

CHAPTER 12

NUISANCE

12.01 PUBLIC NUISANCES PROHIBITED

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city, or within its police jurisdiction.

12.02 PUBLIC NUISANCES DEFINED

(a) **Generally.** A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
2. In any way render the public insecure in life or in the use of property;
3. Greatly offend the public morals or decency;
4. Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way.

(b) **Public Nuisances Effecting Health.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of subsection (a) of this section:

1. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
2. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
3. Accumulations of decayed animal or vegetable matter, junk, vehicles, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or which constitute a fire hazard;
4. All stagnant water in which mosquitoes, flies or other insects can multiply;
5. The allowing of water to accumulate and remain in a pond or ponds either wholly or partly within the limits of any private property for a period of more than 10 consecutive days;

The term "pond" shall be considered to mean any exposed surface of water not less than 100 square feet in area which has accumulated either by natural or artificial means, in any depression or connected series of depressions of excavation, whether existing naturally or created artificially.

6. Garbage cans which are not fly-tight;
7. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the city limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property;

8. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;

9. Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious, or disagreeable odors, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the city;

10. Any barn, stable, yard, shed, pen or other place where animals or fowl are kept which is not maintained in a clean condition; or any animals or fowl which because of disease, unsanitary conditions, odor or noise, discomfort or injure the health or well being of residents of the city;

11. All abandoned wells not securely covered or secured from public use;

12. All noxious weeds as defined by Chapter 18 of the Illinois Revised Statutes;

13. Any violation of the Building Code, Property Maintenance Code, Fire Prevention Code, or Zoning Ordinance or the condition of any premises declared by the City Council to be a nuisance.

(c) **Public Nuisances Offending Morals and Decency.** The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of subsection (a) of this section:

1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

2. All gambling devices and slot machines;

3. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by this code;

4. Any place or premises within the city where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously repeatedly and intentionally violated;

5. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the State of Illinois or the ordinances of the city.

(d) **Public Nuisances Effecting Peace and Safety.** The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of subsection (a) of this section:

1. All buildings erected, repaired or altered within the fire limits of the city in violation of the provisions of the ordinances of the city relating to materials and manner of construction of buildings and structures within said district.

2. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing.

3. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.
4. All limbs of trees which project over a public sidewalk less than 8 feet above the surface thereof or less than 10 feet above the surface of a public street.
5. All use or display of fireworks except as provided by the laws of the State of Illinois and ordinances of the city.
6. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use.
7. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground.
8. All loud and discordant noises or vibrations or any kind.
9. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose has been accomplished.
10. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
11. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside by pushing with the strength of a small child.
12. Any structure, material or condition which constitutes a fire hazard or will impair extinguishing a fire.
13. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.
14. Any packing house, renderies, tallow candleries, glue and bone factories, soap factories, and tanneries within the city or within the distance of one mile outside the city limits.
15. Any building, or other place, for the exercise of any trade, employment or manufacture which, by occasion of noxious exhalations, offensive smells, or otherwise, is offensive or dangerous to the health of individuals or of the public.
16. Any abandoned vehicle.
17. Any violation of the Building Code, Property Maintenance Code, Fire Prevention Code or Zoning Ordinance or the condition of any premises declared by the City Council to be a nuisance.
18. Any nuisance described in the Illinois Revised Statutes.

12.03 ABATEMENT OF PUBLIC NUISANCES

(a) **Inspection of Premises.** Whenever complaint is made that a public nuisance exists, or has existed, within the city, the Health Officer, Chief of Police, or Building Commissioner, or some other city official whom the Mayor shall designate, shall forthwith inspect or cause to be inspected the premises and shall make a written report of his findings. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the City Clerk.

(b) **Summary Abatement.**

1. **Notice to Owner.** If the inspecting officer shall determine that a public nuisance exists on private property and that there is a great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the Chief of Police, or a deputy sheriff, to serve a notice on the owner, or if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the city will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

2. **Abatement by City.** If the nuisance is not abated within the time provided or if the owner, occupant or persons causing the nuisance cannot be found, the Health Officer, Chief of Police or the Building Commissioner, or some other city official whom the Mayor shall designate, shall cause the abatement or removal of such public nuisance.

(c) **Abatement by Court Action.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the City Council which shall cause an action to abate such nuisance to be commenced in the name of the city.

12.04 COST OF ABATEMENT

In addition to any other penalty imposed for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes.

12.05 WEEDS

(a) **Nuisance.** Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the city are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place.

(b) **Height.** It shall be unlawful for any person to permit any weeds or plant growth in excess of 8 inches, such are declared to be a nuisance. Weeds shall be defined as all grasses, annual plants or vegetation, other than trees or shrubs; however, this term shall not include cultivated flowers and gardens.

(c) **Barberry Bushes.** It shall be a nuisance and unlawful to plant or permit the growth of the bush of the species of tall, common or European barberry, further known as *barberis vulgaris* or its horticultural varieties within the city.

(d) **Removal; Notice.** It shall be the duty of the Health Officer to serve or cause to be served a notice upon the owner or occupant of any premises on which weeds or plants are permitted to grow in violation of the provisions of this section and to demand the abatement of the nuisance within 10 days.

(e) **Abatement.** If the person so served does not abate the nuisance within 10 days the Superintendent of Streets 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.

(f) **Lien.** Charges for such weed removal shall be a lien upon the premises. Whenever a bill for such charges remains unpaid for 60 days after it has been rendered, the City Clerk may file a lien with the Recorder of Deeds. This lien shall contain a legal description of the premises, the expenses and costs incurred and the date the weeds were cut, and a notice that the city claims a lien for this amount. Notice of such lien claims shall be mailed to the owner of the premises if his address is known. Failure of the Clerk to record such lien claim or to mail such notice, or the failure of the owner to receive such notice, shall not affect the right to foreclose the lien for such charges as provided in the following section.