



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, Director, Community Development Services

DATE: October 3, 2013

SUBJECT: AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER FIVE, ARTICLE IX, SECTION 5-83 (Regarding Property Maintenance Code Violations – Sections PM-106.4, PM-106.4.1, AND PM-106.4.3)

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER ONE, Section 1-10(k) Regarding Fines for Building, Fire and Flood Safety Code Violations

Description of Proposed Amendment:

On the agenda of the October 7, 2013 meeting of the Urbana City Council are two Ordinances to amend Urbana City Code, Chapter Five, Article IX, Sections PM-106.4, PM-106.4.1, and PM-106.4.3 and Urbana City Code Chapter One, Section 1-10 (k) to increase fines for failure to comply with deadlines for property maintenance code compliance. The first proposed Ordinance includes changes directed by the Committee of the Whole at its September 9, 2013 meeting. The revised fine structure for Failure to Comply tickets includes a tiered system of fines as follows:

A. Violations that are an Imminent health/life safety threat to occupants:

<i>Deadline for compliance: 1-3 days</i>		
1st missed deadline:	Minimum fine paid within 7 days: \$600.00	If paid after 7 days: \$700.00
2nd missed deadline	Minimum fine: \$750.00 PLUS up to \$750.00 Per day until corrected	

B. Violations that pose Livability issues:

<i>Deadline for compliance: 1-5 days</i>		
1st missed deadline:	Minimum fine paid within 7 days: \$450.00	If paid after 7 days: \$600.00
2nd missed deadline	Minimum fine: \$750.00 PLUS up to \$750.00 Per day until corrected	

C. Violations involving Routine Maintenance issues:

<i>Deadline for compliance: 10-30 days</i>		
1st missed deadline:	Minimum fine paid within 7 days: \$300	If paid after 7 days: \$450.00
2nd missed deadline	Minimum fine: \$500 PLUS up to \$750 Per day until corrected	

The ordinance is also changed to provide for mandatory issuance of a Failure to Comply ticket in all cases where deadlines are not met.

The Ordinance to Amend Chapter One, Section 1-10(k) is needed in order to increase the maximum fine in order to be consistent with the proposed Failure to Comply fines. In addition, reference to CABO is deleted to be consistent with the current adopted City Building Codes.

Options

1. Approve the Ordinances Amending Urbana City Code Chapter Five, Article IX, Section 5-83 and Amending Urbana City Code Chapter One Section 1-10 (k) as written.
2. Approve the Ordinances with changes.
3. Do not approve the Ordinances.

Fiscal Impacts

Increased use of Failure to Comply Tickets and increases in the amount of the fines should result in additional fine revenue to the City depending on the number of tickets issued and success in achieving payment. Based on the data from 2013 so far, on the order of \$10,000 to \$15,000 could be levied each year. However, use of the fines will require additional staff time in issuing the tickets, tracking the tickets, and attempting collection of payment along with additional legal time and costs in filing cases to recover the fines. As use of the fines increases and the expected deterrent effect takes place, these fines and associated staff time for processing should decline over time.

Recommendation

Staff recommends that City Council approve the Ordinances Amending the City Code, with an evaluation of the amendments to occur within six (6) months.

Memorandum Prepared By:

John A. Schneider, Manager
Building Safety Division

Attachments:

1. Ordinance Amending Urbana City Code Chapter Five, Article IX, Section 5-83 (Regarding Property Maintenance Code Violations- Sections PM-106.4, PM-106.4.1, and PM-106.4.3)

ORDINANCE NO. 2013-09-082

**AN ORDINANCE AMENDING URBANA CITY CODE CHAPTER FIVE, ARTICLE IX,
SECTION 5-83**

**(Regarding Property Maintenance Code Violations - Sections PM-
106.4, PM-106.4.1, and PM-106.4.3)**

WHEREAS, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, the City Council heretofore did on the 28th day of July 2011, pursuant to Ordinance No. 2011-07-062, enact Urbana City Code Chapter 5, Article IX, to establish a property maintenance code for the protection of the public health, safety, and welfare; and

WHEREAS, in order to increase the effectiveness of Failure to Comply Tickets for failure to meet deadlines for code compliance, the City Council has directed that the Failure to Comply fine amounts be increased; and

WHEREAS, the City Council finds that amending Article IX, Section 5-83, as provided herein, will protect the health, safety, and welfare of the public.

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

Section 1.

Urbana City Code Chapter 5, "Building, Fire and Flood Safety Codes," Article IX, "Property Maintenance Code," Section 5-83, "Additions, Deletions, Modifications, and Amendments," Sections PM-106.4, PM-106.4.1, and PM-106.4.3 are hereby amended with the underlined text indicating new language and the strike-through text indicating deletions, as set forth in Exhibit "A," which is attached hereto and incorporated herein by reference.

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 Community Development Department shall undertake a review of the effectiveness of the amendments within six months (6) of the adoption of this Ordinance and shall consider any necessary further modifications at that time.

