

Bill No. 2330-06

No. 11-07-OR

AN ORDINANCE

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, to facilitate the reporting and recording of information by contractors operating within Allegheny County.

The Council of the County of Allegheny hereby enacts as follows:

Section 1. Authorization and Scope.

Allegheny County hereby authorizes and approves the establishment of a Contractor Information Program for contractors operating within the County for the purpose of establishing a tracking system to allow the general public to identify and compare contractors within the County.

Section 2. 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:

Contractor means any person, including a subcontractor or employee of another contractor, who performs an activity pursuant to a written or oral contract or agreement for the construction, reconstruction, remodeling, renovation or repair of real estate or a real estate structure.

County means Allegheny County.

Person means any individual, firm, partnership, cooperative nonprofit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company or other group or combination acting as a unit, in the singular or plural, and any agent or employee having charge or control of a business in the absence of the principals.

Section 3. General Requirement.

Every contractor engaged in or intending to operate, have offices in, or provide services within Allegheny County may participate in the Contractor Information Program, as established by this Ordinance. Contractors participating in the Contractor Information Program shall be required to pay an annual certification fee and obtain a contractor's certification as provided in this article.

Section 4. Purpose and Duration.

The contractor's certification created by this ordinance is for the purpose of providing information to members of the public and business community who from time to time may require the services of a contractor. Each certification shall be issued for one calendar year and shall expire on December 31, and the certification itself shall indicate the expiration date on its face. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by County Council.

Section 5. Certification Fee.

The required certification fee shall be paid for each contractor subject hereto according to the applicable rate classification on or before January 1st of each year. A separate certification shall be required for each address within the County from which a contractor operates.

Section 6. Registration Required; Contact Information; Proof of Identity.

- (a) The owner, agent or legal representative of every contractor participating in the Contractor Information Program shall register the contractor and make application for a contractor's certification. Application shall be on a form provided by the County Treasurer which shall contain the social security number and/or the federal employer's identification number of the business owner, the business name as reported on the state or federal income tax return, and all information about the applicant and the business deemed necessary to carry out the purposes of this article by the Treasurer. Such information may include, but need not be limited to: identification of an applicant company as a sole proprietorship, partnership, corporation, limited liability company, limited partnership of joint venture as defined by state statute, a list of partners, shareholders, officers, principals or owners in the company, and indications of whether the company has general liability, automobile liability and workers' compensation coverage together with policy numbers for each. Each application shall provide certifications in substantially the following form, and shall afford applicants the opportunity to indicate which of the certifications apply to them:

- (1) "[Applicant's name] certifies that the contracting business named herein is fully bonded, (if necessary) and insured under all applicable provisions of state statute and other regulatory authority, as well as under all applicable local law."
- (2) "[Applicant's name] certifies that the contracting business named herein both employs only individuals eligible to work in the United States at the time of the application, and that it will not knowingly employ any individual who is ineligible to work in the United States while licensed as a contractor in Allegheny County."
- (3) "[Applicant's name] certifies that the contracting business named herein complies with all applicable state laws pertaining to insurance and bond requirements for public works contractors, to the extent that such laws apply to the activities undertaken by this applicant."

- (4) "[Applicant's name] certifies that the contracting business named herein complies with all federal, state, and local tax law.
- (5) "[Applicant's name] certifies that he or she will notify all employers of the license status of all subcontractors he or she employs."
- (b) Contractor's certifications shall be issued to reflect the certifications made in the applications. Upon the fulfillment of the conditions provided for by this Ordinance, a certification shall be granted to contractor applicants. Such certification shall reflect the certifications made by the applicant under Section 6(a) of this Ordinance, and shall contain a number that is unique to the contractor certified. Once a number has been issued to a contractor, he or she shall retain that same identifying number for certifications in perpetuity.
- (c) Specifically in regards to the registration and/or application, the Treasurer may request the full and legal name, birthdate, gender, personal addresses and contact information for any person, officer, landlord, tenant, property owner, lessor, sublessor, or agent pertaining to the business, or any other person who has ownership or financial interest in the business, or any other person who has decisional or management input, consultation, oversight or control of any portion of the business. In the case of a corporation, the Treasurer may additionally request the true and complete name of the corporation, officers, the state or county of its incorporation and its principal place of business.
- (d) The applicant shall certify that the information given in the application is true and correct.
- (e) Each contractor, as a condition of issuance or renewal, must maintain full and accurate contact information for responsible persons on a form provided by the Treasurer.
- (f) Notwithstanding any other provision of law, the failure to comply with any provision of this section shall constitute grounds for denial, suspension or revocation of the certification.
- (g) Applicants shall have the right to appeal the denial of any application for certification to the Contractor Certification Board, in accordance with the provisions of Section 14 of this Ordinance.

