

ORDINANCE

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

SECTION 1. Section 2-100-110 of the Municipal Code of the City of Chicago is hereby amended by inserting the language underscored, as follows:

2-100-110 Police powers for designated employees.

Each ward superintendent, and such other employees of the department of streets and sanitation as the commissioner of streets and sanitation shall designate, shall have the powers of members of the police force to serve process or notice within the city for the violation of Sections 4-4-310, 4-260-020, 4-260-040, 4-260-060, 4-260-080, 4-260-085, 4-260-090, 4-260-100, 7-12-387, 7-12-420, 7-28-060, 7-28-065 through 7-28-090, 7-28-120, 7-28-130, 7-28-150, 7-28-180 through 7-28-240, 7-28-260 through 7-28-310, 7-28-331, 7-28-360 through 7-28-410, 7-28-430 through 7-28-470, 7-28-490 through 7-28-510, 7-28-660 through 7-28-680, 7-28-710 through 7-28-720, 7-28-735 through 7-28-750, 7-28-780, 7-28-785, 7-38-080, 8-4-135, 8-4-160, 10-8-180, 10-8-220 through 10-8-230, 10-8-250 through 10-8-271, 10-8-310, 10-8-320, 10-8-380, 10-8-402 through 10-8-405, 10-8-470, 10-8-480, 10-28-030, 10-28-340, 10-28-792, 10-32-050, 10-32-060, 10-32-110 through 10-32-150, 10-32-170, 10-32-180, 10-32-200 and 13-32-235 of the Municipal Code of Chicago.

(Omitted text is unaffected by this ordinance)

SECTION 2. Chapter 7-28 of the Municipal Code of the City of Chicago is hereby amended by inserting a new section 7-28-005, as follows:

7-28-005. Definitions.

Except as otherwise provided in this chapter, the following terms shall have the following meanings, unless the written context clearly indicates that another meaning is intended:

“Owner” shall have the meaning ascribed to the term in Section 13-4-010.

SECTION 3. Section 7-28-010 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-28-010 Notice to abate.

It shall be the duty of the building commissioner or ~~his or her~~ the building

commissioner's designee to serve notice in writing by certified mail upon the owner, occupant, agent or person in possession or control of any building or structure in or upon which any nuisance may be found, or upon any person who may be the owner or cause of any such nuisance, other than the nuisances specified in Sections 7-28-120 ~~and or 7-28-440 to 7-28-450, inclusive, through 7-28-455 or 7-28-750~~ of this chapter, requiring him ordering such owner, occupant, agent or person to abate ~~the same~~ such nuisance, within a reasonable time, in the manner the building commissioner shall prescribe; ~~within a reasonable time~~. It shall not be necessary in any case for the building commissioner to specify in his such notice the manner in which any nuisance shall be abated, unless ~~he shall~~ the building commissioner deems it advisable to do so. If the person so notified ~~shall neglects, or refuses or otherwise fails~~ to comply with any of the requirements of the such order ~~by abating the nuisance within the time specified in the notice required under this section~~, the such person shall be fined not less than ~~\$25.00~~ \$250.00 nor more than \$500.00 for ~~every each~~ such violation offense, ~~and each~~ Each day the nuisance ~~that a violation shall continue~~ shall constitute a separate and distinct violation offense to which a separate fine shall apply.

It shall be the duty of the building commissioner to proceed at once, upon ~~the~~ expiration of the time period specified in the notice, to cause ~~any such~~ the applicable nuisance to be abated; ~~provided, Provided, however, that whenever if, after due diligence, the owner, occupant, agent, or person in possession or control of any building or structure; in or upon which any nuisance may be found; is unknown or cannot be found, the building commissioner shall proceed to abate the nuisance without notice. In either case, the expense of such abatement shall be collected from in addition to any fine or other penalty provided by law, the person who may have created, continued; or suffered the nuisance to exist, in addition to any penalty or fine shall be liable to the city for any and all costs and expenses incurred by the city in abating the nuisance, plus a penalty of up to three times the amount of the costs and expenses incurred by the city. Such monies may be recovered in an appropriate action instituted by the corporation counsel or in a proceeding initiated by the applicable department at the department of administrative hearings. The commissioner of streets and sanitation or the commissioner's designee shall enforce the provisions of Sections 7-28-120, and 7-28-440 to 7-28-450, inclusive, through 7-28-455 and 7-28-750 in the manner provided herein for nuisances generally, unless the specific section shall provides otherwise.~~

SECTION 4. Section 7-28-120 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-28-120 Weeds – Penalty for violation – Abatement – Lien.

