



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: September 5, 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)

Description

On the agenda of the September 9, 2013 meeting of the Urbana City Council Committee of the Whole is an Ordinance amending Urbana City Code, Chapter Five, Article IX, Sections PM-106.4, PM-106.4.1, and PM-106.4.3 to increase fines for failure to comply with deadlines for property maintenance code compliance.

Background & Discussion

On July 18, 2011, the City Council passed Ordinance No. 2011-07-062 adopting the 2009 International Code Council Series of building and fire safety codes as Chapter Five of the Urbana Code of Ordinances. Article IX of the 2009 Model Codes Adopting Ordinance adopts the 2009 International Property Maintenance Code Edition and sets forth additional provisions pertaining to property maintenance in the City of Urbana. Section PM-104.6.1 sets forth deadlines for compliance with code violations and Section PM-106.4 addresses Violations, Failure to Comply Tickets, Administrative Appeal, and Prosecution of Violations.

See <http://urbanaillinois.us/codes>

http://urbanaillinois.us/sites/default/files/attachments/2009-building-code_1.pdf

As currently written, Code section PM-106.4.1 allows but does not mandate that the Code Official issue tickets for failure to comply with the deadlines for compliance with code violations set forth in Section PM-104.6.1. Until early 2013, the code inspectors did not generally issue tickets for noncompliance with deadlines because the approach to property maintenance emphasized a compliance model rather than a punitive approach, and because deadlines were complied with in the vast majority of cases. Where compliance was not achieved, the City filed Ordinance Violation cases in Court and fines were sought as part of a judgment, pursuant to PM-106.4.3, Prosecution of Violations.

However, increased concerns regarding problem properties and reduced compliance by some property owners have resulted in the City utilizing tickets for noncompliance on a regular basis since March 2013. This approach is now being used both by Urbana Fire Rescue Service and by the Community Development Department. Tickets for noncompliance have also successfully been used by the Nuisance Inspector and for certain zoning violations for a number of years.

A form for Failure to Comply tickets was developed with the assistance of the Urbana Legal Division (see copy attached) and is now being used by the housing inspectors in all cases where deadlines established for compliance have been exceeded. The Failure to Comply ticket charges the sum of \$100, which is increased to \$200 if not paid within seven days. A ticket is issued for failure to comply with any deadline set in a notice of violation at a specific address. Section PM-106.4.1 also allows for increased fines where a second or subsequent failure to comply violation occurs at the same address within twelve (12) months of the initial violation. Under the current code, the second offense ticket amount is \$200, third offense is \$300, and fourth offense is \$400.

As shown on the attached spreadsheet, since March 14, 2013, Community Development has issued a total of 34 tickets, ranging from \$100 to \$500, and totaling \$4,900 or \$5,500 with late fees. Tickets have been issued to six different property owners, although one property owner operating under two names has received all but four of the tickets. Only \$400 has been received in payment so far. The Community Development and Finance Departments will be forwarding all unpaid fines for prosecution by our Legal Division.

Proposed Amendment

The Mayor and City Council have directed staff to improve the use and effectiveness of the Failure to Comply Tickets by requiring their use in all cases where deadlines are not met and by increasing the amount of the fine. The Legal Division has researched the relevant Statute and has determined that the fines may be increased, but in no case can a single fine for a single violation exceed \$750 per instance per day. On the other hand, the Legal Division has advised that each day in which a violation persists can constitute a separate violation with its own fine.

Based on the input from City Council and City Attorney, and suggested changes submitted by the Director of the Champaign-Urbana Tenant Union, staff has prepared the attached Ordinance amending Sections PM-106.4, PM-106.4.1, and PM-106.4.3 of Article IX of Chapter Five of the Urbana City Code. This amendment would mandate that tickets be issued for any failure to comply with the deadlines set under PM-104.6.1. The first offense at a particular address would have a minimum fine of \$300.00, and would increase to \$450.00 if paid after seven days. The second offense at the same address within 12 months would cause a ticket of \$400.00, and would increase to \$500 if paid after seven days. The third offense at the same address within 12 months would cause a ticket of \$500.00, and would increase to \$750.00 if paid after seven days. The fourth or subsequent offense at the same address would cause a ticket of \$600.00, and would increase to \$750.00 if paid after seven days. This schedule of fine increases is consistent with State law and with other relevant sections of the City Code.