Section 5.

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

Exhibit A

Urbana City Code Chapter 5 Building, Fire and Flood Safety Codes
Article IX Property Maintenance Code
Section 5-83
Sections PM-106.4, PM-106.4.1, and PM-106.4.3

PM-106.4 Violations: The Code Official, or his or her designee, ~~may~~ shall impose a penalty for failure to comply with any of the deadlines set forth in PM-104.6.1, Deadlines for Compliance with Code Violations. Such penalties shall be imposed by the issuance of a "Failure to Comply Ticket."

PM-106.4.1 Failure to Comply Tickets:

(a) *General.* The Code Official, or his or her designee, ~~is authorized to~~ shall issue a Failure to Comply Ticket to any owner, operator or person that the Code Official determines has violated any of the deadlines for compliance set out in PM-104.6.1.

(b) *Method and Date of Service.* A Failure to Comply Ticket may be served on a defendant according to the procedures set forth in PM-107.3 Method of Service.

(c) *Service on Corporations and Partnerships.* Service by mail or personal delivery upon a corporation may be to its registered agent, or any officer or agent of the corporation. Service by mail or personal delivery to a partnership may be to a partner or any agent of the partnership.

(d) *Content.* A Failure to Comply Ticket shall include the name of the person or entity charged, with the offense or offenses, the code sections violated, a description of the conditions or activities constituting the violation, and instructions on the method of settling the ticket.

(e) *Settlement of Ticket.* Tickets issued under this section shall be in lieu of a summons or arrest. A person issued a Failure to Comply Ticket may settle the claim for ~~a first an~~ an offense by paying by paying the assessed fine in accordance with the following schedule: ~~sum of One Hundred Dollars (\$100) within seven (7) days from the time the Failure to Comply Ticket is issued. If the ticket is not paid within seven (7) days, the penalty shall automatically increase to Two Hundred Dollars (\$200). Payment of a ticket constitutes an admission of guilt.~~

~~Any person issued a Failure to Comply ticket for a second or subsequent Code violation at a particular address within twelve (12) months of the initial violation, may settle the ticket prior to being charged by written complaint in accordance with the following table:~~

Offense	Minimum fine if paid	Minimum fine if paid
	within 7 days	after 7 days
Second Offense	\$200.00	\$300.00
Third Offense	\$300.00	\$400.00
Fourth Offense	\$400.00	\$500.00

A. Violations that are an Imminent health/life safety threat to occupants:

<u>Deadline for compliance: 1-3 days</u>		
<u>1st missed deadline:</u>	<u>Minimum fine paid within 7 days: \$600.00</u>	<u>If paid after 7 days: \$700.00</u>
<u>2nd missed deadline</u>	<u>Minimum fine: \$750.00 PLUS up to \$750.00 Per day until corrected</u>	

B. Violations that pose Livability issues:

<u>Deadline for compliance: 1-5 days</u>		
<u>1st missed deadline:</u>	<u>Minimum fine paid within 7 days: \$450.00</u>	<u>If paid after 7 days: \$600.00</u>
<u>2nd missed deadline</u>	<u>Minimum fine: \$750.00 PLUS up to \$750.00 Per day until corrected</u>	

C. Violations involving Routine Maintenance issues:

<u>Deadline for compliance: 10-30 days</u>		
<u>1st missed deadline:</u>	<u>Minimum fine paid within 7 days: \$300</u>	<u>If paid after 7 days: \$450.00</u>
<u>2nd missed deadline</u>	<u>Minimum fine: \$500 PLUS up to \$750 Per day until corrected</u>	

Payment of a ticket constitutes an admission of guilt.

PM 106.4.3 Prosecution of Violations:

(a) *Circuit Court Proceedings.* If a defendant fails to correct a violation of this Code within the timeline set by the Code Official, the City may file a complaint in the circuit court seeking an order to remedy any and all violations ~~in lieu of issuing a Failure to Comply Ticket~~. The complaint may seek both remedial action and fines. If a defendant fails to settle a Failure to Comply Ticket issued by the Code Official pursuant to the provisions of PM-106.4.1 and PM-106.4.2, the City may file a complaint in the circuit court for fines, Code compliance, or both. Such a proceeding shall be handled as a *de novo* complaint, with the City having the burden to prove its allegations by a preponderance of the evidence. The City shall not be limited by the penalty schedule set forth in PM-106.4.1 in determining appropriate fines in a court proceeding.

(b) *Penalties.* Upon conviction, the defendant shall be subject to a fine between Two Hundred Dollars (\$200) and Seven Hundred Fifty Dollars (\$750). Each day of noncompliance may constitute a separate and continuing violation. The City Attorney shall consider such factors as the defendant's record of Code violations, the number of repeat offenses, the severity of the violations, and the defendant's level of cooperation with the City in determining what fine is appropriate to seek.

(c) *Additional Remedies.* The City Attorney may seek remedies in addition to fines and court costs, including orders to repair the premises by a date certain.