



City of Chicago



O2017-6226

Office of the City Clerk

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Meeting Date: 9/6/2017

Sponsor(s): Emanuel (Mayor)

Type: Ordinance

Title: Amendment of Municipal Code Chapters 7-28 and 11-4 regarding increase and synchronization of penalties against illegal disposal of waste, refuse or junk (fly-dumping)

Committee(s) Assignment: Committee on Health and Environmental Protection

HEALTH



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

September 6, 2017

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen

At the request of the Commissioner of Public Health, I transmit herewith an ordinance authorizing the increase and synchronization of the penalties against fly-dumping.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

A handwritten signature in black ink that reads "Rahm Emanuel". The signature is written in a cursive, flowing style.

Mayor

ORDINANCE

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

SECTION 1. Chapter 7-28 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

7-28-060 Conditions detrimental to health – Public nuisance – Violation – Penalty.

(Omitted text is unaffected by this ordinance)

Any person found guilty of violating any of the provisions of this section shall be subject to a penalty of not less than \$200.00 nor more than ~~\$500.00~~ \$5,000.00, or imprisonment not to exceed 10 days, or both such fine and imprisonment for each offense. Each day such violation shall continue shall constitute a separate and distinct offense.

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

a. Lot in ill-maintained condition — Unremoved ashes, refuse, waste or other debris. Except as otherwise provided in Section 7-28-720, the 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; 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. 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 fine of not less than \$750.00 nor more than ~~\$1,500.00~~ \$5,000.00 for each offense. Each day such violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

(Omitted text is unaffected by this ordinance)

7-28-720 Accumulation of materials or junk.

It shall be unlawful for any person to accumulate or permit the accumulation on any open lot, or other premises, any lumber, boxes, barrels, bricks, stones, scrap metal, motor vehicle bodies or parts, or similar materials, or any articles of junk, which provides rat-harborage, unless the same shall be placed on open racks that are elevated not less than 18 inches above the ground, evenly piled or stacked.

Any person who violates this section shall be fined not less than \$300 nor more than ~~\$600~~ \$5,000 for each offense. Each day that a violation continues shall constitute a separate and distinct offense to which a separate fine shall apply.

SECTION 2. Chapter 11-4 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and by deleting the language struck through, as follows:

11-4-120 Definitions.

Except as otherwise defined for purposes of a specific subsection, section, article or chapter in this Title 11, whenever the following words and phrases are used in this Title 11, they shall have the meanings ascribed to them in this section:

(Omitted text is unaffected by this ordinance)

“Open dumping” means the consolidation of ~~refuse~~ waste from one or more sources at a disposal site that does not fulfill the requirements of a sanitary landfill.

(Omitted text is unaffected by this ordinance)

11-4-1500 Treatment and disposal of solid or liquid waste.

(a) No solid or liquid waste shall be treated or disposed of within the City of Chicago except in accordance with this chapter. Wastes shall be treated or disposed of in the following manner:

(a1) An incinerator or resource recovery facility which meets the air quality standards, operating standards and monitoring requirements established by this chapter may treat municipal waste; provided however, incinerators and resource recovery facilities designed to dispose of or treat special waste or hazardous waste shall operate in conformance with the Federal Resource Conservation and Recovery Act of 1976, ~~P. L. 95-580, as amended 42 U.S.C. § 6901, et seq.~~, and the Illinois Environmental Protection Act, ~~P. A. 76-2429, as amended 415 ILCS 5/1, et seq.~~

(b2) A liquid waste handling facility which meets the operating standards established by this chapter may dispose of or treat nonnuclear liquid waste; provided, however, liquid waste handling facilities designed to dispose of or treat special or hazardous liquid waste shall operate in conformance with the Illinois Environmental Protection Act, ~~P. A. 76-2429, as amended 415 ILCS 5/1, et seq.~~, and applicable federal law and regulations.

(e3) A recycling facility may handle any recyclable materials as defined in this chapter.

(e4) A sanitary landfill may dispose of or treat municipal waste, or any other waste permitted in a sanitary landfill under the Illinois Environmental Protection Act, ~~P. A. 76-2429, as amended 415 ILCS 5/1, et seq.~~ No hazardous waste or radioactive waste may be disposed of in a sanitary landfill within the corporate limits of the City of Chicago.

(e5) A transfer station may accept waste for sorting and/or consolidation and for further transfer to a waste disposal, treatment, or handling facility.

