

PROPOSED ORDINANCE

Sponsored by ROBERT B. STEELE, County Commissioner

**SUBSTITUTE FOR COMMUNICATION 318999  
COOK COUNTY DEMOLITION DEBRIS DIVERSION ORDINANCE**

**BE IT ORDAINED**, by the Cook County Board of Commissioners, that Chapter 30 Environment, Article X Demolition Debris Diversion, Sec. 30-961 through 30-972 of the Cook County Code are hereby enacted as follows:

**Sec. 30-961. Short title.**

Section 30-961 through Section 30-972 shall be known, and may be cited, as the Cook County Demolition Debris Diversion Ordinance

**Sec. 30-962. Purpose and intent.**

The purpose of this ordinance is to establish a program for recycling and salvaging of construction and demolition waste consistent with the Cook County Solid Waste Plan. This ordinance is intended to introduce reuse and recycling requirements that will help achieve Cook County's goal to:

- (1) Reduce the amount of construction and demolition waste generated at the source;
- (2) Regulate the salvage and transport of salvageable construction and demolition material and to prevent the improper disposal of construction and demolition debris within the County of Cook; and,
- (3) Recover materials for the purpose of recycling and reuse that would otherwise be discarded and return them to the economy.

**Sec. 30-963. Findings.**

- (a) The County finds and determines that:
  - (1) The County is committed to protecting the public health, safety, welfare and environment and in order to meet these commitments it is necessary that the County promote the reduction of solid waste and reduce the stream of solid waste going to landfills.
  - (2) The debris generated in construction and demolition projects accounts for a significant portion of the materials disposed of in landfills and a large percentage of such debris is comprised of materials particularly suitable for recycling.
  - (3) The reuse and recycling of certain portions of construction and demolition debris is essential to further the County's efforts to reduce solid waste.

- (4) Except in unusual circumstances, it is feasible to divert an average of at least seventy percent (70%) of all construction and demolition debris from construction and demolition projects.

#### **Sec. 30-964. Definitions**

*AHERA* means the Asbestos Hazard Emergency Response Act, 15 U.S.C. § 2641 *et seq.*

*Alteration* means any change, addition, or modification of a structure or one or more structural components in any way, including but not limited to the stripping or removal of ACM from a structure component.

*ASHARA* means the Asbestos School Hazard Abatement Reauthorization Act, 15 USC § 2641 *et seq.*

*Construction and Demolition Debris* (“C&D debris”) means waste produced by the demolition or alteration of a structure. C&D debris may include but is not limited to bricks, concrete, masonry materials, soil, rock scrap, scrap metal, plaster, gypsum drywall, plumbing fixtures and piping, insulation, roofing shingles, other roof coverings, reclaimed or other asphalt pavement, glass, plastics, electrical wiring, corrugated cardboard, piping or metals incidental to any of those materials, landscape waste and wood, including painted, treated, coated wood, wood products, wall coverings, and incidental dirt, metal, mortar, gypsum, plasterboard, wood and sand that may be intermingled with reusable or recyclable demolition material generated from demolition activities.

*Deconstruction* means the process of systematically dismantling a structure in an environmentally, economically and socially responsible manner, aiming to maximize the recovery of materials for reuse and recycling.

*Demolition* means the deconstructing, destroying, razing, tearing down, alteration or wrecking of any structure or removal of any load-supporting structural member of a facility together with any related handling operations.

*Demolition Project* involves the demolition of any load-bearing or non-load-bearing building or portion of a building that may or may not contain ACM.

*Divert or Diversion* means to recycle or reuse demolition debris for any purpose other than disposal in a landfill, incineration facility.

*Facility* means an establishment that collects material, including construction and demolition debris, and either reprocesses or aggregates the material to be sold back into the market or serves as an intermediate or permanent site for disposal. Facilities include recycling establishments, building material reuse centers, transfer stations or landfills.

*Hauler* means an establishment that collects and transports material, including construction and demolition debris, from the original site of generation or intermediate site to another destination, such as a facility.

*Recycle or Recycling* means to set aside, handle, package or offer for collection residential,

commercial, or industrial solid waste materials or by-products for the purpose of being reused or processed and then returned to the economic mainstream as useful products.

*Remodel or Renovation* means the altering of an existing building or structure, or any portion of its structural components or systems, including the stripping, removal or abatement of ACM from a building or structure. Operations in which load-supporting structural members are wrecked or taken out are demolitions.

*Residential* means a structure that contains one or more dwelling units.

*Reuse* means recovering material for repeated use in the same form. This includes materials that are reused in the same location as they are generated.

### **Sec. 30-965. Demolition Debris Diversion Requirements.**

(a) Except as provided in section 30-967, applications for a demolition permit will be subject to the following Demolition Debris Diversion Requirements:

- (1) Any residential building is subject to a minimum five percent (5%) by weight reuse requirement and a minimum total seventy percent (70%) by weight diversion requirement.
- (2) Any non-residential building is subject to a seventy percent (70%) by weight recycling requirement with reuse encouraged whenever possible.

