

**CITY OF VIENNA
CITY COUNCIL MEETING
VIENNA CITY HALL
205 North 4th Street
February 2, 2022
6:30 P.M.**

AGENDA

1. Mayor Calls Meeting to Order.
2. Roll Call:

Hill_____ Moore_____ Owen_____ Pitts_____ Racey_____ Tuey_____

NEW BUSINESS

3. Omnibus Consent Agenda

- Approval of the January 19, 2022 Meeting Minutes
- Approval of the Warrant

Motion_____ Seconded_____

Hill_____ Moore_____ Owen_____ Pitts_____ Racey_____ Tuey_____

4. Authorization and Approval of **Ordinance 22-03** An Ordinance Amending Chapter 94 (Nuisances) of the Title IX Of The City Code.

Motion_____ Seconded_____

Hill_____ Moore_____ Owen_____ Pitts_____ Racey_____ Tuey_____

5. Authorization and Approval of agreement between Little Egypt Shows and City of Vienna for Spring Fling event- May 12-14th, 2022.

Motion_____ Seconded_____

Hill_____ Moore_____ Owen_____ Pitts_____ Racey_____ Tuey_____

6. Jennifer Jacobsen, Comments on Vienna Code of Ordinances-Section 115.08
(Ordinance 10-03) Prohibiting alcohol possession/consumption on the city square.

7. **PUBLIC COMMENT/ADDITION TO THE AGENDA**

8. **ELECTED/APPOINTED OFFICIALS**

- City Attorney
- Aleatha Wright, City Clerk
- Shane Racey, City Supt.
- Michelle Meyers, Treasurer
- Jim Miller, Chief of Police
- Brent Williams, Fire Chief
- City Council
- Steve Penrod, Mayor

9. **Adjournment:**

POSTED: 01-31-22

BY: 

ORDINANCE 22 - 03
THE CITY OF VIENNA, ILLINOIS

AN ORDINANCE AMENDING CHAPTER 94 (NUISANCES) OF THE TITLE IX OF THE
CITY CODE.

WHEREAS, the Illinois Municipal Code empowers the City of Vienna to make rules and regulations to protect and promote the health, safety and welfare of the City and its residents;

WHEREAS, Chapter 94 of Title IX (General Regulations) of the City Code regulates nuisances within City limits and prescribes certain definitions, notice periods, abatements, and penalties of such; and

WHEREAS, Chapter 94 (Nuisances) currently contains two sections namely, *General Provisions* and *Weeds, Trash, and Garbage*, which provide inconsistent provisions for the time prescribed for notice to abate; and

WHEREAS, the City desires to amend Chapter 94 (Nuisances) to provide consistent provisions for the prescribed nuisances, notices, abatements, and enforcement thereof.

NOW THEREFORE, IT BE SO ORDAINED by the Mayor and City Council of the City of Vienna as follows:

Section 1: Recitals.

The recitals above are incorporated by reference into this Section 1 as if fully set forth herein.

Section 2: Amendment:

- (a) Chapter 94 (Nuisances) of the City Code is hereby amended by amending Sections 94.01 through 94.06 and 94.99; by adding section 94.07 and 94.08 and by repealing Sections 94.20 through 94.26. Chapter 94 shall from and after the adoption of this ordinance read as follows:

§ 94.01 DEFINITIONS AND PROHIBITION.

The following acts, conduct, circumstances and conditions are hereby declared and defined to be nuisances and, when committed, performed or permitted to exist by any person, firm, corporation, or other entity (herein collectively referred to as "person") within the corporate limits of the city, whether on public or private property, are hereby declared to be unlawful and prohibited;

(A) *Common law nuisances*. To commit, perform or permit any act or offense which is a nuisance according to the common law of the state;

(B) *Defined nuisance*. To commit, perform or permit any act or offense declared to defined to be a nuisance by this chapter, by this code, or by any of the ordinances of the city or any laws of the state;

(C) *Undefined nuisances.* To commit, perform or permit any act, conduct, circumstances or condition which constitutes an unreasonable, unwarrantable or unlawful use by a person of property, real or personal, or from the person's own improper, indecent or unlawful personal conduct which works an obstruction or injury to a right of another or of the public and produces the material annoyance, inconvenience, discomfort, hurt or injury that the law will presume an actionable nuisance;