Section 7. False Application.

In the event that any person subject to the provisions of this article makes a false application for a contractor's certification, or gives or files, or directs the giving or filing of any false information with respect to the certification or fee required by this article, the certification which was granted pursuant to the falsified application shall immediately be revoked.

Section 8. Display and Transfer.

All participating contractors shall display the certification issued to them on the original form provided by the Treasurer in a conspicuous place in a publicly visible area of the business establishment at the address shown on the certification. A copy of the certification may be carried by the contractor or his or her agent when performing work within the scope of his or her employment outside of the business establishment. A transient or nonresident shall carry the certification upon his person or in a vehicle used in the business, and the certification should be readily visible. A change of address must be reported to the Treasurer within ten days after removal of the business to a new location and the certification will be valid at the new address upon written notification of the Treasurer. Failure to obtain the approval of the Treasurer for a change of address shall invalidate the certification. A contractor's certification shall not be transferable and any change of ownership in a contractor's business shall be considered a termination of the old business and the establishment of a new business for which a new contractor's certification may be obtained, subject to the other requirements of this Ordinance.

Section 9. Administration of Ordinance.

The Treasurer shall collect certification fees, issue certifications, produce forms, and establish reasonable procedures relating to the administration of this article. The Treasurer also shall maintain a database of complaints filed with his or her office against contractors, shall make this database searchable by contractor name and certification number, and shall make the database accessible to the general public

Section 10. Delinquent Certification Fees.

For nonpayment of all or any part of the correct certification fee, the Treasurer shall levy and collect a late penalty of five percent of the unpaid fee for each month or portion thereof after the due date until paid; provided however, that the late penalty to be collected for any one year's delinquent fee shall not exceed 30 percent of the fee due for that year. Individuals listed on the application shall be joint and severally liable for all fees and penalties associated with the contractor's business that is granted a certification. No new certification application shall be considered by the Treasurer until all past due fees and penalties owed by any applicant listed on the new application are paid in full.

Section 11. Notices.

The Treasurer may, but shall not be required to, mail written notices that certification fees are due, but if notices are not mailed there shall be published a notice of the due date in a newspaper of general circulation within the city three times prior to the due date in each year.

Section 12. Denial of Certification.

The Treasurer may deny a certification to an applicant:

- (a) when the application is incomplete, contains a misrepresentation, false or misleading statement, evasion or suppression of a material fact, or
- (b) when the applicant has unpaid liens, taxes, fees or charges due and owing to the County, or
- (c) when the applicant makes the application on behalf of a person, or uses or employs a person who has ownership or financial interest in the business, or has decisional or management input, consultation, oversight or control of any portion of the business, and that person is engaging or has engaged in conduct or business practices that would have provided grounds for suspension or denial.

A decision of the Treasurer shall be subject to appeal to the Contractor's Certification Board as herein provided in Section 15. Denial shall be written with reasons stated.

Section 13. Suspension or Revocation of Certification.

When the Treasurer determines that:

- (a) a license has been mistakenly or improperly issued or issued contrary to law; or
- (b) a licensee has breached any condition upon which his license was issued or has failed to comply with the provisions of this article; or
- (c) a licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
- (d) a licensee has been convicted of an offense classified as *crimen falsi* by a Pennsylvania court of competent jurisdiction; or
- (e) a licensee has been adjudicated as engaging in nuisance activities by a Pennsylvania court of competent jurisdiction; or
- (f) a licensee has been the subject of multiple citations or adjudications for violations relating to state employee protection laws; or
- (g) a licensee has knowingly or had reason to know that he or she has utilized the services of undocumented workers; or
- (h) a licensee has engaged in a pattern of unfair or incompetent practices;

the Treasurer shall determine whether the conditions potentially justify the revocation of the certification. Upon a finding that revocation is to be pursued, the Treasurer shall give written notice to the contractor or the person in control of the business within the County by mail that the certification is suspended pending a hearing before the Contractor's Certification Board for the

purpose of determining whether the certification should be revoked. The notice shall state the time and place at which the hearing is to be held, which shall be within 30 days from the date of mailing the notice. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this article.

Section 14. Appeals to Contractor's Certification Board.