(a) Any person who owns or controls property within the city must cut or otherwise control all weeds on such property so that the average height of such weeds does not exceed ten

inches. Any person who violates this subsection shall be subject to a fine of not less than ~~\$100.00~~ \$500.00 nor more than ~~\$300.00~~ \$1,000.00. Each day that such violation continues shall be considered a separate offense to which a separate fine shall apply.

(b) All weeds which have not been cut or otherwise controlled, and which exceed an average height of ten inches, are hereby declared to be a public nuisance. If any person has been convicted of violating subsection (a) and has not cut or otherwise controlled any weeds as required by this section within ten days after the date of the conviction or finding of liability or judgement, the city may cause any such weeds to be cut at any time. In such event, the person who owns or controls the property on which the weeds are situated shall be liable to the city for any and all costs and expenses incurred by the city in cutting the weeds, plus a penalty of up to three times the amount of the costs and expenses incurred by the city. Such monies may be recovered in an appropriate action instituted by the corporation counsel or in a proceeding initiated by the department of streets and sanitation or the department of the environment at the department of administrative hearings. The penalties imposed by this subsection shall be in addition to any other penalty provided by law.

(c) The costs and expenses plus the amount of any applicable penalty incurred pursuant to subsection (b) of this section shall constitute a lien against the affected property if the city, or the person performing the service by authority of the city, in its or his own name, files a notice of lien in the office of the county recorder, or in the office of the registrar of titles if the property is registered under the Torrens System. The notice of lien shall consist of a sworn statement setting out:

- (1) A description of the real estate sufficient for identification thereof;
- (2) The amount of money representing the cost and expense incurred by the city or payable for the service plus the amount of any applicable penalty incurred pursuant to subsection (b) of this section;
- (3) The date or dates when the cost or expense was incurred by the city.

The notice of lien shall be filed within 60 days after the cost ~~of~~ and expense and any applicable penalty is incurred; provided, however, that nothing in this section shall be construed to prohibit the City from collecting any amount of money owed to the City as set forth in the findings, decision and order of an administrative law officer or in a judgment entered by a court of competent jurisdiction or in any other manner permitted by law.

Upon payment, after notice of lien has been filed, of the amount of money representing the cost or and expense incurred by the city, plus the amount of any applicable penalty incurred pursuant to subsection (b) of this section, ~~after notice of lien has been filed~~, the lien shall be released by the city or person ~~in whose name the lien has been filed~~ for filing by the owner at the

recorder of deeds, and the release shall be filed for record in the same manner as the filing of the notice of the lien.

Nothing in this section shall be construed to prevent the city from acting without notice to abate a nuisance under this section, where such nuisance poses an imminent threat to the public health, safety or welfare or in the event of any other emergency. Nor shall any provision of this section be construed to deny to any person any statutory or common law right to abate a nuisance, or to prevent the city from seeking any remedy that may be provided by law. If emergency abatement under this section is required, the city may recover any and all costs associated with such emergency abatement under Section 1-20-020.

SECTION 5. Section 7-28-450 of the Municipal Code of the City of Chicago is hereby amended by deleting the language stricken through and by inserting the language underscored, as follows:

7-28-450 Unremoved motor vehicles, ashes, refuse, waste, debris and other materials – ~~Owner responsible for removal – Nuisance – Violation – Penalty – Notice – Costs.~~

a. ~~The owner, occupant, agent or person in possession or control of any lot or unimproved parcel of real estate (“owner”), shall remove or cause to be removed therefrom any abandoned or derelict motor vehicle as defined in Section 9-80-110 of this Code, ashes, refuse, or waste. Unremoved material of such nature is hereby declared to be a public nuisance. Any owner or other person found in violation of this section shall be punished by a penalty of not less than \$500.00 and not more than \$1,000.00 for each offense, and each day on which such an offense shall continue shall constitute a separate and distinct offense; however, this section shall not apply to any governmental entity nor to any owner upon whose lot or parcel such material is permitted to accumulate pursuant to a properly issued license or permit in accordance with zoning provisions of this Code governing special uses in general and heavy manufacturing districts. For purposes of this subsection, an “agent” of any unimproved lot or shall include a person who contracts with the federal government or any of its agencies, including without limitation the department of housing and urban development, to care for vacant residential real estate.~~

ba. Lot in ill-maintained condition – Unremoved ashes, refuse, waste or other debris. ~~The~~ Except as otherwise provided in Section 7-28-720, the owner, occupant, agent or person in possession or control of any residence or business (“owner”) as defined in Section 7-28-005, of any business or residence or lot or tax parcel of real estate, whether improved or unimproved, vacant or occupied, shall remove or cause to be removed from such property any abandoned or derelict motor vehicle as defined in Section 9-80-110; garbage; ashes; refuse; trash; rubbish; and waste; manure; or other substance or material that may contain disease or germs, or be scattered by the wind, or decompose, or become noxious or unhealthful or otherwise threaten the public

health, safety or welfare located upon his property or place of business. Unremoved material of such nature is hereby declared to be a public nuisance. Any owner or other person found in violation of this section shall be punished by a penalty fine of not less than \$500.00 and not \$750.00 nor more than \$1,000.00 \$1,500.00 for each offense. Each day on which such an offense violation shall continues shall constitute a separate and distinct offense to which a separate fine shall apply.