(D) *Litter.*

(1) To dump, deposit, drop, throw, discard, leave, cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of litter upon any public or private property in the city or upon or into any river, lake, pond, creek, ditch, or other stream or body of water in the city (even if owned by the person) unless:

(a) The property has been designated by the state or any of its agencies, political subdivisions, units of local government or school districts for the disposal of litter, and the litter is disposed of on that property in accordance with all applicable laws, rules and regulations;

(b) The litter is placed into a receptacle or other container designed for and intended by the owner or tenant in lawful possession of that property for the lawful deposit of litter;

(c) The person is the owner or tenant in lawful possession of the property or has first obtained the consent of the owner or tenant in lawful possession, or the act is done under the personal direction of the owner or tenant, and the same does not create a public health or safety hazard, a public nuisance or a fire hazard;

(d) The person is acting under the direction of a proper public official during special cleanup days; and

(e) The person is lawfully acting in or reacting to an emergency situation where health and safety is threatened and removes and properly disposes of litter when the emergency no longer exists.

(2) For the purpose of this division, the following definition shall apply unless the context clearly indicates or requires a different meaning.

LITTER. Any discarded, used or unconsumed substance or waste. **LITTER** may include, but is not limited to, any garbage, trash, refuse, debris, rubbish, grass clippings or other lawn or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material, cigarette butts or portions of cigarettes, or filtered cigars or portions of filtered cigars, abandoned vehicle or derelict vehicle as otherwise defined by this code, motor vehicle parts, furniture, tires, appliances, brush, oil, wire, wood, lumber, cardboard, glass, brick, stone, rock, carcass of a dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, any offal or noisome substance or anything else of any unsightly nature.

(E) *Litter accumulation.* To allow litter to accumulate upon real property, of which the person charged is the owner, agent, occupant or person in possession, charge or control, in a manner as to constitute a public nuisance or in a manner that the litter may be blown or otherwise carried by the natural elements onto the real property of another person. For purposes of this division, litter shall have the meaning as defined immediately above. While any of those named may be charged under this division, if the property is a single-family dwelling or otherwise occupied by or in the possession, charge or control of one person or group, the person or each of the members of the group shall be considered responsible for the accumulation unless the facts indicate to the contrary;

(F) *Trees and plants.* To allow any tree, shrub, vine, cutting, scion, grass, plant, plant part, plant product or any part thereof within the city to remain if the same is dead, dangerous or liable to fall upon neighboring buildings or other improvements other than those belonging to the owner of the tree or other plant. The same is infested with injurious insect pests or infected with plant diseases which are liable to spread to other plant, plant product or places to the injury thereof, or to the injury or damage of a person or animal; or the same is one of any species or variety of tree, shrub, vine or other plant not essential to the welfare of the people of the city which may serve as a favorable host plant and/or promote the prevalence and abundance of insect pests or plant diseases, or any stage thereof, injurious to other plants essential to the welfare of the people of the city or to the injury or damage of a person or animal including, but not necessarily limited to, the female individuals of the box elder variety of tree, further known as acer negundo;

(G) *Water pollution.*

(1) To corrupt or render unwholesome or impure the water of any spring, river, stream, ditch, creek, pond or lake to the injury or prejudice of others; and

(2) To own, maintain, construct, use or control any unsafe or dangerous plumbing system, in violation of the Illinois Plumbing Code or standards and provisions of §§ 151.40 through 151.43 of this code.

(H) *Obstructions.* To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places and ways to burying places;

(I) *Noxious exhalations.* To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals or of the public;

(J) *Advertisement.* To advertise or expose wares or occupations, or notices or materials by painting notice of the same or affixing them to fences, walls, windows, buildings exteriors, utility poles, or on hydrants, other public or private property, or on rock or other natural objects, without the consent of the owner, or if in a public right of way or other public place, without a sign permit or other permission of the proper authorities;

(K) *Unfit, unsafe or dangerous structures.*

(1) To own, maintain, keep, let, use or occupy any building, manufactured or mobile home, modular home, structure, shed, tent, lot, premises, improvement, fence or any other manmade structure (in this chapter collectively referred to as structure) which is unfit, unsafe or dangerous.

(2) For purposes of this division, a structure shall be considered unfit, unsafe or dangerous if any one or more of the following conditions exist with respect to the structure or any portion thereof:

(a) The structure or any portion thereof is designed or intended for human habitation and is unfit for the purpose;

(b) The structure or any portion thereof is in violation of the building code standards imposed by Chapter 151 of this code or otherwise fails to comply with requirements imposed by local, state or federal law;

(c) The structure or any portion thereof is unfit, unsafe or dangerous because of lack of repair or maintenance or it is otherwise in a condition so that it is detrimental to life, health or safety;

(d) The structure or any portion thereof is dangerous to life, health or safety because of the existence of contagious diseases or unsanitary conditions likely to cause sickness, disease, illness or harm to its occupants, if any, or other persons or neighboring structures;

(e) The structure or any portion thereof is kept in a condition that it or its contents occasion noxious exhalations or offensive smells;

(f) The structure or any portion thereof, because of faulty construction, age, deterioration, lack of proper repair, previous fire or any other cause or condition, is especially liable to fire and constitutes or creates a fire hazard;

(g) The structure or any portion thereof, because of faulty construction, age, deterioration, lack of proper repair, previous fire or other cause, is liable to collapse;

(h) The structure or any portion thereof, because of lack of windows or doors, or because of the presence of openings, is available to or opened to malefactors, disorderly person, minors or any other persons who are not the lawful or proper occupants of the structure.

(i) The structure of any portion thereof is under construction or demolition or has been under construction or demolition and remains uncompleted for an unreasonable period of time or the construction or demolition thereof is not diligently and promptly pursued to completion;

(j) The structure of any portion thereof contains violations of any City ordinance, law, rule, regulation or code or provision which establishes construction, plumbing, heating, electrical, fire prevention, or demolition sanitation or other health and safety standards with respect thereto;

(k) The structure or any portion thereof has been damaged or destroyed by fire or water and is not promptly demolished, removed, reconstructed, rebuild or repaired or any hole resulting after demolition or removal of a structure not promptly filled with earth, stone, concrete or solid fill to ground level; and

(l) The structure or any portion thereof is otherwise a dangerous and unsafe structure or an uncompleted and abandoned structure.

(3) It shall not be a defense to any of the foregoing that the structure is boarded up or otherwise enclosed nor may any court order a structure to be boarded up or otherwise enclosed. It shall also not be a defense to any action that a structure is not occupied or utility services terminated or suspended;

(L) *Rodents.* To cause or permit any condition or situation to exist that shall attract, harbor or encourage an infestation of rats and mice.

(M) *Weeds.* To allow any weeds such as jimsonweed, burdock, ragweed, thistle, cocklebur, jimson, blue vervain, common milkweed, wild carrot, poison ivy, wild mustard, pig weed, lambs quarter, wild lettuce, curled dock, snout weed, poison oak, poison hemlock, wild hemp, Johnson grass, or other weeds of a like kind found growing in any lot or tract of land in the city or weeds which expel unpleasant or noxious odor or which may conceal filthy deposits or which are a breeding place for mosquitoes, flies or insects or which because of uncleanness and sanitation are a menace to public health;

(N) *Weed height.* To permit any weeds, grass or plants other than lawful trees, shrubs, vines, flowers or other similar plants commonly and generally considered ornamental plants, to grow to a height exceeding six inches anywhere in the city;

(O) *Noncompliance with demolition of buildings or structures and requirement of a fire protection guard ordinance.* To undertake, permit or allow the demolition of buildings or

structures or to not place a fire protection guard as is required without complying with the demolition of buildings and structures and requirement of a fire protection guard per, Chapter 151 of the city code.

(P) *Stagnant water.* To cause or suffer any body or pool of water to become stagnant on any property under such person's control. This shall include a failure to properly maintain any swimming pool or hot tub or wading pool or fountain such that the same may or has become a breeding facility for mosquitoes, flies or other insect or animal pests that are offensive, injurious or dangerous to the health of the public.

