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Final action:
Title: Amendment of Municipal Code Chapter 13-12 prohibiting use of plywood or wood-based material for securing vacant buildings
Sponsors: Thompson, Patrick D., Lopez, Raymond A., Burke, Edward M., Villegas, Gilbert, Scott, Jr. Michael, Sadlowski Garza, Susan, O'Shea, Matthew J., Maldonado, Roberto, Waguespack, Scott
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Date	Ver.	Action By	Action	Result
5/29/2019	1	City Council	Failed to Pass	
6/27/2018	1	City Council	Referred	

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ORDINANCE

WHEREAS, the City of Chicago is a home rule unit of government pursuant to the 1970 Illinois Constitution, Article VII, Section 6 (a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs including promoting the quality of life and the welfare of its citizens; and

WHEREAS, the City of Chicago has been impacted by blighted areas, home foreclosures and vacant buildings; and

WHEREAS, vacant buildings have a negative impact on residential neighborhoods, lead to crime and lower property values for the surrounding homes; and

WHEREAS, the use of plywood to board up vacant buildings is not as effective in securing the building, and the aesthetics that plywood boarded up buildings convey casts a negative perception over the community; and

WHEREAS, new polycarbonate materials, that were approved for use in the City of Chicago in 2015, offer an alternative to secure a building and creates a more attractive appearance for the building; now, therefore

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

SECTION 1. The above recitals are expressly incorporated herein and made part hereof as though fully set forth herein.

SECTION 2. Section 13-12-125 of the Municipal Code of Chicago is hereby amended by adding the underscored text, and deleting the struck-through text, as follows:

13-12-125 Vacant buildings - Owner required to act - Enforcement authority.

(Omitted text is unaffected by this ordinance)

(b) The owner of any building that has become vacant, and any person maintaining, operating or collecting rent for any building that has become vacant, shall do the following:

(1) immediately enclose and secure the building as provided in Section 13-12-135 of this Code; and

2) within 30 days after the building becomes vacant or within 30 days after assuming ownership of the building, whichever is later, post a sign affixed to the building indicating (i) the building's vacant building registration number; and (ii) the name, address and telephone number of the building owner and the owner's authorized agent for the purpose of service of process; and (iii) if the person responsible for day-to-day supervision and management of the building is different from the owner holding title to the building or from the owner's authorized agent, the name, address and telephone number of such person. The sign shall be of a size, and shall be placed in such a location, so as to be legible from the nearest public street or sidewalk, whichever is nearer; and

3) maintain the building in a secure and closed condition, and maintain the sign required under subsection (b)(2), until the building is again occupied or demolished or until repair or completion of the building has been undertaken in accordance with the building code.

c) The owner of any building that has become vacant shall, within 30 days, acquire or otherwise maintain liability insurance, in an amount of not less than \$300,000.00 per occurrence for bodily injury, personal injury and property damage for buildings designed primarily for use as residential units and commercial general liability in an amount not less than \$1,000,000.00 per occurrence for bodily injury, personal injury and property damage for any other building, including, but not limited to, buildings designed for manufacturing, industrial, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired after the building has become vacant shall provide for written notice to the commissioner of buildings within 30 days of any lapse, cancellation or change in coverage. The owner shall maintain the insurance required under this subsection in full force and effect throughout the period that the building is vacant. Such insurance shall be issued by an insurer authorized to insure in Illinois. The owner and the owner's authorized agent for service of process shall provide evidence of the insurance, upon request, to the commissioner of buildings or his or her designee.

