



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

**FROM:** Curt Borman, Assistant City Attorney

**DATE:** October 15, 2010

**SUBJECT:** Consideration of an Ordinance Amending Chapter 11, Section 11-49, of the Urbana City Code (nuisance lien foreclosure)

### ***Introduction***

This proposed Code amendment will authorize the City to initiate foreclosure<sup>1</sup> proceedings to enforce its nuisance abatement liens.

### ***Background***

The City of Urbana enforces its nuisance ordinances to improve the quality of life of our residents and to resolve safety issues within our neighborhoods. Accordingly, when a landowner does not voluntarily correct an illegal condition on his or her property, the City may abate the nuisance by, for example, demolishing, repairing, or enclosing an unsafe structure, or by removing garbage, debris, overgrown vegetation, or other materials from the land. The City then bills the property owner for its abatement costs. If the invoice remains unpaid for thirty days after it has been sent to the owner, the City records a lien on the property. Ordinarily, a nuisance abatement lien is paid when the property is sold. Alternatively, the City may seek reimbursement of its costs by filing a complaint against the property owner in city court.

Some properties have been neglected by their owners for extended periods, however, and have become chronic nuisances. The customary procedures of seeking reimbursement through liens and city court have not proven to be effective in these cases. Chronic nuisance properties are a drain on the City's resources, as staff members expend considerable time repeatedly inspecting these properties and correcting one code violation after another. For example:

- *Property A:* Since 2002, the City has incurred \$15,639 in costs to demolish an unsafe structure, to cut grass and weeds, and to remove junk and debris. The City has placed 17 liens on the property.

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<sup>1</sup> A "foreclosure" is an action commenced to terminate an owner's legal and equitable interests in real estate. 735 ILCS 5/15-1203.

- *Property B:* Since 2000, the City has incurred \$ 15,681 in costs to cut grass and weeds. The City has placed 23 liens on the property.
- *Property C:* Since 2007, the City has incurred \$7,730 in costs to remove municipal waste and to cut grass and weeds. The City has placed 10 liens on the property.

These and other chronic nuisance properties are a burden on local taxpayers, who have been bearing the costs of their upkeep, and they are a blighting influence on our community.

The proposed amendment is intended to resolve both of these problems by allowing the City to foreclose on its nuisance abatement liens.

In a foreclosure proceeding, a municipality may file a lawsuit against a property owner and seek a judgment for the amount of its liens. If an owner cannot be found, the municipality could give notice through newspaper publication. During the lawsuit, the owner would be granted opportunities to pay the outstanding balance. If he or she failed to do so, the court will enter a foreclosure judgment and order the property to be sold by auction at a sheriff's sale. If there were no successful bidders at the auction, the property would be awarded to the municipality. Ultimately, the property may then be sold to someone who could properly maintain it.

While Illinois law authorizes municipalities to enforce their nuisance abatement liens by initiating foreclosure proceedings, the Urbana City Code does not. The attached Code amendment eliminates this disparity.

The use of a foreclosure action is intended to be an extraordinary remedy to eliminate the City's most severe nuisances and to relieve taxpayers of the cost of maintaining chronically neglected properties. The amendment under consideration is patterned after similar provisions found in many other Illinois communities.<sup>2</sup>

### ***Fiscal Impact***

Approval of the proposed amendment will give the City greater ability to enforce its claims for nuisance removal costs and will help to relieve the City of the burden of maintaining chronic nuisance properties. Non-approval will hinder the City in its efforts to recover its nuisance abatement costs and to reduce the number of problem properties in its neighborhoods.

### ***Recommendation***

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

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<sup>2</sup> E.g., Alton, Belleville, Champaign, Chicago Heights, Danville, Deer Park, DeKalb, Elburn, Galesburg, Granite City, Homer Glen, Johnsborg, Kankakee, Moline, Naperville, New Berlin, Pekin, Quincy, and Savoy.

ORDINANCE NO. 2010-10-099

AN ORDINANCE AMENDING CHAPTER 11, SECTION 11-49, OF THE URBANA CITY CODE (nuisance lien foreclosure)

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 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 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.

(e) The city shall have the right to enforce its liens under this section by proceedings in foreclosure, or otherwise as provided under the laws of the State of Illinois.

State law references: 65 ILCS 5/11-20-15, 65 ILCS 5/11-31-1.

## **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 \_\_\_\_\_, \_\_\_\_\_.

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Laurel Lunt Prussing, Mayor