

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 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 suffer 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 watercourse, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome or inure 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, use, or continue to 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) **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.

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

(K) **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.

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

(M) **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.

(N) **Accumulations of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, ashes, garbage, refuse, plastic, brush, litter, weeds, building material, appliances, 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.

(O) **Accumulations of Yard Waste.** To deposit or pile up limbs, grass clippings, leaves or anything generated from a yard or property upon any lot, piece or parcel of land or upon any public or private alley, street, or public way within the City.

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

(Q) **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.

(R) **Offensive Liquids.** To keep 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.

(S) **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 Secs. 55/221 – 55/222)**

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

25-1-3 **NOTICE TO ABATE.** Whenever the Police Department, the Code Enforcement Office or any other person so designated by the Mayor or City Council finds that a nuisance exists, a written notice shall be served on the party responsible for the nuisance and on the owner, occupant or lessee on whose property the nuisance exists ordering that the nuisance be abated within **five (5) days** after such notice has been duly served. The notice to abate shall contain:

- (A) A description of 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 nuisances to be deemed abated;
- (D) The date by which abatement must be completed; and
- (E) A statement indicating that if the nuisance is not abated by the date prescribed, this Municipality will abate the nuisance and assess the costs of abatement and/or impose a fine.

(F) **Service of Notice.** Service of the notice provided for herein may be effected by any of the following methods:

- (1) 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;
- (2) By mailing such notice to the last known residence address of the owner, occupant or lessee; or
- (3) By posting the notice upon the premises.

(Ord. No. 10-12; 06-08-10)

25-1-4 **ABATEMENT BY CITY.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this Municipality may perform the required action to abate. Any municipal official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefore. The official who abates a nuisance shall keep an accurate account of the expenses incurred. **(See 65 ILCS Sec. 5/11-60-2)**
(Ord. No. 06-26; 09-19-06)

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 nuisances within the time specified, such person shall be guilty of a violation of this Article. 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.

Failure to abate a nuisance under provisions of this Article after notice shall be punishable by a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day that the nuisance continues unabated after notice shall constitute a separate offense. In

addition to the fine assessed hereunder, the violator will be liable for the cost and expense incurred or payable by the City for abating the nuisance. The minimum cost for abatement will be **Two Hundred Fifty Dollars (\$250.00)**, in addition to the imposed fines. The violator shall also be liable for reasonable attorney's fees incurred in prosecuting the Code violation. **(Ord. No. 06-26; 09-19-06)**

25-1-6 **PAYMENT.** Charges for such abatement shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the abatement shall be presented to the owner, occupant or lessee. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of discontinuation of water services may be sent out in the same manner as the original notice. If said expenses are not paid within **thirty (30) days** of submission of the discontinuation notice, the water service to the premises may be discontinued. **(Ord. No. 06-26; 09-19-06)**

25-1-7 **LIEN.** If the charges for such abatement, including costs, expenses and attorneys' fees, remain unpaid, a notice of lien shall be filed in the office of the Jackson County Clerk, within **sixty (60) days** after the cost and expense for the abatement was incurred. The notice of lien shall consist of a sworn statement setting out:

- (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. **(Ord. No. 06-26; 09-19-06)**

25-1-8 **FORECLOSURE OF LIEN.** Property subject to a lien hereunder 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**. The City shall be entitled to reasonable attorney's fees, costs and expenses incurred in foreclosure. **(Ord. No. 06-26; 09-19-06)**

(Ord. No. 00-25; 06-13-00)

ARTICLE II - WEEDS

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

Burdock, Ragweed (giant), Thistle, Ragweed (common), 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 and Johnson 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, the Code Enforcement Office 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, occupant or lessee within **five (5) days** after such notice has been duly served. **(Ord. No. 10-12; 06-08-10)**

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by any of the following methods:

(A) 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;

(B) By mailing such notice to the last known residence address of the owner, occupant or lessee; or

(C) By posting the notice upon the premises.