(Q) *Storing debris.* To store, dump, or permit the accumulation of debris, refuse, garbage, tires, trash, buckets, cans, wheelbarrows, garbage cans, animal troughs, or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds, possums, skunks, groundhogs or other animal pests that are offensive, injurious, and dangerous to the health of individuals or the public.

(R) *Motor transport engines.* To operate motor transport engines between the hours of 8:00 p.m. and 6:00 a.m. in any place in which a majority of the buildings within a 400 foot radius of the vehicle are used exclusively for residential purposes, excluding state and federal highways.

(S) *Open burning.*

(1) (a) To cause permit or allow the open burning of landscape waste or municipal solid waste.

(b) To cause, permit or allow the open burning of agricultural or domicile waste.

(2) It shall not be a nuisance to commit any act herein above prohibited by division (S)(1)(a) and (b), if the person or entity committing such act shall have first been issued a permit or other written authorization to do so from the Illinois Environmental Protection Agency (IEPA), so long as the permit or other written authorization is valid and in full force and effect and so long as the person or entity is in full compliance with all conditions of the permit or other written authorization.

(T) *Public right-of-way:* any area between the street or alley and private property; including ditches.

(1) *Duties of private owners as to public right-of-way located between street or alley and private property:* it shall be the duty of any person who owns or occupies private property located adjacent to a public street, or alley in the city to maintain and mow the public right of way, with said weeds and grass on the public right of way not to exceed six inches in height.

(2) *Notice:* the city shall, by and through its employees or agents, cause to be served upon an owner or occupant adjacent private property a notice ordering such person to maintain and mow the grass and weeds on said right of way within five days from the date of such notice.

(3) *Penalties:* the penalty provisions of § 94.99 of this chapter shall apply to any violation of this subsection.

§ 94.02 ABATEMENT NOTICE.

(A) *Generally.* The owner, agent, occupant or person in possession, charge or control of any land, structure, premises, item or object, real or personal, in or upon which any nuisance exists shall be served a notice to abate the same within a specified reasonable time

in a manner as the notice shall direct or in any other reasonable manner. The time allowed by the notice shall, in any event, be considered reasonable if five days' notice is given.

(B) *Person giving notice.* A notice to abate a nuisance may be given by the Building Inspector, the city's Code Enforcement or Abatement Officers, the Chief of the Police Department, the Chief of the Fire Department, any member of the Police Department, any member of the Fire Department, or any person designated by the Mayor as having authority to give the notice and any other person or officer of the city possessing police powers.

(C) *Service of notice.* It shall be considered sufficient to notify the owner, agent, occupant or person in possession, charge or control of the land, structure, premises, item or object in or upon which the nuisance exists in person or by ordinary mail sent to the owner of the premises as disclosed in the current tax records of the county. A notice shall be deemed sufficient although the person to which it is directed refused delivery of the same or it is not deliverable. The notice shall be presumed delivered if not returned to the city as not deliverable. In the event the owner, agent, occupant or person in possession, charge or control of the land, structure, premises, item or object is unknown or on reasonable search is not ascertainable, it shall be sufficient to give notice by posting on the premises. If notice is served on anyone other than the owner as shown in the tax records of the county, a copy thereof shall be delivered personally to the owner or sent by ordinary mail to the owner at the same time as notice is given to the other person. If any nuisance relates to an unfit, unsafe or dangerous structure, a copy of the notice shall also be sent to any lien holders of record, provided the lack of the notice shall not affect any proceedings hereunder.

(D) *Contents of notice.* Every notice served under this chapter shall, in addition to requiring the abatement of the nuisance, state the proposed method of abatement and warn the person to which the notice is directed that a failure to accomplish the abatement within the time stated herein may result in the abatement of the nuisance by the city and that the cost or expenses related to the removal by the city shall be charged to the person. The proposed method of abatement shall not limit the method of abatement to be used.