d) The building commissioner may issue rules and regulations for the administration of this section. These rules may designate board-up materials, which shall not include plywood or wood-based materials, and methods, which must be used when securing a building so that the boarding is reasonably incapable of being removed by trespassers or others acting without the building owner's consent. Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500.00

and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

e) For purposes of this section, "vacant" means a building which is lacking habitual presence of human beings who have a legal right to be on the premises, or at which substantially all lawful business or construction operations or residential occupancy has ceased, or which is substantially devoid of content. In determining whether a building is vacant, it is relevant to consider, among other factors, the percentage of the overall square footage of the building or floor to the occupied space, the condition and value of any items in the building and the presence of rental or for sale signs on the property; provided that a residential property shall not be deemed vacant if it has been used as a residence by a person entitled to possession for a period of at least three months within the previous nine months and a person entitled to possession intends to resume residing at the property; and further provided that multi-family residential property containing ten or more

dwelling units shall be considered vacant when ninety percent or more of the dwelling units are unoccupied.

(f) A rebuttable presumption shall exist that a building has been vacant for more than 30 days if:

1) the building is vacant and has not been secured in accordance with the building security standards set forth in subsection (d) of Section 13-12-135; or

2) the building is vacant and more than one window, door or other opening, in any combination, is boarded up and (i) the yard contains grass or weeds more than 10 inches in height, or (ii) the yard contains an accumulation of junk and debris, or (iii) snow and ice have not been removed from the walk leading to the building's main entrance and/or from the public sidewalk adjoining such building in the manner and within the period of time provided in Section 10-8-180.

SECTION 3. Section 13-12-126 of the Municipal Code of Chicago is hereby amended by adding the underscored text, and deleting the struck-through text, as follows:

13-12-126 Vacant buildings - Mortgagee required to act - Enforcement authority.

(a) (1) The mortgagee of any building which is vacant and not registered pursuant to this section or Section 13-12-125(a) of this Code shall, within the later of 30 days after the building becomes vacant and unregistered or 10 days after a default, file a registration statement with the department of buildings on forms provided by that department for such purposes and pay a registration fee of \$700. The registration shall remain valid for six months from the date of registration. The mortgagee shall be required to renew the registration every six months, at a renewal fee of \$300. as long as the building remains vacant and unregistered by an owner pursuant to Section 13-12-125. Governmental entities shall be exempt from the payment of the registration and renewal fees. The mortgagee shall notify the department of buildings within 20 days of any change in the registration information by filing an amended registration statement on a form provided by the department of buildings for such purposes. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted under this section by the city against the mortgagee with respect to the registered building.*

(2) In addition to other information required by the commissioner of buildings, the registration statement shall include the name, street address and telephone number of a natural person, 21 years of age or older, or business entity registered with the Illinois Secretary of State designated by the mortgagee as an authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such mortgagee in connection with enforcement of this

section. This person or business entity must maintain an office in Cook County, Illinois, or must actually reside in Cook County, Illinois. A mortgagee meeting these criteria may designate itself as agent. By designating an authorized agent under the provisions of this subsection a mortgagee consents to receive any and all notices of violations of this section concerning the registered building and all process in any court proceeding or administrative enforcement proceeding brought to enforce this section with respect to the registered building by service of the notice or process on the

authorized agent. Any mortgagee who has designated an authorized agent under the provisions of this subsection shall be deemed to consent to the continuation of the agent's designation for the purposes of this subsection until the mortgagee notifies the department of buildings of a change of authorized agent or until the mortgagee files a new registration statement. The city shall notify the designated agent of all violations and enforcement proceedings brought under this section.

(b) The mortgagee of any building that has become vacant and which is not registered pursuant to Section 13-12-125(a) of this Code shall, within 30 days after the building becomes vacant and unregistered:

- 1) secure the building's doors and windows so that all such building openings are closed and secured, using secure doors, windows without broken or cracked panes, commercial-quality metal security panels, filled with like-kind material as the surrounding wall, or polycarbonate boarding, ~~or boarded with plywood installed and secured~~ in accordance with rules and regulations issued by the commissioner of buildings. Plywood or any wood-based material shall not be used as a substance in securing a building pursuant to Section 12-12-125(a) of this Code. At least one building entrance shall be accessible from the exterior and secured with a door that is locked to allow access only to authorized persons. If two or more exit doors exist, a minimum of two exit doors shall be available to exit from the interior of the building, with at least one exit door available per 150 linear feet of horizontal travel at ground-floor level;
- 2) maintain all grass and weeds on the real estate premises, below 10 inches in height and cut and remove all dead or broken trees, tree limbs or shrubbery;
- 3) clear or remove snow from the walkway leading to the main entry door, and any public sidewalk adjoining the lot;
- 4) abate the accumulation of debris, trash and litter that does not constitute personal property on any portion of the exterior lot of the building;
- 5) reasonably maintain fences and gates;
- 6) reasonably maintain the structural integrity of stairs and steps that lead to the main entrance of the building;
- 7) winterize the building, which shall mean cleaning all toilets and completely draining all plumbing and heating systems;
- 8) maintain and secure the exterior of the building;
- 9) post signs affixed to the building indicating: the vacant building registration number and the name, address and telephone number of the mortgagee and the mortgagee's authorized agent for the purpose of service of process. The name, address and telephone number of a person responsible for day-to-day supervision and management of the building, if such person is different from the mortgagee or authorized agent shall be indicated on the signs as well. The signs shall be no smaller than 8.5 inches by 11 inches and placed in such a location so as to be visible and legible from the nearest public street or sidewalk, whichever is nearer, and from the alley;
- (10) maintain the building in a secure and closed condition and maintain the sign until the building is reoccupied or demolished with all permits required by this Code. If during the registration period and following the initial boarding and securing of the property in compliance with this section the department of buildings notifies the mortgagee in writing that the property was found open or it has been judicially or administratively found to be open, in each case on

two separate occasions at least 30 days apart then the building shall thereafter be secured only with commercial-quality metal security panels, a secure polycarbonate boarding system, or a method deemed equivalent by the commissioner of buildings. Plywood or any wood based material shall not be used as a substance in securing a building as it relates to this section (10); and

(11) keep the exterior of the property free of vermin and rodents.

c) Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. The following shall be affirmative defenses under Section 13-12-126 and Section 13-12-127:

- 1) that at the time of the violation the building was occupied by any number of persons lawfully or unlawfully;
- 2) that the owner or another mortgagee has registered the building pursuant to Section 13-12-125 or Section 13-12-126 as applicable and such registration is current;
- 3) that the mortgagee is barred from doing any action required by this section by an automatic stay pursuant to a bankruptcy proceeding, provided that the mortgagee tenders evidence including the bankruptcy case number;
- 4) that the mortgagee has cured all violations within 30 days of receiving written notice of such violations. Notice sent by U.S. mail shall be deemed received seven days after mailing. An affidavit shall be conclusive proof of mailing;
- 5) that at the time of the violation, the mortgage was not in default;
- 6) that at the time of the violation, the mortgagee was not the senior lienholder of record on the real estate;
- 7) that a receiver has been appointed for the property by a court of competent jurisdiction;
- 8) that in a foreclosure of the property, the owner or mortgagor is taking any of the following acts:
 - A) filing any pleading which asserts claims against the mortgagee or defenses;
 - B) filing any motion which asserts defenses or claims against the mortgagee;
 - C) filing any discovery for response by the mortgagee; or
 - D) filing a request for mediation.

d) The commissioner of buildings may issue rules for the administration of this section, and is further authorized to administer the notification, registration and other recordkeeping requirements of this section, Section 13-12-125 and Section 13-12-128 either directly or through one or more third-party agents. Subject to the availability of duly appropriated funds, the commissioner is authorized to: (i) contract with third parties to administer these notification, registration and other recordkeeping requirements and any ancillary aspects, and (ii) execute ancillary documents and provide ancillary information, assurances or certifications as needed to carry out this subsection (d). If authorized by the commissioner, notification and other filing/registration requirements in this section, Section 13-12-125 and in Section 13-12-128 shall be deemed satisfied by such notifications being provided to or by, or filings and registrations submitted to, the commissioner's agent.

e) For purposes of this section, the following terms shall be defined as set forth below:

(1) "Default" shall mean, with respect to a building containing four or fewer dwelling units, when the mortgagor is 60 days past due on the mortgagor's obligation to make a scheduled payment under a mortgage or a mortgage note. With respect to all other buildings, "default" shall

mean when the mortgagor is 90 days past due on the mortgagor's obligation to make a scheduled payment under a mortgage or a mortgage note.

2) "Mortgage*" shall mean any consensual lien created by a written instrument which grants or retains an interest in real estate to secure a debt or other obligation. The term includes, without limitation: (A) mortgages securing reverse mortgage loans; (B) mortgages securing revolving credit loans; (C) every deed conveying real estate, although an absolute conveyance in its terms, which shall have been intended only as a security in the nature of a mortgage; and (D) equitable mortgages.

3) "Mortgagee" shall mean (A) the holder of an indebtedness or obligee of a non-monetary obligation secured by a

mortgage or any person designated or authorized to act on behalf of such holder, (B) any person claiming through a mortgagee as successor, and (C) any person identified as such in a recorded document which has not been released, assigned, or superseded of record.

4) "Mortgagor" shall mean (A) the person whose interest in the real estate is the subject of the mortgage and (B) any person claiming through a mortgagor as successor. Where a mortgage is executed by a trustee of a land trust, the mortgagor is the trustee and not the beneficiary or beneficiaries.

5) "'Vacant*' shall mean any real estate improved with a complete structure or an incomplete structure where the structure is empty or otherwise uninhabited by persons and the structure or lot is in need of maintenance, repair or securing, and with respect to which one or more of the following conditions exist:

- 1) all lawful business or construction operations have ceased for 6 months;
- 2) it has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by either the building commissioner, president of the board of health, the fire commissioner or the superintendent of police pursuant to Section 13-12-120 or by an order issued by court of competent jurisdiction;
- 3) no construction or legal repairs have commenced for 6 months;
- 4) the doors or windows are smashed through, broken, unhinged, removed or continuously unlocked;
- 5) law enforcement officials have received at least one report of trespassers or vandalism or other illegal acts being committed at the property in the last 6 months; and
- 6) gas, electrical or water sendees to the entire premises have been terminated. A property shall not be considered vacant if: (i) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in compliance with all applicable ordinances, codes, regulations and legislation; (ii) there is a building occupied on a seasonal basis, but otherwise secure; (iii) there is a secure building on which there are bona fide rental or sale signs; or (iv) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute; or (v) there is otherwise a building that is secure and in substantial compliance with all applicable ordinances.

(f) If a building is registered under paragraph (a) of this section, only the registered mortgagee shall be liable under this section during the registration period. Nothing in this section shall bar the concurrent enforcement of any provision of this Code against the owner or owners of a property.

(gV To the extent permitted by law, a mortgagee's acts or omissions required by this section shall not subject the mortgagee to civil or criminal liability unless the act or omission constitutes gross negligence or willful, wanton, or intentional misconduct. This provision shall not waive the

requirement to obtain permits or licenses for performing certain work required under this section, as otherwise required by this Code, or the penalties provided for failure to do so.

SECTION 4. Section 13-12-135 of the Municipal Code of Chicago is hereby amended by adding the underscored text, and deleting the struck-through text, as follows:

13-12-135 Minimum requirements for vacant buildings.

