees and penalties.

(a) In order to ensure that the health and safety of the public is protected from the harmful effects of exposure to asbestos materials caused by negligent or improper Asbestos Abatement Activities, all Asbestos Abatement Contractors doing business in Cook County outside the corporate limits of the City of Chicago must register with the Department of Environmental Control.

(b) No Asbestos Abatement Contractor shall do business in Cook County outside of the corporate limits of the City of Chicago without having a currently valid Certificate of Registration issued by the Department.

(c) The Department shall prepare and maintain a list of registered Asbestos Abatement Contractors which list shall be made available upon request.

(d) To obtain a Certificate of Registration, the Asbestos Abatement Contractor shall complete an application provided by the Department of Environmental Control. The application shall be returned to the Department, accompanied by a non-refundable registration fee set forth in Section 32-1 of the Ordinances of Cook County.

(e) The application shall require the following information:

(1) The Asbestos Abatement Contractor's name, mailing address, contact person, phone

number, and e-mail address, together with its form of ownership. If a corporation, a copy of the corporation's last annual report filed with the Asbestos Abatement Contractor's state of incorporation. If the Asbestos Abatement Contractor is a corporation, partnership, or other firm, the substantial owners, as defined in Section 34, Article V of the Ordinances of Cook County, shall be identified.

(2) The Asbestos Abatement Contractor's license number issued by the State of Illinois

Department of Public Health, the date of license expiration and a copy of said license.

(3) A list of all enforcement actions taken against the Asbestos Abatement Contractor in the preceding two (2) years for alleged violations of Federal, State or Local Regulations pertaining to the handling, removal or disposal of asbestos containing materials, including information about the alleged violations charged and the disposition.

(4) The number of years the Persons has been doing business as an Asbestos Abatement Contractor.

- (5) A list of supervisors employed by the Asbestos Abatement Contractor who are licensed by the Illinois Department of Public Health.
 - (6) A list of asbestos containing material removal and abatement techniques that have previously been employed by the Asbestos Abatement Contractor.
 - (7) A list of the names and addresses of waste disposal sites and waste haulers primarily used by the Asbestos Abatement Contractor.
 - (8) Certification by the Asbestos Abatement Contractor that all information furnished to the Department is true and accurate.
 - (9) Other information as required by the Department.
- (f) The application shall require the Asbestos Abatement Contractor to certify compliance with all Cook County ordinances, including but not limited to the following:
- (1) Chapter 30, Environment;
 - (2) Chapter 34, Article V, Child Support Payments;
 - (3) Chapter 38, Article III, Public Health and Private Nuisances;
 - (4) Chapter 58, Article III, Offenses Involving Public Safety, and Article IV, Offenses Involving Public Morals;
 - (5) The Cook County Building Ordinance, adopted originally on March 11, 1949, as amended, and/or the Cook County Building Code;
 - (6) Chapter 74, Taxation; or
 - (7) The Cook County Zoning Ordinance.
- (g) The Director shall determine whether the applicant satisfies the requirements to be registered as an Asbestos Abatement Contractor. Upon approval of the application, the Department shall issue a

Certificate of Registration to the asbestos removal contractor. Such Certificate of Registration shall expire two years following its date of issuance, and shall be renewable.

(h) The Asbestos Abatement Contractor is required to notify the Department of any material changes to the registration requirements set forth in Section 30-551(e). The Director of the Department may revoke the registration if the Asbestos Abatement Contractor fails to notify the Department of any material changes to the registration requirements identified in Section 30-551(e).

(i) The Director shall have the authority to deny an application for a Certificate of Registration. The Director shall provide written notice, via certified mail, of the decision to deny an Asbestos Abatement Contractor's Registration. Any denial must be made in writing and include a statement of the public health or safety concern that was the basis of the denial. The Director may deny issuance of a Certificate of Registration to any Asbestos Abatement Contractor where any one of the following conditions exist:

- (1) Failure to provide any of the required information on the application.
- (2) Providing false information on the application.
- (3) Outstanding violations, debts or penalties owed to Cook County for violation of any County ordinance, unless such violations, debts or penalties are being contested or appealed.
- (4) Failure to have any required licensure by the Illinois Department of Public Health.
- (5) Five or more administrative violations, three or more enforcement actions impacting public health in the two years preceding the date of application or a combined total of five administrative and enforcement actions in the two years preceding the date of application.

