

COUNCIL WORKSHOP ITEM

ITEM: AN ORDINANCE AMENDING LIEN PROCEDURES
DATE: September 15, 2003
PREPARED BY: Ann Marie Perez, Staff Attorney
PURPOSE: To amend lien procedures as they relate to tree removal/pruning

DISCUSSION:

Presently our ordinance provides that in the event a homeowner fails to remove or prune his trees or shrubs that are creating an obstruction or hazard, the Village Forester, after providing notice to the homeowner, may prune or remove said tree or shrub. The costs incurred by the Village Forester are chargeable to the homeowner. The Village currently has 60 days in which to both invoice the homeowner and file a lien if the invoice for the work completed remains unpaid.

Based upon this relatively short period of time that the Village has in which to invoice and to file a lien for the expenses incurred, very few liens have been filed since the request and information most times does not make it to the Legal Department within 60 days. It has been proposed that the 60 day time frame be extended to 120 days thereby allowing the Village sufficient time for invoicing, to await payment and learn that payment is not forthcoming, processing of lien paperwork and filing the lien in a timely manner. Attached is a draft ordinance for your review and consideration. This proposed ordinance provides time parameters similar to the water lien provisions.

ATTACHMENT:

AN ORDINANCE AMENDING LIEN PROCEDURES

RECOMMENDATION:

It is requested that the attached ordinance be placed on the Workshop agenda of September 23, 2003 for Council consideration.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING LIEN PROCEDURES

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading/underline**; deletions by ~~strikeout~~):

Section 1. That Section 24.5.2. is hereby amended to read as follows:

24.5.2. Same --Lien for expenses incurred by Village.

In addition to all other remedies provided by law, the Village shall have a lien on the property on which such tree or shrub was growing for the reasonable cost of the pruning or removal thereof. Such lien shall be superior to all other liens and encumbrances except tax liens. Within ~~sixty (60)~~one hundred twenty (120) days after such cost is incurred, the Village shall cause to be filed a notice of lien in the office of the Recorder of Deeds of DuPage County. Such notice shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the pruning or removal, including any administrative costs incurred in causing the pruning or removal and in billing the owner for the cost; (c) the date or dates which such cost and expense was incurred; ~~and (d).~~ The Village shall also provide a statement that the amount owed shall accrue interest at ten percent (10%) a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the Village shall issue a release of such lien, which may be filed of record in said Recorder's office. (Ord. No. 2748, § 2.)

Section 2. That Section 24.16. is hereby amended to read as follows:

24.16. Removal of infected trees by Village; costs of removal to be lien.

In the event that any such infectious live or dead diseased tree is not removed within ten (10) days from the date of the delivery or sending of such notice, then the Forestry Division shall enter upon such property and cut down and remove such tree, and within ~~sixty (60)~~one hundred twenty (120) days thereafter shall file in the Office of the Recorder of Deeds of the County, a notice of lien which shall include the following information: (a) a description of the real estate sufficient for identification thereof; (b) the amount of money representing the cost and expense incurred or payable for the removal, including any administrative costs incurred in causing the removal and in billing the owner for the cost; (c) the date or dates on which such cost and expense was incurred; ~~and (d).~~ The Village shall also provide a statement that the amount owed shall accrue interest at ten percent (10%) a year for each year the amount remains unpaid. Upon payment of the cost and expense by the owner of, or persons interested in, said real estate, after the notice of lien has been filed, the Village shall issue a release of such lien, which may be filed of record in said recorder's office. Ord. No. 716, § 3; Ord. No. 1110, § 4; Ord. No. 2291, § 4.)

Section 3. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest:

Village Clerk