



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Building Safety Division*

### **m e m o r a n d u m**

**TO:** Laurel Lunt Prussing, Mayor

**FROM:** Elizabeth H. Tyler, FAICP, City Planner/Director

**DATE:** April 22, 2010

**SUBJECT:** An Ordinance Requiring a Certificate Respecting Payment of Delinquent Taxes and Demolition Expenses of Property Sustaining a Loss

---

### **Description and Background**

The attached ordinance addresses the issue of protecting the interests of the City of Urbana when a privately owned and insured property has sustained a loss. The Illinois Insurance Code requires an insurance company to obtain a certificate regarding payment of delinquent real estate taxes and demolition expenses before they pay a loss claim that exceeds \$25,000 (215ILCS 5/397.1)

The scope and application of this statute presents the following problems:

1. How would the city know if there was insurance covering the loss?
2. The statute is limited to losses that exceed \$25,000.
3. Only losses caused by fire and/or explosions are included.
4. There are no provisions for recovering anything other than delinquent real estate taxes and demolition expenses. For example, delinquent hotel-motel taxes and food and beverage taxes are not included, nor are claims for removal of junk, debris and weeds.

The above deficiencies are addressed by this proposed ordinance, which will supplement the provisions of the State Statute. The proposed ordinance requires that an insurance company give notice to the City of intent to pay a claim for loss to the structure, for any reason, which exceeds \$5,000. In addition to property taxes and demolition expenses, the ordinance requires other unpaid delinquent taxes and unpaid liens to be paid. The ordinance further provides that the insurance company shall pay the insured unpaid demolition expenses and any unpaid delinquent City taxes and liens, by issuing a draft or check payable jointly to the City of Urbana and the insured.

In 1993, the City of Danville adopted an ordinance similar to that proposed and their corporation counsel advises our legal staff that it has worked well in protecting the City's interests.

### **Fiscal Impacts**

This ordinance would provide for payment of delinquent taxes and liens and would help to prevent property from being abandoned without being demolished after a loss.

## **Recommendations**

Approval of the attached ordinance is recommended. As a follow up to adoption, City staff will provide information to and work with local insurance companies regarding the provisions of the new ordinance.

Prepared by:

---

Gordon R. Skinner, Building Safety Division Manager

Attachments:

Draft Ordinance

**ORDINANCE REQUIRING A CERTIFICATE RESPECTING PAYMENT OF DELINQUENT TAXES AND  
DEMOLITION EXPENSES ON PROPERTY SUSTAINING A LOSS**

WHEREAS, the City of Urbana desires to protect its particular interests in the event of privately owned insured property sustaining a loss by supplementing the provisions of the Illinois State Statute (215ILCS 5/397.1).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. This ordinance is intended to supplement the provisions of the statute which requires a certificate regarding the payment of delinquent taxes and demolition expenses on property sustaining a loss (73 ILCS 5/397.1).

(A) (1) It shall be unlawful for any company transacting insurance business in this city to pay a claim of uninsured property owner for loss to the structure located in this city where the amount recoverable for loss to the structure under a policy exceeds \$5,000 until the insurance company receives the certificate required by this city.

(2) The company transacting insurance business in this city must give a notice to the city which includes the name of the property owner, the address of the property, its legal description, the permanent real estate index number that identifies the property for purposes of taxation, and the amount of the claim to be paid.

(B) For purposes of this section, the following definitions are applicable:

(1) "Insured property owner" is a person named as an insured who is the owner, titleholder or mortgagee of a structure, the holder of an interest secured by the structure, the beneficiary of a land trust owning or holding title to a structure, the lessee of a structure with a contractual obligation for property taxes or the assignee of any such person.

(2) "Amount recoverable" is the dollar amount payable under all insurance policies for loss to the structure.

(3) "Proceeds" is the dollar amount payable for loss to the structure under an insurance policy.

(4) "Delinquent Taxes" are those taxes imposed by the following sections of the Urbana Code of Ordinances and which taxes are delinquent as of the date of loss: Sewer use tax 24-16, hotel/motel tax 22-61, prepared food and beverage tax 22-91, recycling tax 22-102 and 22-122.

"Delinquent property taxes" are those property taxes on the property which are delinquent pursuant to Section 21-15, 21-20, or 21-25 of the property Tax Code, including those delinquent taxes on property forfeited under Section 21-225 of the Property Tax Code, as of the date of loss.

In determining delinquent property taxes under this section, the amount of property taxes for which a certificate of error has been issued pursuant to Section 14-10 or 14-20 of the Property Tax Code shall not be considered delinquent.

(5) Liens - liens recorded pursuant to 65 ILCS 11-20-7; 11-20-8; 11-20-12, and 11-20-13.