(j) If one of the conditions listed in section (i) is found to exist prior to the expiration of the Certificate of Registration, the Director may revoke the registration after notifying the Asbestos Abatement Contractor of the violation via certified mail, of the decision. The contractor shall have 10 days from the date of the Director's letter to make a written request for an administrative hearing to contest the decision or to provide information to the Department that reaffirms that they remain in compliance with the requirements of the ordinance. The Asbestos Abatement Contractor may reapply for a Certificate of Registration after a period of 14 business days. Approval of the Certificate of Registration after a revocation shall be probationary for one year after issuance of the Certificate of Registration. Any additional violations during the one-year probation will result in the suspension of the Certificate of Registration for a period of no less than one month and no more than one year.

(k) Any Certificate of Registration issued by the Department pursuant to this Article may be renewed if the Asbestos Abatement Contractor submits a completed registration renewal application on a form provided by the Department, and makes payment of a renewal fee set by the Department, consistent with the provisions of Section 32-1 of the Ordinances of Cook County. Renewal of a Certificate of Registration may be

withheld if the Director finds that evidence exists that renewal of the Certificate of

Registration will present health and safety concerns for the public. The Director may refuse to renew a Certificate of Registration if any of the conditions identified in Section 30-551(i) exist. The Director shall provide written notice, via certified mail, of the decision to deny an Asbestos Abatement Contractor's Registration renewal. Any denial must be made in writing and include a statement of the public health or safety concern that was the basis of the denial. The applicant shall have 15 days from the date of the Director's letter to make a written request for an administrative hearing to contest the Director's decision.

(l) If the Director denies an application for or revokes a Certificate of Registration or an application for renewal of a Certificate of Registration, the Director shall so notify the Asbestos Abatement Contractor in writing within 30 days of the decision, including a statement of the basis for the denial or revocation. The Asbestos Abatement Contractor shall be given the opportunity to contest the Director's action decision in a hearing as set forth Article IX-Administrative Hearings, Section 2-901 *et seq.* of the Code of Ordinances. The Asbestos Abatement Contractor shall be given written notice at least seven days before the hearing is scheduled. The Department of Administrative Hearings shall make a final decision on granting the Certificate of Registration.

(m) Any person that performs asbestos removal activity governed by this Article without possessing a valid and current Certificate of Registration issued by the Department shall be subject to fines in accordance with the provisions of Section 30-213 of this Article.

(n) The Department shall maintain records of any instances of Asbestos Abatement Activity performed without a Certificate of Registration for five years from the date of the discovery of the non-authorized activity and said records shall be considered when reviewing subsequent applications for registration.

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners that Chapter 30 Environment, Article II, Division 7, Subdivision II, Sec. 30-213 of the Cook County Code is hereby amended as follows:

Sec. 30-213. Violations and penalty.

(a) *Persons liable.*

(1) Unless otherwise specifically provided, the owner, the owner's agent for the purpose of managing, controlling, or collecting rents, and any other person managing or controlling a building or premises, in any part of which there is a violation of the provisions of this chapter, shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing, controlling, or acting as agent in regard to the buildings or premises. Wherever used in the provisions of this chapter, the term "owner" shall include any person entitled under any agreement to the control or direction of the management or disposition of the building or premises or of any part of the building or premises where the violation in question occurs.

Unless otherwise specifically provided, where the violation of the provisions of this chapter involves a motor vehicle, the owner or the owner's agent for the purpose of managing or controlling the vehicle, and any other person managing or controlling the vehicle shall be liable for any violation therein, existing or occurring, or which may have existed or occurred, at or during any time when such person is or was the person owning or managing or controlling, or acting as agent in regard to the vehicle. Wherever used in the provisions of this chapter, the term "owner" shall include any person entitled under any agreement to the control or direction of the management or disposition of the vehicle.

- (3) The liabilities hereunder imposed on an owner shall attach to a trustee under a land trust, holding title to such building, structure, or premises without the right of possession, management, or control, unless the trustee in a proceeding under the provisions of this chapter discloses in a verified pleading or in an affidavit filed with the court or the Department of Administrative Hearings, the name and last known address of each person who was a beneficiary of the trust at the time of the alleged violation and of each person, if any, who was then acting as agent for the purpose of managing, controlling, or collecting rents, as the same may appear on the records of the trust.

(b) *Penalty clause.* Any person, firm, or corporation or agents, employees or contractors of such, who violate, disobey, omit, neglect or refuse to comply with or who resist enforcement of any of the provisions of this chapter shall be subject to fines of not less than any of the values detailed in the following table but not more than \$10,000.00. Violations of the ordinance not listed in the following table are subject to fines not less than \$300.00 and not more than \$10,000.00. Collected fines will go to the Cook County Environmental Management Fund. A separate and distinct offense shall be regarded as committed each day on which such person continues or permits any such violation, or failure to comply exists after notification thereof. In addition to such fines and penalties, the permit or certification of operation of such person, or of the offending property, may be revoked as hereinbefore provided.