Provided, however, that the requirements of this subsection shall not apply to governmental entities or to persons upon whose property such material is permitted to accumulate pursuant to a valid and properly issued license or permit or if allowed under provisions of the Zoning Code governing special uses in general and heavy manufacturing districts.

eb. Unremoved material or debris under railroad tracks. The owner, occupant, agent or person in possession or control as defined in Section 7-28-005, of any railroad track which lies upon any overpass, bridge, trestle, viaduct, tunnel or other elevated railroad passageway (“owner”) shall maintain the area immediately beneath the overpass, bridge, trestle, viaduct, tunnel or other elevated railroad passageway clear of any track materials, including any rail, ties or ballast, and any debris which has fallen to the ground from the track or elevated passageway structure, including any rocks, concrete, stone, wood or metal.

(Omitted text is unaffected by this ordinance)

d. ~~Where the owner of any lot, parcel of real estate, railroad track, residence, or place of business upon which a nuisance exists is or can be found, the commissioner of streets and sanitation or a designee or the commissioner of the environment or a designee shall serve notice in writing by first class mail, delivery confirmation requested, upon the owner requiring him to abate the nuisance within three days from the date of receipt of notice in the manner either commissioner may prescribe. If the owner fails within three days to abate the nuisance or if the owner is unknown or cannot with due diligence be found, either commissioner may proceed to abate the nuisance or seek to enjoin the nuisance.~~

~~If a motor vehicle is the nuisance or a part of it, either commissioner shall serve notice in the same manner upon the last registered owner of the vehicle. If the owner of the vehicle does not remove the vehicle within three days after receipt of the notice, either commissioner may proceed to remove and impound the vehicle.~~

~~In addition to any penalty or fine, a penalty in the amount up to three times the cost or expense incurred by the city in abating a nuisance may be recovered in an appropriate action instituted by the corporation counsel or in a proceeding initiated by the departments of environment or streets and sanitation at the department of administrative hearings. Nothing in this section shall be construed to prevent the City of Chicago from acting without notice to abate a nuisance in an emergency where the nuisance poses an immediate threat to public health or safety;~~

~~nor shall this section be construed to deny any common law right to anyone to abate a nuisance.~~

ec. For purposes of this section, the terms “ashes”, “dispose”, “refuse”, “garbage” and “waste” shall have the meaning ascribed to those terms in Section 11-4-120.

SECTION 6. Chapter 7-28 of the Municipal Code of the City of Chicago is hereby amended by inserting a new Section 7-28-455, as follows:

7-28-455 Unremoved motor vehicles, ashes, refuse, waste, debris and other materials – Substantial risk to the public – Nuisance – City authorized to remove – Notice – Violation – Penalty – Costs.

(a) *Definitions.* As used in this section:

“Commissioner” means the commissioner of streets and sanitation or the commissioner of the environment or their respective designees.

“Owner” has the meaning ascribed to the term in Section 13-4-010.

“Property” means any lot, tax parcel of real estate, railroad track, residence, place of business or any portion thereof, whether improved, unimproved, vacant or occupied.

“Substantial risk” means any violation of Section 7-28-450 which, due to its nature, size, scope, reoccurrence or lack of remediation by the owner, poses a serious or ongoing threat to the environment or to the public health, comfort, safety or welfare of any person or of the community. The term “substantial risk” includes any serious threat that is present now or is expected to occur within a reasonably short period of time, even though the impact of the threat may not be felt until later.

(b) *Violations of Section 7-28-450 that pose a substantial risk to the public – Nuisance – Notice – City authorized to abate – Penalty – Costs.* Any violation of Section 7-28-450 that poses a substantial risk to the environment or to the public health, comfort, safety or welfare of any person or of the community shall be a violation under this section and is hereby declared to be a public nuisance. Such public nuisance shall be subject to the notice and abatement provisions set forth in this section. Any person who violates any of the requirements of this subsection shall be subject to twice the amount of the fine that applies for violations of subsections (a) or (b) of Section 7-28-450, as applicable. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

In addition to such fine, any person who violates this subsection shall be liable to the city