(b) No persons shall (1) cause or allow the open dumping of any waste, (2) abandon or dispose of any waste upon public property, except in a sanitary landfill approved by the Illinois Environmental Protection Agency and the Commissioner, (3) dispose, treat, abandon or transport any waste, except at a site or facility which meets the requirements of the Illinois Environmental Protection Act and which is permitted pursuant to this chapter.

(c) Disposal or treatment of any waste without a permit is hereby declared to be a nuisance.

11-4-1585 Person responsible for waste removal.

(a) Any owner, occupant, agent, or person in possession or control of any residence or business or lot or unimproved parcel of real estate shall remove or cause to be removed any waste located on any such residence or place of business or lot or real estate, or any portion thereof. Any unremoved waste 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~~ \$750.00 and not more than ~~\$1,000.00~~ \$5,000.00 for each offense and each day that such a violation continues shall constitute a separate and distinct offense. 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 section, an "agent" of any unimproved lot shall include a person who contracts with the federal government or any of its agencies, including without limitation the ~~department~~ Department of housing ~~Housing and urban development~~ Urban Development, to care for vacant residential real estate.

(b) In the event that the ~~commissioner~~ Commissioner determines that any activity or condition in violation of the provisions of this section has created, or is creating an imminent and substantial risk to the public health or safety or to the environment, then the ~~commissioner~~ Commissioner may issue an emergency abatement order, and may require any residence or business or lot or unimproved parcel of real estate to be immediately closed or secured, or may abate the nuisance in accordance with the provisions of Section 11-4-025 of this Code.

(c) If the ~~commissioner~~ Commissioner determines that any person is violating any of the provisions of this section, but such violation has not created, or is not creating an imminent and substantial risk to the public health or safety or to the environment, then the ~~commissioner~~ Commissioner may provide such person with a written order to abate the nuisance within a time frame prescribed by the ~~commissioner~~ Commissioner. In the event that any such person fails to abate such nuisance in accordance with the ~~commissioner's~~ Commissioner's order to abate, then the ~~commissioner~~ Commissioner may proceed to control, remove, dispose or otherwise abate the nuisance in accordance with the provisions of Section 11-4-025 of this Code.

(d) In addition to any other penalties imposed in this article, the ~~city~~ City shall be entitled to recover a penalty in the amount up to three times the cost or expense incurred by the ~~city~~ City in abating the nuisance in an appropriate action instituted by the ~~corporation counsel~~ Corporation Counsel or in a proceeding initiated by the ~~commissioner~~ Commissioner at the ~~department of administrative hearings~~ Department of Administrative Hearings.

11-4-1600 Violation of Section 7-28-390, 7-28-440, or 11-4-1500 – Penalty.

(a) Fines.

(1) Any person found in violation of Sections 7-28-390, 7-28-440, or 11-4-1500 shall be ~~punished by a fine of~~ fined according to the following schedule (quantities of solid waste appear as cubic yards and quantities of liquid waste appear as gallons):

- (i) Up to 20 cubic yards of solid waste and up to 20 gallons of liquid waste: not less than \$1,500.00 and not more than \$2,500.00
- (ii) Greater than 20 cubic yards or 20 gallons, but up to 50 cubic yards or 50 gallons: \$5,000.00

- (iii) Greater than 50 cubic yards or 50 gallons, but up to 100 cubic yards or 100 gallons: \$10,000.00
- (iv) Greater than 100 cubic yards or 100 gallons: \$30,000.00

(2) Solid waste quantities above 500 cubic yards, as determined by a topographical survey, shall be subject to an additional \$20.00 per cubic yard, plus the cost of the topographical survey.

(3) Liquid waste that is hazardous shall be subject to an additional \$100.00 per gallon.

~~for the first load dumped, deposited, disposed, released, treated or placed, and not less than \$2,500.00 nor more than \$3,500.00 for the second and each subsequent load, or may be imprisoned for not more than six months, or may be ordered to perform up to 200 hours of community service, or any combination thereof.~~

(4) ~~For each subsequent day that a load waste dumped, deposited, disposed, released, treated or placed in violation of Section 7-28-390, 7-28-440, or 11-4-1500 remains at the location where it was dumped, deposited, disposed, released, treated or placed, or any load that migrated to another location remains at that location to which it has migrated, the person found in violation shall be subject to an additional fine of \$10,000.00 per day.~~