(Omitted text is unaffected by this ordinance)

(d) Building security standards - The following standards apply to the securing of vacant buildings:

(1) all building openings shall be closed and secured, using secure doors, glazed windows, polycarbonate boarding or commercial-quality steel security panels, or filled with like-kind material as the surrounding wall,

as applicable to prevent entry by unauthorized persons. ~~Except as specifically authorized in this subsection (d), use of plywood is prohibited~~ Plywood or wood-based material shall not be used;

~~(24 openings less than one (1) square foot in area may be boarded with plywood, provided that the boarding is made weathertight and finished with varnish, or paint of a similar color to the exterior wall and cut to the inside dimension of the exterior of the opening, and otherwise secured in the manner prescribed by rules and regulations issued by the department of buildings;~~

(£) (2_) at least one building entrance shall be accessible from the exterior and secured with a door that is locked to allow access only to authorized persons; a minimum of two exit doors shall be available to exit from the interior of the building, with at least one exit door available per 150 linear feet of horizontal travel at ground-floor level;

~~(A) for the first six months a building is vacant but not thereafter, openings more than one square foot in area may be boarded with plywood, which shall be installed and secured as prescribed by this section and by rules and regulations issued by the department of buildings;~~

(5) (3) if a building has been vacant for six months or longer, or upon any renewal of the registration statement required in Section 13-12-125, the building owner must implement and provide proof satisfactory to the department of buildings that, in addition to complying with the security standards set forth elsewhere in this subsection (d), said building either: (i) contains all of the security features set forth in subparagraph (A), or (ii) is unviolated, as described in subparagraph (B):

(A) every opening larger than one (1) square foot in area that is located less than eight feet above the ground or that is accessible from ground level or within eight feet in any direction of an exterior stairway, fire escape, or other means of access shall be closed and secured with polycarbonate boarding or a commercial-quality, 14-gauge, rust-proof steel security panel or door:

(i) security panels and doors shall have an exterior finish that allows for easy graffiti removal; and

(ii) security panels and doors shall be secured from the interior of the building to prevent unauthorized removal.

B) For purposes of this paragraph (5), the term "unviolated" shall refer to a building: (i) that has a permanent door or window, as applicable, in each appropriate building opening; (ii) that has each such door or window secured to prevent unauthorized entry; and (iii) that has all of its door and window components, including without limitation, frames, jambs, rails, stiles, muntins, mullions, panels, sashes, lights and panes, intact and unbroken. A building that does not meet the definition of "unviolated" shall be deemed "violated".

C) It shall be a violation of this subparagraph ~~(d)(5)(C)~~ (d)(3)(c) for a vacant building to become violated, if the owner has provided proof to the department of buildings that such building is unviolated. With respect to a vacant building represented by the owner as unviolated, if the commissioner of buildings determines, based on an inspection by the department of buildings or a report prepared by another city agency and provided to the department of buildings, that such building is violated, said commissioner shall send by certified mail a written notice of violation to the person responsible for day-to-day supervision and management of the building or to the authorized agent for service of process as identified on the sign required by Section 13-12-125(b)(2), or if there is no such sign, then sent by certified mail to the owner of record. Within 30 days of the mailing of such notice of violation, the owner shall be required to either: (i) comply with subparagraph (5)(A) of this section, or (ii) restore the building to an unviolated state and also install and maintain a working burglar alarm system, as defined in Section 4-400-010, and have an active account with a third party burglar alarm company. The burglar alarm system shall connect to all areas of the building subject to unauthorized human entry, including, but not limited to, all exterior doors, windows or other readily accessible openings. The burglar alarm system shall, upon detecting unauthorized entry, send an automatic signal to a burglar alarm company that has twenty-four (24)-hour live operators who will monitor the system and telephone the building owner or designated agent of the unauthorized entry, and who will also telephone the

police department to inform it of the unauthorized entry, if there is no adequate response from the building owner or designated agent.

(e) Rules and regulations - The building commissioner may issue rules and regulations for the administration of this section. These rules may specify additional board-up materials which may be used when securing a building, if proof is provided, satisfactory to the building commissioner, that such materials will perform in a manner equivalent to, or better than, the materials specified herein.

(f) Fines and penalties - Any person who violates any provision of this section or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

SECTION 5. This ordinance shall be in full force and effect after passage and publication.