### **Sec. 30-966. Submission of Demolition Permit Application.**

(a) To be issued a demolition permit, a demolition permit application, including an asbestos inspection report, completed to AHERA/ASHARA standards, conducted by an Illinois Department of Public Health certified building inspector, must be submitted no less than 10 business days prior to the start of the demolition project, reviewed, and approved by the Director.

(b) Application may include but is not limited to a Demolition Debris Diversion Plan, estimating the respectively required diversion goals as set out in Sec. 30-965 and the transport means and destinations of demolition debris. The Demolition Debris Diversion Plan shall include, but is not limited to, the Estimated Material Tracking Form and the Material Transport Form.

(c) The Estimated Material Tracking Form shall require the following information:

- (1) The estimated quantity of each type of demolition debris and proposed means of diversion. The applicant shall list the types of demolition debris by material and the estimated amount of each type of demolition debris that will be reused or recycled. In estimating the weight of the demolition debris, the applicant shall use the conversion rates approved by the Director for this purpose.
- (2) The estimated total weight of demolition debris generated by the project, which is

calculated at the end of the Estimated Material Tracking Form.

- (3) A list with the name and address of the hauler or haulers that will transport each type of the demolition debris and the name and address of the facility or facilities that will receive the demolition debris.

(d) The application shall require certification of 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.

**Sec. 30-967. Exceptions to the Demolition Debris Diversion requirements.**

(a) The following structures will be exempt from the Demolition Debris Diversion Requirements of Sec. 30-965 but must still apply for Demolition Permit before commencing any demolition activity:

- (1) Garages and sheds
- (2) Projects that are not demolishing any load-bearing walls

(b) In the event that the applicant believes that the diversion of all or some demolition debris is impossible or impracticable, the applicant shall submit written justification and supplemental documentation along with the application substantiating the reasons the project should be exempt from the diversion requirements or be subject to decreased diversion requirements should be decreased. As a result, the applicant shall be subject to a required site inspection by the Department to verify this claim.

(c) The Director or his/her designee shall determine, in writing, whether any of the Demolition Debris Diversion Requirements shall be waived in whole or in part on the grounds of impracticability or impossibility.

(d) If the Director or his/her designee declines to approve a Demolition Permit Application, he or she shall document in writing the basis of denial.

**Sec. 30-968. Submission of Demolition Debris Diversion Report.**

(a) Within ten (10) days of the expiration of the demolition permit the permit holder or his or her designee shall submit to the Department a Demolition Debris Diversion Report verifying that the Demolition Debris Diversion Requirements were met as set out in Sec. 30-965.

(b) Applicants shall use a standard Demolition Debris Diversion Report provided by the Department.

(c) The Demolition Debris Diversion Report shall include, but is not limited to, the Actual Tracking Form and the Material Transport Reports.

(1) The Actual Material Tracking Form shall contain the following information:

a. The weight of demolition debris that was diverted by type of material, diversion method, haulers that managed the debris, and facilities that received the debris.

b. The weight of demolition debris that was not diverted.

(2) Material Transport Reports shall be submitted to substantiate the Actual Material Tracking Form and shall contain the following information for each facility used:

a. A complete list of the types of demolition debris transported to each facility, including itemized weight for each type;

b. The total weight of demolition debris transported to each facility;

c. The final destination for the materials as managed by each facility;

d. Each facility's contact information; and,

e. Any barriers encountered that prohibited diversion of demolition debris.

(3) Certification by the Demolition General Contractor that all information furnished to the Department is true and accurate.

(d) If the Demolition Debris Diversion Report shows that the project failed to meet the Demolition Debris Diversion Requirements as set out in Sec. 30-965, the applicant shall be in violation of this Ordinance and subject to the fines as specified in Sec. 30-972.

(e) An applicant who fails to submit the required documentation as provided herein shall be subject to the full amount of the fines specified in Section 30-213 as if no amount of demolition debris was recycled or reused.

(f) Any false statement, documentation or audit non-compliance shall result in fines and/or penalties pursuant to this Ordinance and/or the penalties specified in Section 30-972.

(g) Notwithstanding the foregoing, where title to the property is transferred to a bona fide purchaser after the rehabilitation of the property, if an applicant is unavailable or refuses to provide the

required documentation, the bona fide purchaser may obtain a certificate of occupancy by submitting a waiver application supported by an affidavit that the applicant is unavailable or refuses to provide the required documentation.

**Sec. 30-969. Exceptions to the Demolition Debris Diversion Report.**

(a) In the event that the applicant was unable to divert the amount of demolition debris as required by Sec. 30-965, the applicant shall submit written justification and supplemental documentation along with the Demolition Debris Diversion Report substantiating the reasons it was impossible or impracticable for the project to achieve its estimated diversion goals.

(b) The Director shall consider this documentation to determine whether the applicant has violated the reporting requirements as set out in Sec. 30-968.

(c) If the Director finds that the applicant has not submitted sufficient written justification and supplemental documentation to justify the impossibility or impracticability to meet this requirement, the Director shall make a written finding that the Applicant has violated the provisions of this Article and state the basis for that finding in writing.