It should be noted that in some or perhaps many cases the imposition of Failure to Comply tickets will not avoid the need to prosecute violations in court under Section PM-106.4.3. The tickets will, however, increase the city's claim in such cases. In other cases, the imposition of the tickets will act as a true deterrent and property owners will correct violations in a more timely manner in order to avoid the imposition of a failure to comply ticket and associated fine.

Options

1. Approve the 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).
2. Approve the Ordinance with changes.
3. Do not approve the Ordinance.

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 is 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.

As suggested by the City Council, staff can assess the overall effectiveness and fiscal impacts of the increased use of Failure to Comply tickets and the increased fine amounts through an evaluation of the Ordinance change in approximately six (6) months.

Recommendation

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

Attachments:

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)
Failure to Comply Ticket Form
Status of Tickets Issued since March 2013

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 offense by paying the sum of ~~One Hundred Dollars (\$100)~~ Three Hundred Dollars (\$300.00) 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)~~ Four Hundred and Fifty Dollars (\$450.00). Payment of a ticket constitutes an admission of guilt.

Any person issued a Failure to Comply ticket for a second or subsequent ~~Code~~ failure to comply 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 within 7 days	Minimum fine if If paid after 7 days
First Offense	\$300.00	\$450.00
Second Offense	\$200.00 \$400.00	\$300.00 \$450.00
Third Offense	\$300.00 \$500.00	\$400.00 \$750.00
Fourth <u>or more</u> Offense	\$400.00 \$600.00	\$500.00 \$750.00

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.



PROPERTY MAINTENANCE CODE

FAILURE TO COMPLY

Property Information		
PROPERTY ADDRESS:	RESPONSIBLE PARTY/BUSINESS:	
VIOLATION INFORMATION		
<p>VIOLATION DESCRIPTION: A Failure to Comply ticket is imposed under the Property Maintenance Code Section PM 106.4 for failure to comply with deadlines set forth in PM 104.6.1, as outlined on a Notice of Violation to correct violations of the PM code. Subsequent notices beyond a first notice are not a requirement of the Code.</p> <p><input type="checkbox"/> Failure to Comply with _____ Notice of Violation dated: ___/___/___ w/deadline: ___/___/___.</p>		
<p>ATTACH COPIES OF ALL NOTICES OF VIOLATION Additional Notes:</p>		
FINE		
<p><input type="checkbox"/> You are hereby fined \$ _____ for Failure to Comply. (See Reverse) This is your _____ violation in the last 12 months.</p>		
ISSUING STAFF INFORMATION		
<p>Under penalties as provided by law for false certification pursuant to Section 1-109 of the Code of Civil Procedure and perjury pursuant to Section 32-2 of Criminal Code 1961, the undersigned certifies that the statements set forth in this instrument are true and correct.</p>		
STAFF SIGNATURE:	DATE:	TIME:
<p>CONTACT: Community Development Services Department 400 South Vine Street, Urbana, IL 61801 217-384-2443</p>		
METHOD OF SERVICE:	<input type="checkbox"/> Sent via US Mail and Posted on Property _____ Date	<input type="checkbox"/> Personal Service (If checked, complete following section.)
RESPONSIBLE PARTY ACKNOWLEDGEMENT OF RECEIPT		
<p><i>The responsible party hereby acknowledges receipt of this Notice of Violation. Signing this acknowledgement does not constitute an admission of guilt.</i></p>		
RESPONSIBLE PARTY SIGNATURE:	Printed Name	Date:

SETTLEMENT OF TICKET

Tickets issued under this section of the Adopted Property Maintenance Code shall be in lieu of a summons or arrest. A person issued a Failure to Comply Ticket may settle the claim for a first offense by paying the 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. Settlement of a Failure to Comply Ticket does not relieve a property owner of the requirements of the Property Maintenance Code.

Failure to settle a Failure to Comply ticket may result in a complaint filed in the circuit court for fines, Code compliance, or both. 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.

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 (PM 106.4.1):

Offense	Minimum fine if paid <u>within 7 days</u>	Minimum fine if paid <u>after 7 days</u>
First Offense	\$ 100.00	\$ 200.00
Second Offense	\$ 200.00	\$ 300.00
Third Offense	\$ 300.00	\$ 400.00
Fourth Offense	\$ 400.00	\$ 500.00

PAYMENT OF FINE

To pay the noted fine, please do the following:

- Sign and complete the bottom portion of this notice.
- Submit payment, along with a completed, signed copy of this notice, either in person or by mail to:
**City of Urbana Finance Department
400 South Vine Street,
Urbana, IL 61801**
- If paying in person, payments are accepted Monday through Friday (except holidays) from 8:00 a.m. to 5:00 p.m. Payments may be made in the form of cash, credit card, personal check, money order, cashier's check or certified check. Please include a completed, signed copy of this notice with your payment.
- If paying by mail, payment may be in the form of a personal check, money order, cashier's check, or certified check. DO NOT send cash in the mail. Please include a completed, signed copy of this notice with your payment. Allow sufficient time for payment to be received by the City of Urbana by the due date.
- If paying by mail and a receipt is desired, please enclose a self-addressed postage paid envelope with your payment. Please include a completed, signed copy of this notice with your payment.

APPEALS PROCESS

You may appeal this Failure to Comply Ticket by submitting a Notice of Appeal to the Building Official within seven (7) days of the service of this notice. An Appeal Hearing request form may be obtained at Community Development Office at 400 S. Vine St., Urbana, IL. The Notice may be hand delivered or mailed, but the notice must be received within seven (7) days of service. An appeal shall be heard by an impartial hearing officer appointed by the City Administrator. Completed Notice of Appeal must be submitted to: Building Safety Division, 400 S. Vine St., Urbana, IL 61801

ACKNOWLEDGEMENT OF GUILT AND WAIVER OF APPEAL

By signing below, I hereby plead guilty and elect not to appeal the violation(s) alleged on the front of this notice.

