



CITY OF URBANA
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TO: Mayor Laurel Lunt Prussing and Urbana City Council

FROM: Curt Borman, Assistant City Attorney

DATE: November 3, 2009

SUBJECT: Consideration of an Ordinance Amending Section 11-49 of the Urbana City Code (nuisance abatement liens)

Introduction

This proposed Code amendment will authorize the City to file nuisance abatement liens with the county recorder within one year after removal costs have been incurred. The current ordinance provides for the filing of liens within sixty days.

Background

When property owners fail to remove overgrown vegetation, landscaping waste, garbage, and other offensive materials from their land, the City of Urbana removes these nuisances and bills the owners for its expenses. Whenever a bill for these costs remains unpaid for thirty days after it has been sent to the property owner, the city may place a lien on the property. Section 11-49 of the City Code requires this lien to be filed with the county recorder within sixty days after the City incurs the expense. On August 14, 2009, Public Act 96-462 took effect, allowing Illinois municipalities up to one year to file nuisance abatement liens. Previously, Illinois law had allowed only sixty days. The proposed amendment will authorize the City to place nuisance abatement liens on property within one year after the nuisance is removed.

The proposed amendment eliminates an inconsistency between state law and the City Code and gives the City more time to file liens in nuisance abatement cases.

Fiscal Impact

Approval of the proposed amendment will give the City greater flexibility in protecting its claims for nuisance removal costs without the need to resort to expensive and time-consuming litigation

to recover its expenses. Non-approval will limit the City's ability to enforce its claims by filing liens.

Recommendation

Approve the ordinance amending Section 11-49 of the Urbana City Code.

ORDINANCE NO. 2009-11-120

AN ORDINANCE AMENDING SECTION 11-49 OF THE URBANA CITY CODE
(nuisance abatement liens)

WHEREAS, the Mayor and City Council heretofore have adopted Section 11-49 of the Urbana City Code authorizing the City to file notices of lien for abatement of nuisances upon property so affected; and

WHEREAS, the Mayor and the City Council find that the best interests of the City are served by amending said ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 11, "Health and Sanitation," Article IV, "Nuisances," Division 1, "Generally," Section 11-49, "Cost of abatement and fines as a lien," is hereby amended, with the underlined text indicating new language and the strikethrough text indicating deletions as follows:

Sec. 11-49. Cost of abatement and fines as a lien.

(a) Whenever a bill for the costs and expenses incurred by the city for the abatement of a nuisance remains unpaid for thirty (30) days after it has been sent to the property owner, the city may file a notice of lien upon the property so affected. Such lien shall be superior to all other liens and encumbrances, except tax liens, provided that the notice of lien is filed with the county recorder within ~~sixty (60) days~~ one year after such cost and expense is incurred.

(b) The notice shall consist of a sworn statement setting out the following:

(1) A description of the property sufficient for identification thereof;

(2) The amount of money representing the costs and expenses incurred or payable for the abatement; and

(3) The date or dates when such costs and expenses were incurred

by the city.

(c) Cost and expenses include, but are not limited to, the costs and expenses in time of city employees or city authorized contractors concerning the actual abatement of the nuisance, administrative fees, title searches or certifications, and reasonable attorney expenses.

(d) Upon payment of the costs and expenses by the owner after notice of lien has been filed, the lien shall be released by the city or person whose name the lien has been filed and the release shall be filed of record as in the case of filing notice of lien.

(Ord. No. 2000-12-148, § 3, 3-5-01)

[State Law Reference: Lien for removal costs, 65 ILCS 5/11-20-15.](#)

Section 2.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 3.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 4.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor