

CHAPTER 25

NUISANCES

ARTICLE I - GENERALLY

25-1-1 **SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the City, for any person, firm or corporation within the limits of the City to permit the following, but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or allow the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place to the prejudice of others.

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome or impure the water of any spring, river, stream, pond or lake to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore in any building within **five hundred (500) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns at a point different from that appointed according to law by the corporate authorities of the town, or within **one thousand (1,000) feet** of any occupied dwelling house.

(G) **Noxious Odors.** 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.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway, or other public place, without permission of the proper authorities.

(I) **Bodies of Water.** To create any condition, through the improper maintenance of a swimming pool or wading pool, or by causing any action which alters the condition of a natural body of water, so that it harbors mosquitoes, flies or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

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

(K) **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply or from one underground stratum to another.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property when the harassment, intimidation, or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain and carry on any offensive or unwholesome business or establishment within the limits of the City or within **one and one-half (1 ½) miles** of the limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept in a foul, offensive, nauseous or filthy condition, any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the City from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, ashes, garbage, refuse, hazardous waste, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any lot, piece or parcel of land or upon any public or private alley, street or public way within the City.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor or encourage the infestation of rodents.

(T) **Bringing Nuisances into the City.** To bring into the City or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the City, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep any nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Generally.** To commit any offense which is a nuisance according to the common law of the land or made such by statute of the State. **(See 740 ILCS 55/221 - 55/222)**

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained, or operated in the City if such use, keeping and/or maintenance of same shall be dangerous to health.

25-1-3 NOTICE TO ABATE. Whenever the Police Chief or his designated representative finds that a nuisance exists, he shall direct the City Clerk or designated representative to mail (certified) or deliver to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) A statement suggesting how such abatement might be accomplished;
- (E) The date by which abatement must be completed;
- (F) A statement indicating that if the nuisance is not abated by the date prescribed this municipality will abate the nuisance and assess the costs against the property and/or impose a fine. **(Ord. No. 96-97-08; 01-13-97)**

If the City opts to impose a fine, a citation may be issued for each day in which the violation persists. **(Ord. No. 98-99-14; 10-12-98)**

25-1-4 **ABATEMENT OF NUISANCE BY CITY; UNKNOWN OWNER.** It shall be the duty of the Chief of Police to proceed at once upon the expiration of the time specified in the notice to cause such nuisance to be abated, provided, however, that whenever the owner, occupant, agent, or person in possession or control of any premises in or upon which any nuisance may be found is unknown or cannot be found, the Chief of Police shall proceed to abate such nuisance without notice. In either case, the expense of such abatement shall be paid by the person who may have created or suffered such nuisance to exist, in addition to any penalty or fine.

25-1-5 **FAILURE TO COMPLY WITH NOTICE.** If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The corporate authorities shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated. However, a new citation may be issued for each day in which the violation persists. **(Ord. No. 98-99-14; 10-12-98)**

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the City. Any such plants or weeds exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor or City Council may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the City may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-2-6 **LIEN.** Charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (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 service.

(C) The date or dates when said cost and expense was incurred by the City, and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City after the lien is in effect for **sixty (60) days**.

(See 65 ILCS Secs. 5/11-20-6 and 5/11-20-7)

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Mayor, Chief of Police, or the Mayor's designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the City may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the City shall be recorded in the following manner:

- (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 service.
- (C) The date or dates when said cost and expense was incurred by the City and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the City or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

25-3-7 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the City, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

25-3-8 **SCAVENGING.** It shall be unlawful for any person to scavenge or to physically disturb the trash or refuse of any other person or entity with the intent of searching through or removing an item or items from said trash or refuse. **(Ord. No. 05-05-01; 05-10-05)**

25-3-9 **EXCEPTIONS.**

(A) It shall be an exception to this Article for any employee of any private company or government agency, whose sole purpose is the removal of trash or refuse, to disturb the same. Such employee or agent shall not open any closed receptacle except in the ordinary course of employment.

(B) It shall be an exception to this Article for law enforcement officers or their agents to search or confiscate the trash or refuse of any person in this City unless otherwise prohibited by law.

(C) It shall be an exception to this Article for any person, with the permission of the owner of any trash or refuse, to disturb said trash or refuse. **(Ord. No. 05-05-01; 05-10-05)**

25-3-10 **DEFINITIONS.**

(A) **Trash and Refuse.** For the purposes of this Article, trash and refuse shall be defined as any item or items set out by any person in such a manner as to indicate that item or items are discarded and intended by the owner of that item or items to be removed from the premises by authorized persons.

