

ORDINANCE

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

SECTION 1. Section 13-8-090 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:

13-8-090 Open excavations.

(a) ~~Whenever an open excavation exists which constitutes a danger to the public by reason of its depth or proximity to public ways or walks, the building commissioner shall have power to order in writing the owner to fill such open excavation with solid dry fill only, or to fence such open excavation adequately, setting forth in said order a period of two days for compliance therewith. Any owner who fails to comply with said order shall be fined not less than \$500.00 and not more than \$1,000.00 for each day said order is not complied with after the expiration of the two days specified therein. Any excavation or building foundation that is open and either unsecured or inadequately secured or endangers the public health by reason of being covered with stagnant water is hereby declared to be a public nuisance and the building commissioner or the commissioner of streets and sanitation shall have the power to abate such nuisance in accordance with the requirements of this section. It shall be unlawful for any person to maintain a public nuisance under this section or to cause such a public nuisance to be maintained on any premises under such person's ownership or control. Any person who violates any requirement of this subsection (a) shall be fined not less than \$500.00 nor more than \$1,000.00 for each offense. In addition to the fine provided for herein, a penalty in the amount up to three times the cost or expense in abating a nuisance under this section may be recovered in an appropriate action instituted by the corporation counsel at the department of administrative hearings or in a court of competent jurisdiction, or in a proceeding initiated by the department of buildings or department of streets and sanitation at the department of administrative hearings.~~

(b) Upon determining that a nuisance under this section exists, the building commissioner or commissioner of streets and sanitation shall serve notice in writing upon the owner of the lot or other parcel of real estate upon which such open excavation or building foundation exists ordering such owner to abate the nuisance under this section by the date certain and in the manner the commissioner shall prescribe, which may include, but is not limited to, an order to fill such open excavation or building foundation with fill material compliant with the Illinois Environmental Protection Act and all other applicable laws, or to fence such open excavation or building foundation adequately, or any combination thereof. Such notice or order shall be served on the owner (i) with or without a return receipt requested, by first class mail or express mail or priority mail or certified mail or registered mail or by overnight carrier or express courier service at the owner's residence address or, if the owner is a business entity, at any mailing address identified for its registered agent or at its principal place of business; or (ii) by

personal service, including personal service upon an employee or agent of the owner at a place of business of the owner or otherwise if such service is reasonably calculated to give the owner actual notice; or (iii) if service cannot be made by either of (i) or (ii) above, by posting a copy of the notice or order on the front entrance of the building or other structure where the violation is found, or if the property is unimproved or fenced off, by posting a copy of the notice or order in a prominent place upon the property where the violation is found. In addition to any other penalty provided by law, if the owner fails to comply with said notice or order by the date certain set forth therein, such owner shall be fined not less than \$500.00 nor more than \$1,000.00 for each day said notice or order is not complied with after expiration of the date certain specified therein, and the building commissioner or commissioner of streets and sanitation may proceed to abate such nuisance or seek to enjoin it.

(c) Nothing in this section shall be construed to prevent the City of Chicago from acting without notice to abate a nuisance under this section in an emergency where the nuisance poses an immediate threat to the public health or safety or from acting without notice to seek to enjoin a nuisance under this section in a court of competent jurisdiction. Nor shall anything in this section be construed to deny to anyone any common law right to abate a nuisance.

SECTION 2. Section 2-14-151 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:

2-14-151 Definitions.

As used in this Article III, unless the context requires otherwise:

(a) "Building code" or "building provisions of this Code" means: ~~(1) Titles 13 and 14 (excepting Chapters 13-72, 14-4 and 14-46) and 18; Chapters 2-22, 5-4, 7-4, 7-28; Article III of Chapter 11-4; Chapters 11-8, 15-8, and 15-12 and Article 1 of Chapter 15-16, Section 8-4-090; and all other provisions of this Code establishing or relating to construction, plumbing, heating, electrical, fire prevention, sanitation, zoning or other health and safety standards relating to structures (except to the extent authority for enforcement and administration is conferred exclusively on a department or agency other than the department of buildings or on an officer other than the building commissioner);~~ (2) "building code" shall also include the provisions of Section 8-4-090.

(Omitted text is unaffected by this ordinance)

SECTION 3. Section 1-4-090(h) 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:

1-4-090 Definitions for code provisions.

Unless the context requires other interpretations, the following words and terms are defined for purposes of this code as follows:

(Omitted text is unaffected by this ordinance)

- (h) "Building code" or "building provisions of this Code" means: Titles 13 (excepting Chapter 13-72) and 18; Chapters 2-22, ~~5-4~~, 7-4, 7-28; Article III of Chapter 11-4; Chapters 15-8, 15-12 and Article I of Chapter 15-16, Section 8-4-090; and all other provisions of this Code establishing or relating to construction, plumbing, heating, electrical, fire prevention, sanitation, zoning or other health and safety standards relating to structures (except to the extent authority for enforcement and administration is conferred exclusively on a department or agency other than the department of buildings or on an officer other than the building commissioner);

(Omitted text is unaffected by this ordinance)

SECTION 4. This ordinance shall take full force and effect upon its passage and approval.

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REFERRED TO COMMITTEE ON BUILDINGS
'JUN -9 2010
<i>Miguel del Valle</i> City Clerk City of Chicago