Printed Name

Street Address

Signature

City, State, Zip

Date

Tracking #	Address	Fine Amount	Date	Date Due	Insp	Amount Paid	Date Paid	Late Balance Due	PIN	OWNER	VIOLATION STATUS
13-01	2018 Fletcher	\$100	3/7/2013	3/14/2013	crb	\$ -		\$ 200.00	93-21-21-183-001	PLATINUM<GROUP PROPERTIES	corrected
13-02	1105 W. Oregon	\$100	4/1/2013	4/8/2013	slc	\$ 100.00	4/15/2013 (RECEIPTED 5/3/2013)	\$ 100.00	93-21-18-277-007	KENNEDY WILSON / PETER BAKSA	nearly complete
13-03	1107 W. Oregon	\$100	4/1/2013	4/8/2013	slc	\$ 100.00	4/15/2013 (RECEIPTED 5/3/2013)	\$ 100.00	93-21-18-277-006	KENNEDY WILSON / PETER BAKSA	corrected
PM-0001	void										
PM-0002	1305 E. Silver St	\$200	7/2/2013	7/9/2013	slc	\$ -		\$ 200.00	93-21-21-183-002	PLATINUM<GROUP PROPERTIES	not corrected
PM-0003	703 E Colorado	\$100	7/2/2013	7/9/2013	slc	\$ -		\$ 200.00	93-21-21-152-040	PLATINUM<GROUP PROPERTIES	not corrected
PM-0004	902-904 E. Harding	\$100	7/2/2013	7/9/2013	slc	\$ -		\$ 200.00	93-21-21-152-041	COLORADO PLACE LLC	not corrected
PM-0005	1305 E Silver #4	\$100	5/29/2013	6/5/2013	slc	\$ -		\$ 200.00	93-21-21-183-002	PLATINUM<GROUP PROPERTIES	not corrected
PM-0006	void										
PM-0007	2018 Fletcher	\$200	5/29/2013	6/5/2013	crb	\$ -		\$ 300.00	93-21-21-183-001	PLATINUM GROUP PROPERTIES	not corrected
PM-0008	902-904 E. Harding	\$200	7/15/2013	7/22/2013	slc	\$ 200.00	7/22/2013	\$ -	93-21-21-152-041	COLORADO PLACE LLC	partially corrected
PM-0009	void										
PM-0010	void										
PM-0011	void										
PM-0012	void										
PM-0013	2018 Fletcher	\$300	7/30/2013	8/6/2013	crb	\$ -		\$ 400.00	93-21-21-183-001	PLATINUM<GROUP PROPERTIES	corrected
PM-0014	2018 Fletcher	\$300	7/30/2013	8/6/2013	crb	\$ -		\$ 400.00	93-21-21-183-001	PLATINUM<GROUP PROPERTIES	corrected
PM-0015	2018 Fletcher	\$300	7/30/2013	8/6/2013	crb	\$ -		\$ 400.00	93-21-21-183-001	PLATINUM<GROUP PROPERTIES	corrected
PM-0016	void										
PM-0017	2017 S. Philo	\$100	7/30/2013	8/6/2013	crb	\$ -		\$ 200.00	93-21-21-183-004	PLATINUM<GROUP PROPERTIES	corrected
PM-0018	2017 S. Philo	\$100	7/30/2013	8/6/2013	crb	\$ -		\$ 200.00	93-21-21-183-004	PLATINUM<GROUP PROPERTIES	corrected
PM-0019	void										
PM-0020	2017 S. Philo	\$100	7/30/2013	8/6/2013	crb	\$ -		\$ 200.00	93-21-21-183-004	PLATINUM<GROUP PROPERTIES	corrected
PM-0021	void										
PM-0022	902/904 Harding	\$200	8/9/2013	8/16/2013	slc	\$ -		\$300.00	93-21-21-152-041	COLORADO PLACE LLC	partially corrected
PM-0023	504 W. Elm	\$100	8/19/2013	8/26/2013	slc	\$ -		\$200.00	92-21-17-110-022	ERWIN GOLDFARB	corrected
PM-0024	1105 W. Oregon	\$200	8/21/2013	8/28/2013	slc	\$ -		\$300.00	93-21-18-277-007	KENNEDY WILSON / PETER BAKSA	nearly complete
PM-0025	1306 E. Silver #9	\$100	8/21/2013	8/28/2013	slc	\$ -		\$ 200.00	93-21-21-181-020	JEC DEVELOPMENT LTD	partially corrected
PM-0026	703 E. Colorado	\$200	8/22/2013	8/29/2013	slc	\$ -		\$ 300.00	93-21-21-152-040	PLATINUM GROUP PROPERTIES	partially corrected
PM-0027	904 E. Harding	\$400	8/22/2013	8/29/2013	slc	\$ -		\$ 500.00	93-21-21-152-041	COLORADO PLACE LLC	partially corrected
PM-0028	1305 E. Silver St	\$300	8/23/2013	8/30/2013	slc	\$ -		\$ 400.00	93-21-21-183-002	PLATINUM<GROUP PROPERTIES	not corrected
PM-0029	2017 S. Philo	\$200	9/4/2013	9/11/2013	crb	\$ -			93-21-21-183-004	PLATINUM<GROUP PROPERTIES	not corrected
PM-0030	1305 Silver	\$400	9/4/2013	9/11/2013	crb	\$ -			93-21-21-183-002	PLATINUM<GROUP PROPERTIES	not corrected
PM-0031	2018 Fletcher	\$400	9/4/2013	9/11/2013	crb	\$ -			93-21-21-183-001	PLATINUM<GROUP PROPERTIES	not corrected
	TOTALS	\$4,900						\$ 5,500.00			