(B) **Disturb.** For the purposes of this Article, to disturb the trash or refuse of another person shall mean to move, open, search through, or otherwise expose the trash or refuse of another person with the intent to examine, remove, or otherwise exert control over said trash or refuse. **(Ord. No. 05-05-01; 05-10-05)**

25-3-11 **PENALTY.** It shall be unlawful for any person to violate any provision of this Article, and any person violating or failing to comply with any provision of this Article shall be fined, upon conviction, not less than **One Dollar (\$1.00)** nor more than **Five Hundred Dollars (\$500.00)**, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues. **(Ord. No. 05-05-01; 05-10-05)**

25-3-12 **SEVERABILITY.** If any section, article, paragraph, sentence, clause, phrase or word in this Article or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this Article, and the City Council hereby declares it would have passed such remaining portions of this Article despite such invalidity, which remaining portions shall remain in full force and effect. **(Ord. No. 05-05-01; 05-10-05)**

25-3-13 SAVINGS. All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any Ordinances prohibiting scavenging through trash have accrued at the time of the effective date of this Article; and, as to such accrued violations and all pending litigations, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Article but may be prosecuted until final disposition by the courts. **(Ord. No. 05-05-01; 05-10-05)**

ARTICLE IV – INOPERABLE AND UNLICENSED VEHICLES

25-4-1 DEFINITIONS.

(A) **Vehicle.** Every device, in, upon or by which any person, property or material or substance is or may be transported, pushed or drawn upon land, except devices moved by human power, and devices used exclusively upon stationary rails or tracks.

(B) **Motor Vehicle.** Every vehicle which is self-propelled, including tractors, dozers, machinery and equipment, except for vehicles moved solely by human power and motorized wheelchairs.

(C) **Inoperable Motor Vehicle.** Any motor vehicle from which the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise as treated that the vehicle is incapable of being driven under its own motor power, whether or not licensed.

(D) **Unlicensed Motor Vehicle.** Any motor vehicle which does not exhibit a current, unexpired license or sticker from the State of Illinois, or any other state. Unlicensed motor vehicle includes automobiles, trucks and motor or motorized cycles.

(E) **Component Parts.** Any component parts of a motor vehicle less than the entire vehicle.

25-4-2 STORAGE OF INOPERABLE MOTOR VEHICLE. It shall be unlawful, within the City, to store or allow any inoperable motor vehicle to be on private property for a period of more than **seven (7) days** unless it is stored within an enclosed building.

25-4-3 STORAGE OF UNLICENSED MOTOR VEHICLE. It shall be unlawful, within the City, to store or allow any unlicensed motor vehicle to be on private property for a period of more than **seven (7) days** unless it is stored within an enclosed building.

25-4-4 **STORAGE OF COMPONENT PARTS.** It shall be unlawful, within the City, to store or allow any motor vehicle component parts to be on private property for a period of more than **seven (7) days** unless it is stored within an enclosed building.

25-4-5 **EXCEPTIONS.** There is hereby excepted from the provisions of **Sections 25-4-2, 25-4-3 and 25-4-4** hereof the storage of any inoperable or unlicensed motor vehicle or component parts on private property in connection with the operation of any lawfully operated business which said business is operated in compliance with all of the ordinances of the City and which requires such storage as an integral part of said business.

25-4-6 **NOTIFICATION OF OWNER.** The Police Department shall notify the owner of the property upon which any offending motor vehicle or motor vehicle component parts, or the owner of such motor vehicle or component parts, or both, informing him or them that he or them shall dispose of any inoperable vehicles or motor vehicle component parts under his or their control. If the owner fails to dispose of said inoperable vehicle(s) or motor vehicle component parts after **seven (7) days** from the issuance of the notice, the Police Department may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof in addition to issuing a citation or citations for a violation of **Sections 25-4-2, 25-4-3 and 25-4-4** of this Article.

25-4-7 **PENALTY.** Any violation of this Article shall be punishable by a fine of not less than **One Hundred Dollars (\$100.00)** for each offense. Each day that the violation occurs shall be considered a separate offense.

**(See 65 ILCS Sec. 5/11-40-3 and 5/11-60-2)
(Ord. No. 00-01-04; 08-14-00)**

ARTICLE V - BUILDING AS NUISANCE

25-5-1 BUILDING CONDITION - NUISANCE. The Building Inspector or his designated representative shall report to the City Council when any building in the City is in a dangerous condition and constitutes a nuisance. Hereinafter, all references to Building Inspector shall include "his designated representative".

25-5-2 TIME LIMIT. The owner of such building shall repair or alter it so as to make it safe within **ninety (90) days** from the time the notice is served upon him in the manner provided by law.

25-5-3 NOTIFICATION. The Building Inspector with the approval of the City Council shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the City officials. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until such notice is complied with."

25-5-4 DANGEROUS AND UNSAFE BUILDING DEFINED. All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the City.

(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or general welfare of the people of this City.

(J) Those buildings existing in violation of any provision of the Building Code of this City, or any provision of the Fire Prevention Code, or any other ordinances of the City.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

25-5-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.

The following standards shall be followed in substance by the Building Inspector in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" if **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the City, or statute of the State of Illinois, it shall be demolished. **(See "Non-Conforming Uses" of the Zoning Code)**

25-5-6 **DANGEROUS AND UNSAFE BUILDINGS - NUISANCES.** All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore or hereinafter provided.

25-5-7 **DUTIES OF THE ATTORNEY.** The City Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Building Inspector.

25-5-8 **LIENS.** The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the City or person performing the service by authority of the City, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

- (A) A description of the real estate sufficient for identification therefor;
- (B) The amount of money representing the cost and expense incurred or payable for the service; and
- (C) The date or dates when said cost and expense was incurred by the City.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the City or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.