(E) *Posting property.*

(1) Any real or personal property relative to which a notice has or is about to be given may be posted advising that the property has been declared a nuisance, has been condemned, has been declared dangerous and unsafe or has been declared unsafe for human occupancy or use. The form of notice shall be determined by the person giving the notice. No person shall remove any sign or poster without the permission of the person posting the notice, or if unknown, the Chief of Police or the Mayor.

(2) It shall be a violation of this code for any person to use or occupy any real or personal property which has been posted as unsafe for human occupancy or use in accordance herewith.

(F) *Nuisance resumed.* The city shall not be required to issue a second or subsequent abatement notice where the nuisance is at first abated, but later resumes or is repeated.

§ 94.03 ABATEMENT.

(A) If a nuisance is not timely abated after notice is given in accordance with this chapter, the city may immediately proceed to abate or remove the nuisance after the time limit stated in the notice has expired irrespective of whether a charge is filed alleging violation of this chapter.

(B) *Methods of abatement.*

(1) If abatement, is authorized under this chapter, the city may abate or remove the nuisance in any and all of the following manners, except as may be otherwise ordered by a court of competent jurisdiction:

(a) Proceeding to abate or remove the nuisance using city employees or independent contractors in any reasonable manner. In the case of a structure, abatement may, as appropriate, be by demolition or repair of a structure or causing the demolition or repair of a structure;

(b) Any other manner allowed by law or in equity or reasonable under the circumstances; or

(c) Any manner authorized by a court of competent jurisdiction.

(2) The proposed method of abatement shall not limit the method of abatement which may be used unless otherwise ordered by the court or diminish the discretion of the court to order that the person charged abate a nuisance or enter any other appropriate order.

§ 94.04 SUMMARY ABATEMENT.

Whenever, in the opinion of the officer of the city entitled to give notice pursuant to this chapter, the maintenance or continuation of a nuisance creates an imminent threat of serious or unreasonable injury to person or serious or unreasonable damage to personal or real property, the officer may immediately proceed to abate the nuisance in any reasonable manner if circumstances do not allow implementation or full implementation of ordinary abatement procedures as set forth in § 94.02. Whenever the owner, occupant, agent or person in possession, charge or control of the real or personal property which has become a nuisance is unknown or cannot readily be found or circumstances do not allow, the officer may proceed to abate the nuisance without notice. Any reasonable order may be entered by the official to abate a nuisance summarily when circumstances require and may include, but shall not be limited to, prohibiting occupancy of a structure. A copy of the order or other notice thereof may be posted on the real or personal property involved. It shall be unlawful for any person to disobey, remove or deface any order or notice. Where the abatement of the nuisance requires continuing acts by the corporate authorities beyond the initial summary abatement or any other additional summary abatement, it may seek abatement of the nuisance on a permanent basis through a court order as soon as reasonably possible.

§ 94.05 RECOVERY OF ABATEMENT COSTS.

(A) *Generally.* Whenever the city is required to abate or remove a nuisance pursuant to this chapter or as otherwise allowed by ordinances of the city, the costs or expenses shall be a lien on the property to which they apply. If the property is personal property, the lien shall be on the real estate on which or at which the personal property is located. The city may collect the costs and expenses thereof in accordance with this section, in accordance with ILCS Ch. 65, Act 5, § 11-20-15, or by use of the Local Debt Recovery Program administered by the State of Illinois.

(B) *Determination of costs.* The determination of costs of abatement shall be made by the City Clerk or his or her designee. The determination shall equal the actual costs of abatement or removal provided that the costs, if performed by employees of the city, shall

not be less than \$150 total. The costs of abatement shall also include the actual costs of mailing or serving documents, recording documents and any other incidental expenses.

(C) *Notice of cost.* Within 60 days after the costs or expenses are incurred to abate or remove a nuisance, the City Clerk or his or her designee shall give, or cause to be given, a statement notifying the person to whom or which the notice to abate a nuisance was sent, setting forth the cost or expenses incurred by the city to abate or remove the nuisance. The notice shall also identify the parcel by common description and describe the removal or abatement activity. The notice shall include a copy of ILCS Ch. 65, Act 5, § 11-20-15 and of this section. The notice shall be served personally or by certified mail upon the person to whom the tax bill for general taxes was sent for the tax year immediately preceding the removal activity.

