

Under current law, when the condition of the property may be properly described as a nuisance, the owner (and his or her agent and the occupant of the property) must be informed of the fact by certified mail (or personal service) and provided the opportunity to abate the nuisance. If the owner (or occupant) does not request a hearing or abate the nuisance, the city may do the work and the owner will be responsible for the cost. The city has the option of levying and assessing the cost against the property like other special assessments, or may pursue collection as a civil action against the owner.

The bill proposes several changes.

First, if the certified notice is returned unopened to the city, the owner, his or her agent, and the occupant of the property would receive notice by first class mail. If a hearing had not been requested within ten days, and the nuisance had not been abated, the city could proceed to have the work done.

Second, it provides that, in the case of a new violation of the ordinance within sixty days of the notice provided for the first offense, notice of the new violation and any subsequent violations may be made by first class mail. Again, within ten days of the notice by first class mail, the city may proceed to have the work done if a hearing has not been requested and the nuisance has not been abated.

Third, the original “two month” wait for payment by the city has been amended to four weeks.

The current “special assessment” language has been stricken and restated. The unpaid costs are a “lien” on the property (after four weeks). The cost is assessed as a special assessment and the city clerk certifies the fact to the county clerk of the county in which the property is located. The county clerk causes the certification to be placed on the tax rolls for collection, subject to collection in the same manner and subject to the same penalties as other special assessments.

Explanation of amendments, if any:

A few technical changes are proposed. Again, the changes being made are being made in each of the statutes being amended. Since the proposed changes are identical, they will be explained only once.

First, the language in the bill that permits the notice to be sent by first class mail, following the return of the unopened certified mail is deleted. It was decided that this merely added an additional step which provided no better likelihood of informing the owner of the situation. Instead, language is substituted which specifically states that notice has been given if sent by certified mail to the last known address of the owner or the duly authorized agent as the address appears on the rolls of the county assessor on the date the mail was sent.

Second, in the new subdivision (5) (in each of the statutes being amended), it is made clear that the right to provide the notice by first class mailing after the first violation only applies if the same owner of the property is involved (it could involve a different occupant or agent, but since the owner is “on the hook” for the bill, the looser notice provision should only apply to the same owner). It is made clear that the sixty day period begins to run from the date the initial notice was sent.

Finally, the amendment would specify that the request for a hearing by the owner or occupant of the property on the presence of a nuisance must be made in writing.

Senator D. Paul Hartnett, Chairperson