

COMMITTEE ON HEALTH AND ENVIRONMENTAL PROTECTION.**AMENDMENT OF CHAPTER 11-4 OF MUNICIPAL CODE BY ADDING NEW SECTION 11-4-1100 CONCERNING RADIATION MONITORING.**

[O2018-9323]

The Committee on Health and Environmental Protection submitted the following report:

CHICAGO, March 13, 2019.

To the President and Members of the City Council:

Your Committee on Health and Environmental Protection, for which a meeting was held on Monday, March 11, 2019, having had under consideration an amendment of Municipal Code Chapter 11-4 by adding new Section 11-4-1100 concerning radiation monitoring, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of all committee members, with no dissenting votes.

Respectfully submitted,

(Signed) GEORGE A. CÁRDENAS,
Chairman.

On motion of Alderman Cárdenas, the said proposed ordinance transmitted with the foregoing committee report was *Passed* by yeas and nays as follows:

Yeas -- Aldermen Moreno, Hopkins, Dowell, King, Hairston, Sawyer, Mitchell, Harris, Beale, Sadlowski Garza, Thompson, Cárdenas, Quinn, Burke, Lopez, Foulkes, D. Moore, Curtis, O'Shea, Brookins, Muñoz, Tabares, Scott, Maldonado, Burnett, Ervin, Taliaferro, Reboyras, Santiago, Waguespack, Mell, Austin, Ramirez-Rosa, Villegas, Mitts, Sposato, Laurino, O'Connor, Napolitano, Reilly, Smith, Tunney, Arena, Cappleman, Pawar, Osterman, J. Moore, Silverstein -- 48.

Nays -- None.

Alderman Beale moved to reconsider the foregoing vote. The motion was lost.

The following is said ordinance as passed:

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. Chapter 11-4 of the Municipal Code of Chicago is hereby amended by adding new Section 11-4-1100, as follows:

11-4-1100 Radiation Monitoring.

(a) Definitions.

For purposes of this section, the following definitions shall apply:

"Carnotite Moratorium Area" means the area in and around the site of the former Carnotite Reduction Company near 434 East 26th Street, where the Department of Fleet and Facility Management has determined that radiologically contaminated material is potentially present, a map of which, as amended from time to time, is made publicly available by the Department of Fleet and Facility Management.

"DIGGER" means the 24-hour service network system established by the City of Chicago that provides a free, one-call service to persons engaged in excavation and demolition, and notifies persons who own and operate underground facilities of impending excavations and demolitions within the City's corporate limits, pursuant to Section 10-21-020 of the Code.

"Health and Safety Plan" means a health and safety radiation plan that sets forth requirements and designates protocols to be followed during subsurface soil-disturbing work and environmental monitoring which meets Occupational Health and Safety Administration regulations codified at 29 CFR Part 1910.120(b), or successor regulations. For work outside the Carnotite Moratorium Area, the Health and Safety Plan shall be consistent with the model Health and Safety Plan made publicly available by the Department; for work within the Carnotite Moratorium Area, the work shall be consistent with the Utility Emergency and Maintenance Plan, Former Carnotite Reduction Company Site, Chicago, Illinois, as amended, made publicly available by the Department of Fleet and Facility Management.

"Radiation specialist" means a radiation specialist, health physics contractor or environmental contractor qualified, pursuant to applicable industry standards, to perform the radiation surveillance and other responsibilities set forth in the Health and Safety Plan.

"Radiologically contaminated material" means soil, sand, gravel, fill materials, base course, or any other material that contains radioactive materials, including but not limited to, Thorium, Uranium or Radium, at concentrations sufficient to represent a threat to human health or the environment. Site-specific threshold concentrations for

radiologically contaminated material shall be developed within the Health and Safety Plan for each worksite in accordance with applicable federal, state, or local government regulations and requirements. In the absence of applicable federal, state, or local government regulations or requirements, surface gamma count rates exceeding twice background are assumed to represent a threat to human health or the environment.

"Subsurface soil-disturbing work" or "work" means construction, excavation or other activities involving contact with, exposure to, intrusion into, or disturbance of soil, sand, gravel, fill materials, base course, or other materials below the ground surface, roads or sidewalks, or underground.

