

AN ORDINANCE AMENDING CHAPTER 38 "ENVIRONMENT"

WHEREAS, the Illinois Legislature has expanded the powers of municipalities to abate nuisances and perfect the City's lien for the cost of abate certain nuisances; and

WHEREAS, the City Council has decided it is in the best interests of the City to amend the City Code of Ordinances to provide for the expanded ability to abate certain nuisances.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Rolling Meadows, Illinois, as follows:

Section One: Section 38-69 and 38-70, Chapter 13 "Environment" are hereby repealed.

Section Two: Chapter 38 "Environment" is hereby amended by adding thereto, the following:

Sec. 38-69. Cutting and removal of neglected weeds, grass, trees, and bushes.

(a) The City may provide for the removal of nuisance greenery From any parcel of private property within the City if the owners of that parcel, after reasonable notice, refuse or neglect to remove the nuisance greenery. The City may collect, from the owners of that parcel the reasonable removal cost.

(b) The City's removal cost under this Section is a lien upon the underlying parcel in accordance with Section 38-71.

(c) For the purpose of this Section:

The City shall also collect an administration fee of \$350.00 together with any charges for recording the city's lien and interest at the rate of 9% per annum from the date of the removal.

"Removal of nuisance greenery" or "removal activities" means the cutting of weeds or grass, the trimming of trees or bushes, and the removal of nuisance bushes or trees.

"Removal cost" means the total cost of the removal activity.

Sec. 38-70. Removal of infected trees

(a) The City may provide for the removal of elm trees infected with Dutch elm disease or ash trees infected with the emerald ash borer (*Agrilus planipennis* Fairmaire) from any parcel of private property within the municipality if the owners of that parcel, after reasonable notice, refuse or neglect to remove the infected trees. The City may collect, from the owners of the parcel, the reasonable removal cost.

(b) The City's removal cost under this Section is a lien upon the underlying parcel in accordance with Section 38-71.

(c) For the purpose of this Section, "removal cost" means the total cost of the removal of the infected trees.

The City shall also collect an administration fee of \$350.00 together with any charges for the city recording its lien and interest of the rate of 9% per annum from the date of the removal.

Sec. 38-71. Lien for removal costs

(a) If the City incurs a removal cost under Section 38-69 or 38-70 with respect to any underlying parcel, then that cost is a lien upon that underlying parcel. This lien is superior to all other liens and encumbrances, except tax liens and as otherwise provided in subsection (c) of this Section.

(b) To perfect a lien under this Section, the City must, within one year after the removal cost is incurred, file notice of lien in the office of the Recorder of Deeds, if the underlying parcel is registered under the Torrens system, in the office of the Registrar of Titles. The notice must consist of a sworn statement setting out:

- (1) a description of the underlying parcel that sufficiently identifies the parcel;
- (2) the amount of the removal cost; and
- (3) the date or dates when the removal cost was incurred by the City.

If, for any one parcel, the City engaged in any removal activity on more than one occasion during the course of one year, then the City may combine any or all of the costs of each of those activities into a single notice of lien.

(c) A lien under this Section is not valid as to: (i) any purchaser whose rights in and to the underlying parcel arose after the

removal activity but before the filing of the notice of lien; or (ii) any mortgagee, judgment creditor, or other lienor whose rights in and to the underlying parcel arose before the filing of the notice of lien.

(d) The removal cost is not a lien on the underlying parcel unless a notice is personally served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the removal activities. The notice must be delivered or sent after the removal activities have been performed, and it must: (i) state the substance of 65 ILCS 5/11-20-15 and the substance of this ordinance; (ii) identify the underlying parcel, by common description; and (iii) describe the removal activity.

(e) A lien under this Section may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. An action to foreclose a lien under this Section must be commenced within 2 years after the date of filing notice of lien.

(f) Any person who performs a removal activity by the authority of the City may, in his or her own name, file a lien and foreclose on that lien in the same manner as a municipality under this Section.

(g) A failure to file a foreclosure action does not, in any way, affect the validity of the lien against the underlying parcel.

(h) Upon payment of the lien cost by the owner of the underlying parcel after notice of lien has been filed, the City (or its agent under subsection (f)) shall release the lien, and the release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.

(i) For the purposes of this Section:

"Lien cost" means the removal cost, administrative fee and the filing costs for any notice of lien under subsection (b).

"Removal activity" means any activity for which a removal cost was incurred.

"Removal cost" means a removal cost as defined under Section 38-69 or 38-70.

"Underlying parcel" means a parcel of private property upon which a removal activity was performed.

"Year" means a 365-day period.

Section Three: Section 102-93(c) of the Code of Ordinances is hereby repealed.

Section Four: Chapter 102, Section 93 of the Code of Ordinances is hereby amended by adding thereto, the following:

- (c) The finance department shall not issue a transfer tax stamp in connection with a parcel of real property located in the city if there are unpaid sewer, water, garbage charges or other debts due the city.

Section Five: This Ordinance shall be printed and published in pamphlet form by order of the City Council.

Section Six: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

YEAS: Cannon, Allen, Buske, Banger, D'Astice, Larsen

NAYS: Judd

ABSENT: 0

Passed and approve this 12th day of July 2011.



Tom Rooney, Mayor

ATTEST:



Ginny Cotugno, Deputy City Clerk

Published this 13th day of July 2011.



Ginny Cotugno, Deputy City Clerk