(6) "Incurred demolition expense" is:

(a) The cost of demolishing or removing a structure from property by or at the expense of the City of Urbana if the demolition or removal occurs on a date preceding the later of:

1. The acceptance by the insurance company of a proof of loss for an agreed amount of proceeds, or

2. The date of receipt by the City of Urbana of a request for execution of the certificate required by this section; or

(b) The amount estimated by the City of Urbana when it receives a request to execute the certificate required by this section; or

(c) The amount ordered to be withheld by a court within 28 days after the City of Urbana receives a request for execution of the certificate required by this section. The City of Urbana must be a part to such proceeding.

Incurred demolition expense shall be determined under subsection (B)(6)(a) whenever possible. In determine the incurred demolition expense under subsection (B)(6)(b), City of Urbana shall make its estimate and execute the certificate within 21 days after receiving a request for execution. If the City of Urbana shall fail within 21 days to execute the certificate, as required by subsection (B)(6), the company can proceed to make payment of the claim as if the certificate had been received showing no unpaid demolition costs. The request for execution may be served personally, and may be proven by a written receipt signed by the City Clerk as of the date the request was made or by service on the City Clerk by certified mail, return receipt requested. A court order under subsection (B)(6)(c) shall supersede an estimate under subsection (B)(6)(b).

(6) "Property" is the lot on which the structure is located.

(7) "Structure" is a building.

(8) "Claim" is the demand by an insured for payment under an insurance policy or policies.

(9) "Proof of loss" is the document on which an insured formally presents his claim to an insurance company.

(10) "Certificate" is the executed form prescribed by the director of insurance.

(11) "Executed" manes signed by the Director of Development.

(C) For any claim to which this section is applicable, an insured property owner must submit one of the following to the insurance company:

NOTE: This certificate is in addition to a certificate required under 73 ILCS 597/1.

(1) A certificate that with respect to the property there are:

(a) No delinquent property taxes, or other unpaid delinquent taxes;

(b) No unpaid incurred demolition expenses;

(c) No unpaid liens.

(2) A certificate setting forth with respect to the property:

(a) The amount of unpaid delinquent property taxes, and other unpaid delinquent taxes.

(b) The amount of unpaid incurred demolition expenses.

(c) The amount of unpaid liens.

(c) A direction by an insured property owner to the insurance company to pay the unpaid delinquent property taxes, other unpaid delinquent taxes, unpaid incurred demolition expenses, and unpaid liens.

(3) Any certificate required by subsection (C) (1) or (C) (2) above shall be obtained by the insured within 21 days of the date of loss, and it shall be submitted to the insurance company upon its execution.

(D) If a certificate required by this ordinance is submitted pursuant to Subsection C(2), the insurance company shall pay the unpaid delinquent property taxes by draft or check payable to the Champaign County Collector, and unpaid incurred demolition expenses, unpaid delinquent City taxes and liens, by issuing a draft or check payable jointly to the City of Urbana, and the insured.

(1) If the proceeds payable are less than the amount of the unpaid delinquent property taxes and unpaid incurred demolition expenses, the unpaid delinquent property taxes due pursuant to 73 ILCS 597.1, shall be paid first and the remainder shall be paid on the balance due on the delinquent taxes, and liens, and the remainder shall be applied to the incurred demolition expenses.

(2) If the expenses withheld pursuant to Section B 5(b) or (c) exceed the ultimate costs of demolition, the excess shall be first applied to unpaid delinquent taxes, and liens any amount remaining shall be paid to the insured property owner.

(E) Nothing in this section shall be construed as:

(1) Making an insurance company liable for any amount in excess of the proceeds payable under its insurance policy unless the insurance company shall have made payment to the named insured without satisfying the requirements of this section;

(2) Making a unit of local government or tax collector an insured under an insurance policy; or

(3) Creating an obligation for an insurance company to pay unpaid delinquent taxes or unpaid incurred demolition expenses other than as provided in subsection (D).

(F) An insurance company making a payment of proceeds under this section for unpaid delinquent taxes or unpaid incurred demolition expense shall be entitled to the full benefit of such payment, including subrogation rights and other rights of assignment.

(G) Unpaid taxes and unpaid incurred demolition expense for a claim for loss to a structure occurring after the issuance of a tax deed pursuant to Section 22-40 of the Property Tax Code shall not include any unpaid tax or unpaid demolition expense arising before the issuance of the tax deed.

(H) The amount of unpaid demolition expenses paid to the City shall be held until the repairs to or demolition of the structure have been completed and verified by the City.

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 and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

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:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Laurel Prussing, Mayor

CERTIFICATE OF PUBLICATION IN PAMPHLET FORM

I, Phyllis Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois.

I certify that on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled AN ORDINANCE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of the Ordinance was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Phyllis Clark, CITY CLERK