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OCTOBER 21, 2011

Third Proposed Amendment to Chicago Vacant Building Ordinance to Require a Daylight Watchmen within School Safety Zones

On October 5, 2011, a third amendment to the Vacant Building Ordinance was proposed requiring daylight watchmen in vacant buildings within school safety zones, unless the building has been secured by methods approved by the Commissioner of Buildings. The proposed amendment is intended to apply to lenders as well as owners. If enacted, lenders will face fines of \$100 to \$500 per day for failure to comply.

The proposed third amendment to the Vacant Building Ordinance will be voted upon at the November 2, 2011, City Council meeting.

For further details, please see the attached proposed third amendment to the Vacant Building Ordinance or call Dianne Rist (312-845-3404) or Jennifer Majewski (312-845-3745).

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O2011-8091

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City Council Document Tracking Sheet

Meeting Date:	10/5/2011
Sponsor(s):	Graham, Deborah L. (29) Fioretti, Bob (2) And Others
Type:	Ordinance
Title:	Amendment of Section 13-12-140 of Municipal Code to <i>require daylight watchmen in vacant buildings</i>
Committee(s) Assignment:	Committee on Housing and Real Estate

Housing

I. Proposed Ordinance, With Intergovernmental Agreement Provision on p.4

An ordinance amending Section 13-12-140 of the Municipal Code to require daylight watchmen in vacant buildings within school safety zones

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

WHEREAS, as such, the City may exercise any power and function pertaining to its government and affairs, including protecting the public health, safety, morals and welfare of its citizens; and

WHEREAS, the children of this City constitute its most important resource, and in order to enable those children to reach their full potential and to avail themselves of a quality public education, it is necessary that the children be able to travel safely between their homes and school; and

WHEREAS, it is beneficial to children's health and development, and good for the environment, when children are able to make the school journey on foot or by other self-propelled transportation, and

WHEREAS, the ability of the City's children to safely journey to and from public schools is compromised when they must travel past unoccupied and unattended buildings that are more likely than occupied buildings to harbor people engaged in criminal, gang-related, or otherwise illicit activity; and

WHEREAS, the dangers posed by vacant buildings have been greatly exacerbated by the foreclosure crisis, with more than 10,500 foreclosures completed in Chicago in 2010 alone, an increase of 20 percent from the year before; and

WHEREAS, an estimated 95 percent of the foreclosed properties are currently vacant, and these vacant buildings are located in every ward of the city; and

WHEREAS, the City seeks to ensure the safety of children traveling to and from school; and

WHEREAS, the Chicago Board of Education ("Board") has consistently taken efforts to protect children seeking to enter their property from the dangers posed to them by vacant buildings, and

WHEREAS, the Board's efforts play an important role in helping to eliminate gang culture and ensure a safe environment for children in or adjacent to the school; and

WHEREAS, these measures taken by the Board to increase the safety of public school children on or adjacent to school property necessarily tends to increase the safety of residents of the city as a whole; and

WHEREAS, the City has a substantial interest in encouraging and providing every incentive to the Board to maintain and even increase if possible the safety of public school children on or adjacent to school property; and

WHEREAS, it is a legitimate concern of the City of Chicago that the Board has to expend any portion of its scarce resources just to provide for the physical safety of children and teachers at a time when the Board is also obligated to increase spending to meet the learning standards imposed by the State of Illinois Board of Education pursuant to the No Child Left Behind Act and other laws; and

WHEREAS, it is an important function of City government to promote the long-term safety, morals and well-being of its future citizens, all of which depends on ensuring that the City's children can safely access a free, quality public education,

THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO, AS FOLLOWS:

SECTION ONE: RECITALS. The foregoing recitals are incorporated herein as the findings of the City Council

SECTION TWO: Statement of Intent: The City seeks to protect its school children, by expanding the watchman program set forth in Section 13-12-140 to require daylight watchmen in vacant buildings in the vicinity of public schools. To the extent the enforcement of such safety measures results in additional revenue for the City, it is the intent of this ordinance that such revenues be used by the Mayor, in his discretion, to promote the welfare of the City's children by supplementing the Board's operating revenue

SECTION THREE: Section 13-12-140 of the Municipal Code of the City of Chicago is hereby amended as follows:

13-12-140 Vacant or open buildings – Watchman required – Violation – Penalty

1. Any vacant and open building, or any uncompleted abandoned building, or any vacant boarded-up building or any otherwise enclosed vacant building shall be referred to herein as a “vacant building”
2. For the purposes of this section, an “owner” shall be defined as aAny person or persons owning, maintaining, operating, collecting rents for, or having any legal or equitable interest in any building, including a mortgagee or its assignee or agent, as defined in Section 13-12-125

- 3 Provided that, any person who possesses a legal or equitable interest, including that of a mortgagee, its assignee, or agent, in fewer than five buildings within the limits of the City of Chicago shall be exempt from the requirements of this section.
- 4 An owner must have a night watchman on duty upon the premises on which any vacant building is situated every day continuously between the hours of 4:00 p.m. and 8:00 a.m., unless the building has been secured by methods approved by the commissioner of buildings. If the property in question is within a 1,000 yard radius of a public school, a daylight watchman must also be present from 8:00 a.m. to 4:00 p.m.

Any person who violates the provisions of this section shall be punished by a fine of not less than \$100.00 nor more than \$300.00 for the first offense and not less than \$300.00 nor more than \$500.00 on a daily basis for the second and each subsequent offense.

- 5 Further, where the vacant building is located within a "safe school zone," the building must have a daylight watchman on duty between the hours of 8 a.m. and 4 p.m., unless the building has been secured by methods approved by the commissioner of buildings.
- (a) For the purposes of this section, the area within a 1,000 yard radius of a public school shall be designated a "safe school zone"
- (b) Any person who violates the daylight watchman requirements of this section shall be punished by a fine of not more than \$1,000.00 on a daily basis for the first and each subsequent offense.
- (c) The fines resulting from violation of the provisions of this section by a building located within a "safe school zone" shall be designated "Safe School Violation Fines".
- (d) The Mayor shall enter into an Intergovernmental Agreement with the Board, pursuant to 5 ILCS 220/1 et seq., to allocate a portion of Safe School Violation fines, other than those necessarily retained to cover the City's ongoing expenses in operating this program, to the Board of Education.
- (e) In the Intergovernmental Agreement, the City and Board shall cooperatively establish a method to account for the Safe School Violation Fines.
6. Said daylight or night watchman shall remain on duty daily during the required hours until such building is either occupied or razed.

7. An owner who has failed to pay in full all fines assessed for violation of this chapter will be ineligible for a business license renewal under Section 4-4-260, pending payment of fines, costs or other sum of money owed to the city.
8. In addition to being subject to the fines set forth in this section, any third or subsequent offense of the day and night watchman requirements set forth above, collectively, may be punishable as a misdemeanor by incarceration in the county jail for a term not to exceed six months under procedures set forth in Section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) as amended, or by both fine and imprisonment. Any person who violates this section shall, if the building remains or subsequently becomes open and a forcible felony is then committed on those premises, be sentenced to a mandatory term of imprisonment of not less than 30 days. A separate and distinct offense shall be regarded as committed each day on which such person or persons shall violate the provisions of this section. For purposes of this section, "forcible felony" has the meaning ascribed to the term in Section 2-8 of the Criminal Code of 1961 (720 ILCS 5/2-8)

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Pat Dowell 31

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John 48