(D) *Notice of lien.* Within 60 days after the City incurs cost and expense in abatement of any nuisance, the city or any person performing the service by authority of the city, in his, her or its own name, shall be entitled to a lien upon the real estate affected, superior to all other liens and encumbrances except tax liens, and prior recorded liens or encumbrances in reference to grass and weed cutting and superior to all subsequent liens and encumbrances, except tax liens, in reference to abatement of all other nuisances. A notice of lien shall be filed within 60 days in the office of the County Recorder.

(1) The notice shall consist of a sworn statement setting out the following:

(a) A description of the real estate sufficient for identification thereof;

(b) The amount of money representing the cost and expenses incurred or payable for the service; and

(c) The date or dates when such cost and expense was incurred by the municipality.

(2) The notice of the lien shall be enforced and may be released in the manner which is provided by the applicable statute. A copy of the lien notice shall be sent by certified mail to the person to whom was sent the tax bill for the general taxes on the property for the last preceding year. Attached to any such notice shall be a copy of ILCS Ch. 65, Act 5, § 11-20-7 as well as a copy of the applicable provision of this chapter. For purposes of this division (D), the notice of cost, as provided in division (C) of this section, when sent or delivered as aforesaid shall be sufficient to meet the requirements of the notice of lien as provided herein.

(E) *Certification.* If the notice of cost is not paid within 30 days after the date thereof, the City Clerk or his or her designee may certify the same to the County Clerk of the county or place the matter for collection with the Local Debt Recovery Program administered by the State of Illinois. The certification shall contain, to the best of the knowledge and belief of the City Clerk, the name of the owner of the real estate as disclosed on the tax records of the county, a description of the real estate sufficient for identification thereof, the real estate tax number of the real estate and the amount of the costs and expenses incurred. In determining the last date for filing the certification, the last date of payment within the 30 days prescribed shall apply rather than the date the work is performed or the notice originally given. The amount so certified shall be deemed to be levied by the city as an individual assessment against the property involved. No further action need be taken by the corporate authorities to levy the amount.

(F) *Extension of assessment.* The County Clerk of the county shall extend, in the same manner as other taxes relative to real estate, an individual assessment equal to the total of

the amount certified to the County Clerk by the City Clerk of the city. The assessment shall be collected in the same manner as other taxes and paid to the city.

(G) *Recorded notice of assessment.* In addition to filing the above certificate with the County Clerk, the City Clerk, if not collecting through the Local Debt Recovery Program administered by the State of Illinois, shall cause a notice of the assessment to be filed in the office of the Recorder of Deeds in the county at that time. The notice shall certify the description of the real estate sufficient for identification thereof and the amount of the assessment. The recorded copy of the certification to the County Clerk shall be considered sufficient.

(H) *Bona fide purchasers.* The claim of the City pursuant to these provisions shall not be valid as to any purchasers for good and sufficient value and without notice whose rights in and to the real estate have arisen subsequent to the abatement or removal of the nuisance and prior to the filing of the notice with the Recorder of Deeds in the county. If the City Clerk is notified of the existence of a bona fide purchaser for value, the Clerk, or the Clerk's designee, shall, if satisfied that the purchaser is bona fide, abate the individual assessment. The assessment may also be abated if earlier paid. Notice of abatement shall be filed with the County Clerk and Recorder of Deeds of the county. The abatement shall not terminate any claim against the prior owner of the real estate.

(I) *Other remedies.* The above divisions shall not limit any other remedies of the city to collect costs or expenses. A court may, when considering a charge of violating this chapter, order payment of the charges incurred by the city, including attorney's fees incurred by the city. The city may also enforce a lien as in cases of foreclosure.

§ 94.06 ABANDONMENT OF REFRIGERATORS.

No person or entity shall abandon or discard in any place accessible to children within the city any refrigerator, ice box or ice chest of a capacity of one and one-half cubic feet or more, which has an attached lid or door. Further, no owner, lessee or in apparent control, possession, or charge of any such place shall knowingly permit such abandoned or discarded refrigerator, ice box or ice chest to remain there in such condition. Such activity shall also constitute a public nuisance and shall be subject to all remedies and penalties provided in this chapter.