(b) Non-Emergency Work Outside The Carnotite Moratorium Area. Except as otherwise provided in subsection (d) of this section regarding work performed in the Carnotite Moratorium Area, any person performing non-emergency subsurface soil-disturbing work at a location where the Commissioner has determined that radiologically contaminated material is potentially present shall:

(1) Prior to the commencement of work, review all environmental and other information regarding the worksite provided by the Department;

(2) Prior to the commencement of work, complete a Health and Safety Plan for the proposed work, and provide it to the Department in electronic format, upon request;

(3) Prior to the commencement of work, provide the Department with the identity and contact information of the radiation specialist which will perform services required by the Health and Safety Plan for the proposed work;

(4) Prior to the commencement of work, provide DIGGER notifications and obtain required permits, as applicable;

(5) Ensure that any radiation monitoring of the work required by the Health and Safety Plan is performed by the radiation specialist;

(6) Comply with the Health and Safety Plan for work at the site;

(7) Ensure that the radiation specialist is present at the worksite and performs such services as are required by the Health and Safety Plan;

(8) Provide the Department with copies of radiation monitoring results and reports prepared or undertaken in connection with work at the site in electronic format within two (2) weeks of the completion of work;

(9) In the event radiologically contaminated material is encountered at the worksite, immediately notify the Department and other regulatory agencies as directed by the Commissioner;

(10) In the event radiologically contaminated material from the worksite is disposed of, provide disposal documentation to the Department in electronic format within two weeks of transport and acceptance to the final disposal location. Such documentation shall include: (i) sampling methodology and documentation; (ii) laboratory analytical reports of waste characterization; (iii) landfill correspondence and acceptance approval; and (iv) radiation material summary, including amounts disposed (tonnage), trucking and transportation documentation, and landfill tickets and material disposal documentation;

(11) Provide the Department access to inspect work performed at the site;

(12) Provide the notifications, documentation and information required by this subsection (b) to other regulatory agencies as directed by the Commissioner; and

(13) Undertake such other measures as the Commissioner may determine are necessary or advisable to protect human health and the environment.

(c) Emergency Work Outside The Carnotite Moratorium Area. Except as otherwise provided in subsection (d) of this section regarding work performed in the Carnotite Moratorium Area, this subsection shall apply to emergency work performed to address an imminent threat to human health or the environment or to provide or maintain critical public services or functions as determined by the Commissioner. When performing emergency subsurface soil-disturbing work at a location where the Department has determined that radiologically contaminated material is potentially present, the person undertaking the work shall:

(1) Provide immediate notice to the Department via electronic mail when the emergency work is identified;

(2) Undertake radiation monitoring of subsurface soil-disturbing work and excavated spoils to be commenced within no more than four (4) hours of soil disturbance, unless otherwise authorized by the Commissioner;

(3) In the event radiation monitoring is available, unless alternative radiologically contaminated material handling procedures are approved or directed by the Commissioner, segregate all radiologically contaminated material and store in secure area to prevent exposure to the public or workers, pending further investigation and direction from the Commissioner, or other regulatory agencies;

(4) In the event radiation monitoring is not immediately available, unless alternative radiologically contaminated material handling procedures are otherwise approved or directed by the Commissioner, treat all excavated material as potentially radiologically contaminated, and segregate and properly shield material in secure area to prevent exposure to the public or workers, and perform radiation monitoring within no more than four (4) hours of the soil being exposed and segregated;

(5) Unless otherwise approved or directed by the Commissioner, containerize all known radiologically contaminated material within four (4) hours of the material being exposed, pending further direction from the Commissioner or other regulatory agencies;

(6) Follow emergency protocols established by the Commissioner; and

In the event the person performing emergency subsurface soil-disturbing work does not obtain radiation monitoring within the required time as set forth in this subsection (c) and is not otherwise authorized by the Commissioner, the Commissioner may engage the services of a radiation specialist to undertake such monitoring. If the Commissioner engages the services of a radiation specialist as provided in this subsection, the person performing or who caused to be performed the emergency subsurface soil-disturbing work shall be responsible for all reasonable costs incurred by the City to engage such radiation specialist.

