

368

ORDINANCE NO. F-0009

**AN ORDINANCE AMENDING CHAPTER 58 OF THE WHEATON CITY CODE
BY ADDING NEW ARTICLE VII ENTITLED,
"ABANDONED TENANT PROPERTY/LANDLORD LIABILITY"**

WHEREAS, it has come to the attention of the corporate authorities of the City of Wheaton that landlords of rental property, in pursuing forcible detainer actions against tenants, have caused by court order said tenant's property to be removed from a leasehold and placed on and about the public right-of-way; and

WHEREAS, said tenant property is frequently abandoned by the tenant; and

WHEREAS, when the tenant's property becomes abandoned in the right-of-way adjacent to the leasehold, it becomes a public nuisance and can present a line of sight traffic hazard to both pedestrians and motor vehicles moving on and about the parkway; and

WHEREAS, as a result of said nuisance and traffic hazards, the City of Wheaton has removed abandoned tenant property from said right-of-way; and

WHEREAS, it is the policy of the City of Wheaton that the taxpayers of the City of Wheaton should not be obligated to pay costs associated with the removal of abandoned tenant property from public right-of-ways; and

WHEREAS, it is the policy of the corporate authorities of the City of Wheaton that the landlord causing the placement of the tenant's property to the right-of-way should be liable for the costs incurred by the City of Wheaton in the removal and/or storage of abandoned property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

SECTION 1: Chapter 58, entitled "Streets, Sidewalks and Other Public Places" of the Code of Ordinances of the City of Wheaton is hereby amended by the addition of a new Article VII which shall read as follows:

"ARTICLE VII. ABANDONED TENANT PROPERTY/LANDLORD LIABILITY.

Section 58-209. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Abandoned tenant property shall mean any property removed from a rental premises as a result of a court order or direction of a landlord and placed within a public right-of-way which is not removed by the tenant within 48 hours of its placement.

Landlord shall mean any person renting a leasehold to a tenant.

Right-of-way shall mean any highway, roadway, street, alley, parkway, sidewalk, or area located within a right-of-way owned by the City of Wheaton and dedicated for the public benefit and use.

Tenant shall mean any person or persons leasing property from a landlord.

Tenant property shall mean the personal property of a tenant.

Section 58-210. Landlord responsible for removal of abandoned tenant property on or about the right-of-way.

Any landlord who by order of court or by other means causes tenant property to be placed on or about the right-of-way shall be responsible for the removal of abandoned tenant property from the right-of-way within 48 hours of its placement on or about the right-of-way. If the abandoned tenant property is not removed by the landlord from the public right-of-way within 48 hours of its placement it may be removed by the City. If the City removes abandoned tenant property from a public right-of-way, the landlord causing the placement of the property on the public right-of-way shall be obligated to reimburse the City of Wheaton for any and all costs and expenses incurred by the City of Wheaton in consequence of the City's removal and/or storage of abandoned tenant property.

Section 58-211. Landlord shall pay all costs and expenses incurred by the City.

The landlord shall pay the City the aforesaid costs and expenses within 14 days of mailing by the City of a bill or statement setting forth the costs incurred by the City in consequence of the removal and/or storage of abandoned tenant property. If the costs and expenses are not paid to the City within 14 days, the City may file a lien against the rental property in the full amount of the costs and expenses incurred by the City in consequence of the removal of said abandoned tenant property. The aforesaid lien may be foreclosed in conformance with the requirements of Illinois law. Upon foreclosure, the landlord shall be obligated to reimburse the City for costs and expenses incurred by the City in the removal and/or storage of abandoned tenant property, as well as any and all reasonable attorney's fees and court costs incurred by the City in consequence of the City's efforts to secure payment."

SECTION 2: That should any clause, sentence, paragraph or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 3: In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

SECTION 4: All ordinances or parts of ordinances in conflict with these provisions are repealed.

SECTION 5: That this ordinance shall be in full force and effect commencing on the 20th day of February, 1996 and upon publication in accordance with the law.

ATTEST:

Emily M. Connelly
City Clerk

Mayor Carr
Mayor

Ayes:

Roll Call Vote:

Councilwoman Davenport
Mayor Carr
Councilman Gresk
Councilwoman Johnson
Councilman Mork
Councilwoman Culler

Nays:

None

Absent:

Councilman Eckhoff

Motion Carried Unanimously

Passed: February 20, 1996

Published: February 21, 1996