(5) ~~If any waste dumped, deposited, disposed, released, treated or placed in violation of Section 7-28-390, 7-28-440, or 11-4-1500 migrates to another location, such as another property or the public way, the person found in violation shall be subject to an additional fine of \$10,000.00 per day, punished by a fine of not less than \$2,500.00 per load, per day, and not more than \$3,500.00 per load, per day. In addition to any such fine, incarceration, community service or other penalty provided by law, a penalty surcharge in the amount of \$20.00 shall be imposed on any person found in violation of Sections 7-28-440 or 11-4-1500. Such penalty surcharge shall be (1) deposited in the corporate fund of the city for the non-exclusive purpose of ensuring ample funding for the reward program authorized under Section 7-28-445; and (2) imposed so long as the reward program authorized under Section 7-28-445 remains in effect.~~

(b) In addition to any other penalties imposed under this section, the registered owner of record of any vehicle who knew or should have known that his or her vehicle was used in violation of Section 7-28-390, 7-28-440, or 11-4-1500 shall be jointly and severally liable with any person operating or in control of the vehicle at the time of the violation.

(c) ~~The commissioner~~ Commissioner shall have the authority to issue an emergency or a non-emergency cessation order in accordance with the provisions of Section 11-4-025 of this Code to stop any person from proceeding with any activity regulated under Section 7-28-390, 7-28-440, or 11-4-1500 when the ~~commissioner~~ Commissioner has reason to believe that such activity either is proceeding in violation of any provision under those sections or is otherwise in contravention of the public interest.

(d) (1) Emergency abatement. In the event that the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation determines that any activity in violation of Section 7-28-390, 7-28-440, or 11-4-1500 has created, or is creating, an imminent and substantial risk to the public health or safety or to the environment, then the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation may order the owner of the vehicle, the operator of the vehicle, and any other person involved in the performance of the subject activity to abate the threat within a time frame prescribed by the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation. In the event that any person fails to abate such threat in accordance with the ~~commissioner's~~ Commissioner's or the

~~commissioner~~ Commissioner of streets and sanitation's Streets and Sanitation's order, the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation may proceed to control, remove, dispose or otherwise abate the threat.

(2) Non-emergency abatement. In the event that the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation determines that any activity in violation of Section 7-28-390, 7-28-440, or 11-4-1500 has not created, or is not creating, an imminent and substantial risk to the public health or safety or to the environment, the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation may provide the owner of the vehicle, the operator of the vehicle or any other person involved in the performance of the subject activity with written notice to abate the nuisance within a time frame prescribed by the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation. In the event that any person fails to abate such nuisance in accordance with the ~~commissioner's~~ Commissioner's or the ~~commissioner~~ Commissioner of streets and sanitation's Streets and Sanitation's notice to abate, the ~~commissioner~~ Commissioner or the ~~commissioner~~ Commissioner of streets and sanitation Streets and Sanitation may proceed to control, remove, dispose or otherwise abate the nuisance in accordance with the provisions of this Code.

(3) In addition to any other penalties imposed in this section, the ~~city~~ City shall be entitled to recover a penalty in the amount up to three times the cost or expense incurred by the ~~city~~ City in abating the nuisance in an appropriate action instituted by the ~~corporation counsel~~ Corporation Counsel or in a proceeding initiated by the ~~departments~~ Departments of health Health or ~~streets and sanitation~~ Streets and Sanitation at the ~~department of administrative hearings~~ Department of Administrative Hearings.

(e) All ~~city~~ City contracts advertised, or if not advertised, awarded, 90 days after the effective date of this ordinance shall include a provision that a violation of Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560 by the contractor, whether or not in the performance of the agreement, shall constitute a breach of the contract.

(f) (1) In addition to any other penalty imposed in this section, the owner of record of any motor vehicle used in violation of Section 7-28-390, 7-28-440, or 11-4-1500 shall be liable to the ~~city~~ City for an administrative penalty of \$500.00 plus any applicable towing and storage fees. Any such vehicle shall be subject to seizure and impoundment pursuant to this section.

(2) Whenever a police officer has probable cause to believe that a vehicle is subject to seizure and impoundment pursuant to this section, the police officer shall provide for the towing of the vehicle to a facility controlled by the ~~city~~ City or its agent. When the vehicle is towed, the police officer shall notify any person identifying himself as the owner of the vehicle or any person who is found to be in control of the vehicle at the time of the alleged violation, if there is such a person, of the fact of the seizure and of the vehicle owner's right to request a preliminary hearing to be conducted under Section 2-14-132 of this Code.

(3) The provisions of Section 2-14-132 shall apply whenever a motor vehicle is seized and impounded pursuant to this section.

(g) The ~~city~~ City may obtain permanent or temporary injunctive relief in the Circuit Court of Cook County, Illinois, for any violation of Section 7-28-390, 7-28-440, or 11-4-1500.

SECTION 3. This ordinance shall be in full force and effect ten days following passage and publication.