Any person, firm, or corporation that issues a check or other draft to the Department or the Department of Revenue that is not honored upon presentment because the drawer does not have an account with the drawee, or because the drawer does not have sufficient funds in his account, or because the drawer does not have sufficient credit with the drawee, shall be liable in the amount of \$25.00 and shall be liable for interest upon the amount at the rate of nine percent annually.

The Director shall refer a violation citation seeking a fine to the Cook County Department of Administrative Hearings for a hearing to be conducted by an administrative law officer or an administrative law judge following all rules and procedures set forth in Chapter 2, Article IX, of the Cook County Code. In determining the amount of the fine, the following factors shall be taken into consideration:

The Director shall refer a violation citation to the Cook County Department of Administrative Hearings for adjudication seeking a fine, collection of compliance fees owed to the Cook County Department of Environmental Control, and, if applicable, a

\$25.00 fee for all checks and drafts not honored by a financial institution. The Cook County Department of Administrative Hearings shall set the matter for a hearing to be conducted by an administrative law judge following all rules and procedures set

forth in Chapter 2, Article IX, of the Cook County Code. In addition to assessing a fine, the administrative law judge may, as a sanction, order the respondent to pay any outstanding compliance fees alleged in the citation and found by the administrative law judge to be due and owing to the Department. In determining the amount of the fine, the following factors shall be taken into consideration:

- (1) The gravity of the offense,
- (2) The respondent's past history with respect to compliance with the provisions of this chapter,
- (3) The respondent's financial situation,
- (4) The extent of respondent's cooperation,
- (5) The likelihood that the respondent will violate the provisions of this chapter in the future, unless deterred from doing so by the imposition of the maximum fine, and
- (6) Any other factors relevant to the circumstances relating to the violation.

Section	Violation	Fine
30-542(a)	Release of ACM in the air	\$5,000.00
30-542(b)(1)a.	Workers with no valid IDPH ACM Abatement license	300.00
30-542(a)(4)	Lack of vacuumed or sealing ACM waste	3,000.00
30-543(c)(1)	Lack of enclosure if required	5,000.00
30-543(d)	Visible release of ACM in the air	5,000.00
30-544(a)(3)	Structure not adequately wet	1,000.00
30-544(a)(4)	ACM dropped without dust tight method	3,000.00
30-544(a)(5)	ACM not contained for transportation	5,000.00
30-544(b)(2)a	No valid demolition permit	500.00
30-544(b)(2)b	No valid ACM abatement permit	500.00
30-92	Late payment of fees	300.00
30-186	No valid certificate of operation	300.00
30-455(a)	Noise	300.00

30-421	Noxious odors	500.00
<u>30-551</u>	<u>No valid Asbestos Removal Contractor Certificate of Registration</u>	<u>1,000.00</u>

BE IT FURTHER ORDAINED, by the Cook County Board of Commissioners that Chapter 32 Fees, Sec. 32-1 of the Cook County Code is hereby amended as follows:

Sec. 32-1. Fee schedule.

The fees or charges provided for or required by the below listed sections shall be as shown below:

Code Section	Description	Fees, Rates, Charges (in dollars)
Chapter 30. Environment		
<u>30-551</u>	<u>Asbestos Removal Contractor Certificate of Registration, initial or renewed</u>	<u>200.00</u>

EFFECTIVE DATE: This Ordinance Amendment shall take effect on the 60th day following passage.

*Referred to the Committee on Finance on 11/01/11.

Commissioner Garcia, seconded by Commissioner Steele, moved approval of the proposed ordinance amendment (Communication No. 315198). Chairman Daley called for a roll call, the vote of yeas and nays being as follows:

**ROLL CALL ON MOTION TO APPROVE
COMMUNICATION NO. 315198**

Yeas: Chairman Daley, Vice Chairman Sims, Commissioners Butler, Fritchey, Gainer, Garcia, Gorman, Goslin, Murphy, Reyes, Silvestri, Suffredin, and Tobolski (13)

Nays: Commissioners Beavers, Collins and Schneider (3)

Absent: Commissioner Steele (1)

The motion carried and the amendment to the Asbestos and Related Substances Ordinance (Communication No. 315198) was approved and adopted.