- (a) A Contractor Certification Board is hereby created to review decisions of the Treasurer pertaining to certification suspension or denial of an application. The Board shall be comprised of seven members. One Board Member shall be a member of a labor union operating within Allegheny County which represents individuals performing work typically associated with contractors as defined in Section 2 of this ordinance, two Board Members shall be persons operating contractor businesses within Allegheny County, and one Board Member shall be a member of the Association for the Advancement of Retired People (AARP); these Members shall be appointed by County Council. Two of the remaining Board Members shall be persons operating contractor businesses within Allegheny County and shall be appointed by the Chief Executive. The final Member shall be the Allegheny County District Attorney or his or her designee. All appointees shall serve two year terms on the Board, and all appointments shall be subject to confirmation by County Council. All appointments must be made within 30 days of the effective date of this ordinance. The Board must meet at least monthly, with a first meeting scheduled no later than 60 days from the effective date of this ordinance.
- (b) Any person aggrieved by a final assessment or a denial of a certification by the Treasurer may appeal the decision to the Business Certification Board by written request stating the reasons therefor filed with the Treasurer within ten days after the notice of denial is received.
- (c) An appeal of a denial of an application or a hearing on a certification suspension shall be held by the Contractor Certification Board within 30 days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or contractor holding the suspended certification has been given written notice. At such hearing all parties shall have the right to be represented by counsel, to present testimony and evidence and to cross examine witnesses. The proceedings may be recorded and transcribed at the expense of the party so requesting. The Pennsylvania rules of evidence and civil procedure shall govern the hearing. The Contractor Certification Board shall by majority vote of members present render a written decision based on findings of fact and the application of the standards herein which shall be served upon all parties or their representatives and shall be final unless appealed to a court of competent jurisdiction within ten days after service.
 - (1) For the purposes of appeals and hearings held under this section based in whole or in part upon the eligibility of individuals for employment by a contractor, the Board shall accept as proof of employment eligibility one document from list A herein, or one document from list B herein together with one document from list

C herein. The documents must be originals, not copies. The only exception is that one may use a certified copy of a birth certificate.

List A

Documents That Establish Both Identity and Employment Eligibility:

- U.S. Passport (unexpired or expired)
- Certificate of U.S. Citizenship (INS Form N-560 or N-561)
- Certificate of Naturalization (INS Form N-550 or N-570)
- Unexpired Foreign passport with I-551 stamp or attached INS Form I-94 indicating unexpired employment authorization
- Alien Registration Receipt Card with photograph (INS Form I-151 or I-551)
- Unexpired Temporary Resident Card (INS Form I-688)
- Unexpired Employment Authorization Card (INS Form I-688A)
- Unexpired Reentry Permit (INS Form I-327)
- Unexpired Refugee Travel Document (INS Form I-571)
- Unexpired Employment Authorization Document issued by the INS which contains a photograph (INS Form I-688B)

List B

Documents That Establish Identity:

- Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
- ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address
- School ID card with a photograph
- Voter's registration card
- U.S. military card or draft record
- Military dependent's ID card
- U.S.. coast guard merchant mariner card
- Native American tribal document

- Driver's license issued by a Canadian government authority. Persons under the age of 18 who cannot produce one of the above documents can substitute one of the following:
- School record or report card
- Clinic, doctor, or hospital record
- Day-care or nursery school record

List C

Documents That Establish Employment Eligibility:

- U.S. Social Security Card issued by the Social Security Administration (other than a card stating that it is not valid for employment)
- Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
- Original or certified copy of a birth certificate issued by a state, county, or municipal authority or outlying possession of the United States bearing an official seal
- Native American tribal document
- U.S. Citizen ID Card (INS Form I-197)
- ID Card for Use of Resident Citizen in the United States (INS Form I-179)
- Unexpired Employment Authorization Document issued by the INS (other than those included in List A)

Section 15. Confidentiality.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner any particulars set forth or disclosed in any application required under this article. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular businesses.

Section 16. Fee Schedule.

The annual fee for the business certification available under this title shall be \$100.

SECTION 17. ***If any provision of this Ordinance shall be determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of this Ordinance which shall be in full force and effect.***

SECTION 18. Any Resolution or Ordinance or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

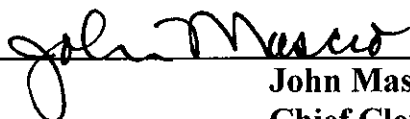
SECTION 19. No Private Right of Action. Allegheny County, Pennsylvania shall have the sole right and authority to enforce this resolution. This resolution does not grant any individual, group of individuals, organization, entity or any other person any right to bring any action in or before a court, administrative agency or board or any similar body to enforce the provisions of this resolution.

SPONSORED BY PRESIDENT FITZGERALD, VICE PRESIDENT MARTONI, and COUNCIL MEMBERS BURN, CLEARY, DEFAZIO, GASTGEB, JABBOUR, NERONE, WATT, FINNERTY, REA, MACEY, DROZD, ROBINSON, CALDWELL, AND LESTITIAN

Enacted in Council, this 4th day of April, 2007

Council Agenda No. 2330-06


Rich Fitzgerald
President of Council

Attest: 
John Mascio
Chief Clerk of Council

Chief Executive Office APRIL 9, 2007

Approved: 
Dan Onorato
Chief Executive

Attest: 
Donna Beltz
Executive's Secretary