(Ord. No. 06-27; 09-19-06)

25-2-5 **ABATEMENT.** Failure to abate a nuisance under provisions of this Article after Notice shall be punishable by a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day that the nuisance of excessive weed or grass growth continues unabated after Notice shall constitute a separate offense. In addition to the fine assessed hereunder, the violator will be liable for any cost and expense incurred or payable by the City for abating the nuisance. The minimum cost for abatement will be **Two Hundred Fifty Dollars (\$250.00)**, in addition to the imposed fines. The violator shall also be liable for reasonable attorney's fees incurred in prosecuting the Code violation. **(Ord. No. 06-27; 09-19-06)**

25-2-6 **PAYMENT.** 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, occupant or lessee. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of discontinuation of water services may be sent out in the same manner as the original notice. If said expenses are not paid within **thirty (30) days** of submission of the discontinuation notice, the water service to the premises may be discontinued. **(Ord. No. 06-27; 09-19-06)**

25-2-7 **LIEN.** If the charges for such weed or grass removal, including costs, expenses and attorney's fees, remain unpaid, upon compliance with **65 ILCS 5/11-20-7**, a notice of lien shall be filed in the office of the Jackson County Clerk, within **sixty (60) days** after the cost and expense for the removal was incurred. The notice of lien shall consist of a sworn statement setting out:

- (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. **(Ord. No. 06-27; 09-19-06)**

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien hereunder 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**. The City shall be entitled to reasonable attorney's fees, costs and expenses incurred in the foreclosure. **(Ord. No. 06-27; 09-19-06)**

(Ord. No. 00-25; 06-13-00)

(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 therefrom.

(A) **Covered Containers.** All containers used for the temporary storage of garbage or trash shall have a lid or cover and said lid or cover shall be securely placed on such container at all times when garbage or trash is being temporarily stored therein.

(B) **Separate Containers.** Garbage and trash shall be temporarily stored in separate containers. Garbage is defined as food wastes for purposes hereof.

(C) **Method.** Garbage shall be drained and stored in durable, non-absorbent, water tight and easily cleanable containers which shall have close fitting covers and shall be of not more than **fifty-five (55) gallon** capacity except that larger containers may be used if collection vehicles are equipped to handle such containers. Rubbish shall be stored in durable containers with close fitting covers except that bulky rubbish, such as large cardboard boxes may be bundled so as not to exceed **seventy (70) pounds** or **eight (8) feet** in length.

25-3-2 **NOTICE.** The Police Department, the Code Enforcement Office or any other person so designated by the Mayor or City Council may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner, occupant or lessee within **five (5) days** after such notice has been duly served. **(Ord. No. 10-12; 06-08-10)**

25-3-3 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by any of the following methods:

(A) By handling 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;

(B) By mailing such notice to the last known residence address of the owner, occupant or lessee; or

(C) By posting the notice upon the premises.

(Ord. No. 06-28; 09-19-06)

25-3-4 **ABATEMENT.** Failure to abate a nuisance under provisions of this Article after notice shall be punishable by a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense. Each day that the nuisance continues unabated after notice shall

constitute a separate offense. In addition to the fine assessed hereunder, the violator will be liable for the cost and expense incurred or payable by the City for abating the nuisance. The minimum cost for abatement will be **Two Hundred Fifty Dollars (\$250.00)**, in addition to the imposed fines. The violator shall also be liable for reasonable attorney's fees incurred in prosecuting the Code violation. **(Ord. No. 06-28; 09-19-06)**

25-3-5 **PAYMENT.** Charges for such garbage or debris 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, occupant or lessee. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of discontinuation of water services may be sent out in the same manner as the original notice. If said expenses are not paid within **thirty (30) days** of submission of the discontinuation notice, the water service to the premises may be discontinued. **(Ord. No. 06-28; 09-19-06)**

25-3-6 **LIEN.** If the charges for such garbage or debris removal, including costs, expenses and attorney's fees, remain unpaid, upon compliance with **65 ILCS 5/11-20-13**, a notice of lien shall be filed in the office of the Jackson County Clerk, within **sixty (60) days** after the cost and expense for the removal was incurred. The notice of lien shall consist of a sworn statement setting out:

- (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. **(Ord. No. 06-28; 09-19-06)**

25-3-7 **FORECLOSURE OF LIEN.** Property subject to a lien hereunder 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**. The City shall be entitled to reasonable attorney's fees, costs and expenses incurred in foreclosure. **(Ord. No. 06-28; 09-19-06)**

(Ord. No. 00-25; 06-13-00)

(See 65 ILCS Sec. 5/11-20-13)

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

"INOPERABLE MOTOR VEHICLES" shall mean any motor vehicle which, for a period of at least **seven (7) days** or any greater period fixed by law, the engine, wheels or other parts have been removed; or in which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

25-4-2 **DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

25-4-3 **NOTICE TO OWNER.** The Police Department shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) 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.