§ 94.07 PRIORITY LIEN.

Charges incurred by the city for removal costs pursuant to § 94.05 or for removal costs incurred pursuant to ILCS Ch. 65, Act 5, § 11-20-7(d), ILCS Ch. 65, Act 5, § 11-20-8(d), ILCS Ch. 65, Act 5, § 11-20-12(d) or ILCS Ch. 65, Act 5, § 11-20-13(e), or securing or enclosing costs pursuant to ILCS Ch. 65, Act 5, § 11-31-1.01 with respect to an abandoned residential property shall become a priority lien, superior to all other liens and encumbrances except tax liens, upon the election of the City and upon adherence or compliance with ILCS Ch. 65, Act 5, § 11-20-15.1.

§ 94.08 OTHER REMEDIES; CHARGING VIOLATIONS.

This chapter shall not limit any other rights or remedies of the city provided in this code or any other ordinance, statute, law, rule or regulation regarding the subject matter of this chapter. These remedies are deemed cumulative. In addition to the foregoing, a violation may be charged under the provisions of this chapter regardless of whether a notice to abate

a nuisance has been given or whether the time to abate a nuisance has expired. It shall be sufficient in charging a violation of this chapter to merely cite “§ 94.01 (Nuisance)” or some equivalent; provided a court may subsequently direct a more specific pleading be filed.

§ 94.09 FORECLOSURE OF LIEN.

(A) In the event the city begins a foreclosure action to enforce a lien including liens provided for in this chapter and in the Illinois Municipal Code, including but not limited to the following:

- (1) ILCS Ch. 65, Act 5, § 11-20-15;
- (2) ILCS Ch. 65, Act 5, § 11-20-15.1;
- (3) ILCS Ch. 65, Act 5, § 11-31-1;

(B) Then the following shall be included in the amount to be recovered by the city in enforcing the lien:

(1) Reasonable attorney fees, costs and expenses incurred by the city in the foreclosure process, costs and expenses incurred by the city in preserving the property, expert witness fees, and all other court costs.

(2) Interest at the rate of 10% per annum from the time that the notice of lien was recorded with the County Clerk.

§ 94.99 PENALTY.

(A) Any person, firm, corporation, or other entity who violates any of the provisions of this chapter and who is issued a notice to appear citation therefore, shall upon conviction or entry of a plea of guilty to such charge, be fined not less than \$150 plus costs nor more than \$750 plus costs. This shall be in addition to any other relief provided in this Code or as the law may afford. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

Section 3: Severability.

All remaining sections of Chapter 94 of the City Code shall remain in full force and effect. In the event a court of competent jurisdiction finds this ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of the ordinance and the application thereof to the greatest extent permitted by law.

Section 4: Effective Date:

This ordinance shall take effect immediately upon passage and publication as required by law.

Dated this ____ day of _____, 2022, pursuant to a roll call vote as follows:

Council Member	Aye	Nay	Abstention	Absent
Austin Tuey – Ward 1				
Melissa Hill – Ward 1				
Richard Owen – Ward 2				
Alan Racey – Ward 2				
Angela Moore – Ward 3				
Ron Pitts – Ward 3				

AYES : _____.

NAYES: _____.

ABSTENTIONS: _____.

ABSENT: _____.

Approved this ____ day of _____, 2022.

Steve Penrod, Mayor

ATTEST:

Aleatha Wright, City Clerk

I, Aleatha Wright, Clerk of the City of Vienna, Johnson County, Illinois, do hereby certify that I am the legal custodian of the records and ordinances of said City of Vienna; that the foregoing is a true and complete copy of Ordinance Amending Chapter 94 (NUISANCES) of the Title IX of the City Code, was fully passed and approved by the City Council of said City of Vienna at a meeting held on _____, 2022; that the same was approved and signed by Steve Penrod, Mayor of the City of Vienna and that said Ordinance shall become effective after its passage and publication; all as appears from the records and file of said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City of Vienna, this ____ day of _____, 2022.

Aleatha Wright. Clerk for the City of Vienna