

S U B S T I T U T E
O R D I N A N C E

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

SECTION 1. Section 4-36-010 of the Municipal Code of Chicago is hereby amended by inserting the language underscored, as follows:

4-36-010 Definitions.

(Omitted text is not affected by this ordinance.)

"Employee" means an individual who performs work for an employer in the capacity of an employee, as distinguished from a contractor, determined pursuant to Internal Revenue Service guidelines.

"Excavation" means activity that requires a permit pursuant to Section 14A-4-406.1.

(Omitted text is not affected by this ordinance.)

SECTION 2. Section 4-36-030 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

4-36-030 License classifications.

(Omitted text is not affected by this ordinance.)

Class E license: The holder of a Class E license is not authorized to engage in concurrent or consecutive regulated activity at a single site with a value in excess of \$500,000.00. The holder of a Class E license is not entitled to engage in either ordinary demolition, ~~or complex demolition,~~ or excavation.

(Omitted text is not affected by this ordinance.)

SECTION 3. Section 14A-4-406 of the Municipal Code of Chicago is hereby amended by deleting the language struck through and by inserting the language underscored, as follows:

14A-4-406 EXCAVATION WORK ON PRIVATE PROPERTY.

14A-4-406.1 Scope.

All excavation work on private property must comply with Chapter 10-21 of the *Municipal Code* and Chapter 33 of the *Chicago Building Code*. A *permit* is required before beginning excavation work on private property that will be either:

1. More than 5 feet (1524 mm) vertically below existing grade and within ~~5 feet (1524 mm)~~ ten feet (3048 mm) horizontally of either the *public way* or an *existing building* or ~~existing structure on a different lot.~~

(Omitted text is not affected by this ordinance.)

14A-4-406.1.1 Declaration of policy.

Notwithstanding any provision of state law to the contrary, the *owner* of property on which excavation work is to be performed, and the *person* actually performing the work, must protect the adjacent and subjacent support of the adjoining *public way* and *structures* located ~~on the property of another and within five feet (1524 mm)~~ ten feet (3048 mm) horizontally of any portion of the excavating work, in accordance with this section.

(Omitted text is not affected by this ordinance.)

14A-4-406.5 Liability.

The *owner* of the property where excavation work takes place and the *person* performing the work are jointly and severally liable for any damage, death, or injury caused by sagging, settling, cracking, or collapse of the *public way* or of the foundation or walls of an *existing structure* located within ~~five feet (1524 mm)~~ ten feet (3048 mm) horizontally of the excavation work, due to absent or insufficient reinforcement or bracing, or due to any other act or omission in the performance of the excavation work. For purposes of this section, "damage" includes incidental costs such as salvage, relocation and temporary housing of occupants of damaged properties, ~~as well as~~ and costs incurred by the *City* in responding to any sagging, settling, cracking, or collapse. Any liability arising under this provision shall be in addition to any liability or remedy provided by any other law.

14A-4-406.5.1 Attorney's fees.

The prevailing plaintiff in any action arising out of the rights or remedies made available in Section 14A-4-406, including the *City*, shall be entitled to all court costs and reasonable attorney's fees.

14A-4-406.6 Insurance.

A *person* may not perform excavation work for which a *permit* is required pursuant to Section 14A-4-406.1 without maintaining in effect a commercial general liability insurance policy against all claims for damage, death, and injury arising from the excavation work. The policy must be in an amount no less than ~~\$1 million~~ \$2 million per occurrence for bodily injury, personal injury, and property damage and the policy must provide for 30 days' advance notice to the *City* before cancellation or lapse of the policy. Proof of the required insurance or proof of licensure and insurance in accordance with Chapter 4-36 of the *Municipal Code* must be submitted as part of the application for the *permit* for the excavation work. The insurance must remain in full force and effect throughout the duration of the *permit* period.

(Omitted text is not affected by this ordinance.)

SECTION 4. This ordinance shall take effect 90 days after passage and publication.