ARTICLE V – OPEN BURNING

25-5-1 BURNING TRASH LIMITED.

(A) It shall be unlawful for any person, firm, or corporation to burn any trash within the corporate limits of the City other than landscape waste (trees, bushes, branches, trimmings, leaves, or grass). Prior to burning such landscape waste, the individual doing the burning must notify the fire department in advance so that appropriate action(s) may be taken. The burning of landscape waste is prohibited between the hours of **six o'clock (6:00) P.M. to Midnight (12:00)** and between the hours of **Midnight (12:00) to six o'clock (6:00) A.M.**

(B) Burning shall only be permitted on property owned or leased by the person conducting the burning and shall only be of landscape waste generated from that same premises. Burning landscape waste generated from a premises other than where the burning is conducted shall be unlawful.

(C) The burning shall be conducted entirely on private property and not on any street, alley, sidewalk, public way or public property.

(D) The fire shall be attended at all times by a responsible adult at least **eighteen (18) years** of age.

(E) The fire shall be completely extinguished by **6:00 P.M.**

(F) Burning as part of a commercial operation shall be unlawful.

25-5-2 RECREATIONAL FIRES. Section 25-5-1 does not apply to recreational fires. Recreational fires are permitted on private property only under the following conditions:

(A) The fire shall be contained in a surface area not exceeding **nine (9) square feet** either on cleared earth enclosed on the sides by masonry or rock materials or in a metal container.

(B) Any fuel used shall be confined to logs or branches that are untreated or commercially available charcoal briquettes, and no leaves, grass or processed or milled lumber shall be burned. No other fuels are permissible except a starter fuel designed for that purpose.

(C) A responsible adult of at least **eighteen (18) years** of age shall be in attendance at all times that the fire is burning. When adult supervision ceases, the fire shall be extinguished with water and the coals spread out in the enclosure.

(D) Fires shall be extinguished at the direction of and in the sole discretion of any member of the fire department or police department.

(E) The fire department shall be notified in advance of any fire.

25-5-3 **BURN BAN.** The Fire Chief, or his designee, is authorized to declare a burn ban, and it shall be unlawful to conduct any burning during a burn ban. Prior to any burning, it is the duty of the person conducting the burning to notify the fire department in advance and to inquire of the fire department if a burn ban is in effect.

25-5-4 **PROVISIONS APPLICABLE TO ALL FIRES.**

(A) All fires or burning shall be located so that as to a prudent person, it shall not endanger any structure, life or property.

(B) Fires or burning shall only be allowed when atmospheric conditions will readily dissipate contaminants.

(C) No fires or burning shall be allowed at any time when the wind velocity, to a prudent person, is such as to cause the fire to be a hazard to life or property.

(D) The fire department shall have the discretion to deny to any person, at any time, the right to burn or to a fire permitted under this Article, based upon, but not limited to, atmospheric conditions, wind velocity, dry conditions or otherwise.

25-5-5 **CHARGES FOR RESPONDING TO FIRE.** Any person violating this Article, in addition to all fines and penalties imposed, or for any authorized burning to which the fire department responds, the person conducting the burning and the property owner shall be, jointly and severally, liable to the City for all costs of the City incurred in responding to a fire, as follows:

(A) The reasonable costs of each vehicle responding as determined by the responding department, but in no case less than **Five Hundred Dollars (\$500.00)** per hour per vehicle; and

(B) The cost of all personnel, including any overtime costs to the City incurred as a result of the fire; and

(C) The cost of all materials, water and equipment used, expended, depleted, destroyed or removed from service as a result of the fire.

(Ord. No. 12-17; 12-11-12)

ARTICLE VI – TRASH COLLECTION

25-6-1 PROHIBITION OF TRASH COLLECTION OR PICK UP BETWEEN 9:00 P.M. TO 6:00 A.M. It shall be unlawful for any person, firm or corporation to collect and/or pick up or otherwise gather any trash within the City between the hours of **9:00 P.M.** to **6:00 A.M.**

(Ord. No. 04-01; 02-10-04)