(d) If the project has been exempt from meeting the Demolition Debris Diversion Requirements as set out in Sec. 30-967, the project shall be exempt from submitting a Demolition Debris Diversion Report. If a project has been issued a Demolition Permit with Demolition Debris Diversion Requirements lower than set out in Sec. 30-965, the project is still required to submit a Demolition Debris Diversion Report.

**Sec. 30-970. County's right to monitor and inspect.**

(a) The Director or his/her designee may inspect and monitor all demolition projects to determine actual levels of demolition debris diversion and to validate the information provided in the Demolition Debris Diversion Plan and the Demolition Debris Diversion Report.

(b) An applicant shall retain the receipts or weight tickets for the quantities of materials reused recycled and landfilled as indicated in the Demolition Debris Diversion Report for at least three years after the demolition is complete.

(c) Site inspections by the Department may occur during demolition activity to verify proper siting and material handling procedures are being followed in compliance with all applicable sections of the Cook County Code.

**Sec. 30-971. Rulemaking.**

The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Ordinance.

**Sec. 30-972. Penalties.**

(a) A permit holder is in violation this Cook County Demolition Debris Diversion Ordinance by:

(1) Failing to submit Demolition Debris Diversion Report;

- (2) Failing to timely file a required Demolition Debris Diversion Report;
- (3) Failing to complete Demolition Debris Diversion Report to a satisfactory degree, which includes submitting inaccurate, incomplete, inconsistent, or illegible information;
- (4) Failing to maintain records required by this Article;
- (5) Failing to divert demolition debris as required by Sec. 30-965;
- (6) Violating any other portion of the Cook County Demolition Debris Diversion Ordinance.

(b) With respect to violating this Ordinance, a full list of penalties and fines are listed in Sec. 30-213.

(c) Criminal prosecutions pursuant to this Ordinance shall in no way bar the right of Cook County to institute civil proceedings to recover fines, interest and costs incurred for such proceedings. Civil penalties and interest assessed pursuant to this Ordinance shall be computed at the rate provided by the Cook County Uniform Penalty, Interest and Procedures Ordinance.

**BE IT FURTHER ORDAINED**, by the Cook County Board of Commissioners, that Chapter 30-213 Violations and Penalty of the Cook County Code is hereby amended as follows:

**Sec. 30-213. Violations and Penalty.**

(a) After any person has been previously notified of three or more violations of this chapter within any consecutive 12-month period in respect to the emission of smoke, particulate, or other matter by the same piece of equipment in excess of the emission limitations herein provided or in respect to violations of other requirements provided in this chapter, such person shall be notified in writing to show cause before the Director on a day certain, not less than 20 days from date of service of such notice, why the equipment or process causing such violations should not be sealed. The Director may refer the violation notice 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. This last notice herein provided for may be given by mail, directed to the last known address of the person to be notified, or if such person or the whereabouts of such person is unknown, then by posting a notice on or near the premises at which the violations shall have occurred. Upon the date specified in the notice such person may appear at such hearing in person or by representative, with or without counsel. If such person fails to appear at such hearing or if upon such hearing the administrative law officer or administrative law judge shall find and determine that the violations are due to defective equipment or equipment which is incapable of being operated within the maximum emission limitations established by or under this chapter, or that corrective measures previously ordered by the Director have not been employed to eliminate the causes producing the violations, the administrative law officer or administrative law judge may enter an order revoking any certificate or permit outstanding for such equipment or process and directing that the same be sealed by an inspector or other authorized agent of the Director. In making the finding and determination hereinabove referred to, the administrative law officer or administrative law judge shall, in the case

of smoke density or opacity measurements, take into consideration whether the equipment is capable of being operated within the particulate matter limitations provided in Division 3 of this article.

(b) Upon notice and hearing, if notice and hearing has not previously been provided, the Director may order that the use of any fuel-burning, combustion, or process equipment or device shall be discontinued and may seal such equipment or process:

- (1) When a certificate of operation is refused in the case of any original, annual, or subsequent inspection, because the person required to procure such certificate has not complied with the provisions of this chapter;
- (2) In the case of movable equipment, or portable boilers, or vehicles, when immediate correction of a condition causing a violation of this chapter is not made by the operator of such equipment, portable boiler, or vehicle when ordered to do so by the Director or authorized representative.

(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.

(2) 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 suspended or 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
30-551	No valid Asbestos Removal Contractor Certificate of Registration	1,000.00
<u>30-968 (e)</u>	<u>Failing to submit Demolition Debris Diversion Report.</u>	<u>1,000.00</u>
<u>30-968(e)</u>	<u>Late filing of the required Demolition Debris Diversion report. Filing is considered late 11 days after permit expiration date.</u>	<u>500.00</u>
<u>30-968</u>	<u>Failing to submit complete and required documentation, which includes submitting inaccurate, incomplete, inconsistent, or illegible information;</u>	<u>1000.00</u>
<u>30-965</u>	<u>Failing to divert demolition debris as required by Sec. 30-965</u>	<u>5,000.00</u>

**Effective date:** This Ordinance shall take effect 120 days after passage.