(d) Work In The Carnotite Moratorium Area. Any person performing emergency or non-emergency subsurface soil-disturbing work in the Carnotite Moratorium Area shall:

(1) Prior to the commencement of work, review all environmental and other information regarding the Carnotite Moratorium Area provided by the Department of Fleet and Facility Management;

(2) Prior to the commencement of work, complete a Health and Safety Plan for the proposed work, and provide it to the Department of Fleet and Facility Management in electronic format, upon request;

(3) Prior to the commencement of work, provide the Department of Fleet and Facility Management with the identity and contact information of the radiation specialist which will perform services required by the Health and Safety Plan for the proposed work;

(4) Prior to the commencement of work, provide DIGGER notifications and obtain required permits, as applicable;

(5) Follow radiation monitoring and soil handling procedures for both emergency and non-emergency work included in the Utility Emergency and Maintenance Plan and as determined by the Commissioner of the Department of Fleet and Facility Management;

(6) Ensure that any radiation monitoring of the work required by the Health and Safety Plan is performed by a radiation specialist;

(7) Comply with the Health and Safety Plan for work at the site;

(8) Ensure that the radiation specialist is present at the worksite and performs such services as are required by the Health and Safety Plan;

(9) Provide the Department of Fleet and Facility Management with copies of radiation monitoring results and reports prepared or undertaken in connection with work at the site in electronic format within two weeks of the completion of work;

(10) In the event radiologically contaminated material is encountered at the worksite, immediately notify the Department of Fleet and Facility Management and other regulatory agencies as directed by the Commissioner of Fleet and Facility Management;

(11) In the event radiologically contaminated material from the worksite is disposed of, disposal documentation must be provided to the Department of Fleet and Facility Management in electronic format within two weeks of transport and acceptance to the final disposal location. Such documentation shall include: (i) sampling methodology and documentation; (ii) laboratory analytical reports of waste characterization; (iii) landfill correspondence and acceptance approval; and (iv) radiation material summary, including amounts disposed (tonnage), trucking and transportation documentation, and landfill tickets and material disposal documentation;

(12) Provide the Department of Fleet and Facility Management access to inspect work performed at the site;

(13) Provide the notifications, documentation and information required by this subsection (d) to other regulatory agencies as directed by the Commissioner of Fleet and Facility Management; and

(14) Undertake such other measures as the Commissioner of Fleet and Facility Management may determine are necessary or advisable to protect human health and the environment.

(e) Compliance With Health And Safety Plan. Any person performing the subsurface soil-disturbing work at a location where the Commissioner or Commissioner of Fleet and Facility Management has determined that radiologically contaminated material is potentially present and the radiation specialist for such work shall maintain records demonstrating that work at the site complies with the Health and Safety Plan for the work. Such records shall be made available for inspection upon request, in a format approved by, the Department or Department of Fleet and Facility Management, as applicable, and shall be maintained by the person performing the subsurface soil-disturbing work and the radiation specialist for a minimum of three years from the date the record is created.

(f) Penalty, Cost Recovery And Remedies.

(1) Penalty. Any person who violates this section shall be fined not less than \$5,000 nor more than \$10,000. Each day that a violation continues shall constitute a separate and distinct offense.

(2) Cost Recovery. The City shall be authorized to bring a civil action to recover penalties from the person to whom an order or notice was issued under this section, and up to the amount of three times the abatement costs incurred by the Department plus its attorney fees may be recovered in an appropriate action instituted by the Corporation Counsel or in a proceeding initiated by the Commissioner at the Department of Administrative Hearings.

(3) Liability. In addition to the penalties set forth in this subsection, any person adjudicated liable for any related or unrelated offenses alleged by the Commissioner in an administrative hearing held pursuant to this section shall also be liable for all applicable penalties for those violations.

(4) Injunction. In addition to any other remedies, penalties or means of enforcement, the Commissioner may request the Corporation Counsel to make application on behalf of the City to any court of competent jurisdiction for an injunction requiring compliance with this section or for such other order as the court may deem necessary or appropriate to secure such compliance.

SECTION 2. This ordinance shall be in full force and effect 10 days after its passage and publication.

AMENDMENT OF SECTIONS 11-4-2190 AND 11-4-2200 OF MUNICIPAL CODE REGARDING PERMIT AND NOTIFICATION REQUIREMENTS FOR LEAD PAINT ABATEMENT, DISPOSAL OF DEBRIS AND SANDBLASTING, GRINDING AND CHEMICAL WASHING OF BUILDINGS, FACILITIES OR OTHER STRUCTURES.

[O2019-289]

The Committee on Health and Environmental Protection submitted the following report:

CHICAGO, March 13, 2019.

To the President and Members of the City Council:

Your Committee on Health and Environmental Protection, for which a meeting was held on Monday, March 11, 2019, having had under consideration an amendment of Municipal Code Sections 11-4-2190 and 11-4-2200 regarding permit and notification requirements for sandblasting, grinding and chemical washing of buildings, facilities or other structures, begs leave to report and recommend that Your Honorable Body *Pass* the proposed ordinance transmitted herewith.