

4. HEALTH, SANITATION & ENVIRONMENT

TITLE 4

HEALTH, SANITATION AND ENVIRONMENT

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CHAPTER 1

NUISANCES

ARTICLE A. NUISANCES GENERALLY

SECTION:

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4-1A-1: **NUISANCES ENUMERATED:**

A. 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:

1. Common Law Nuisances: To commit any act which is a nuisance according to the common law of the land or made such by Statute of the State.

2. Bringing Nuisances Into 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.

3. Offensive Conditions And Premises:

a. To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected or deposited or to remain in any place to the prejudice of others.

b. To keep or suffer to be kept 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 to be dangerous or detrimental or to the prejudice of others.

4. Deposit Of Offensive Materials: To throw or deposit any offal or other offensive matter or the carcass of any dead animal into any watercourse, lake, pond, spring, well or common sewer or street or public highway.

5. Offensive Liquids: To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, or permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premises 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.

6. Offensive 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 ($1\frac{1}{2}$) miles of the City limits.

7. Water Pollution: To corrupt or render unwholesome or impure the water of any spring, river, stream, pond, lake, or public or private well to the injury or prejudice of others.

8. 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.

9. Dense, Offensive Smoke: To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the City so as to cause annoyance or discomfort to the residents thereof.

10. Public And Private Ways Encroachment: To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

11. Littering: 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.

12. Accumulation Of Junk, Trash And Debris:

a. To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the City.

b. 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 or dangerous to the health of individuals or the public.

c. Persons who generate junk as part of normal construction or manufacturing activities shall screen all junk collected or stored from public view with an opaque fence.

13. Scrap Tires: To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

14. Rodents: To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

15. 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.

16. Gunpowder:

a. Manufacturing: To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefor, in any building within three hundred feet (300') of any building erected at the time such business may be commenced.

b. Magazines: To establish powder magazines near the City at a point different from that appointed according to law by the Corporate

Authorities of the City or within eight hundred feet (800') of any occupied dwelling.

17. Real Estate 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.

18. Expectorating In Public: To expectorate on any public sidewalk or street or other public building or floor or walk of any public vehicle or hall.

19. Motor Transport Engines: To operate motor vehicle transport engines between the hours of eight o'clock (8:00) P.M. and six o'clock (6:00) A.M. the following day, in any place in which a majority of the buildings, within a radius of four hundred feet (400'), is used exclusively for residence purposes, excluding State and Federal highways. (2008 Code § 25-1-1; amd. 2019 Code)

B. Nothing in this section shall be construed to prevent the Corporate Authorities of the City from declaring what shall be nuisances and abating them within the City limits. (2008 Code § 25-1-1)

4-1A-2: **HEALTH NUISANCES 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 or maintaining shall be dangerous or detrimental to health. (2008 Code § 25-1-2)

4-1A-3: **PROVISIONS CUMULATIVE:** The various nuisances described and enumerated in this chapter shall not be deemed to be exclusive but shall be in addition to all other nuisances described and prohibited by City ordinances. (Ord. 2013-13, 10-4-2013)

4-1A-4: **ABATEMENT PROCEDURE:** Any person causing a "nuisance" as defined in section 4-1A-1 or 4-1A-2 of this article, and the owner, occupant or lessee of land on which any nuisance exists, is

required to abate or remove the nuisance within ten (10) calendar days after notice, in writing, mailed to him or her by the Enforcement Officer by certified mail, return receipt requested, at his or her last known address ascertainable by the City, notifying him to abate or remove the nuisance. Where an imminent threat to health or safety is involved, the Mayor may specify a period of time shorter than ten (10) days for correction of the nuisance, and the person causing the nuisance and the owner and occupant thereof shall be required to correct the nuisance within the time prescribed in the notice. The notice shall include at least the following matters: (Ord. 2013-13, 10-4-2013; amd. 2019 Code)

- 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. The date by which abatement must be completed. (Ord. 2013-13, 10-4-2013)

4-1A-5: **ENFORCEMENT OFFICIAL:** Enforcement of this article shall be by the City Enforcement Officer, who shall be so designated by the Mayor, with the advice and consent of the City Council. (Ord. 2013-13, 10-4-2013; amd. 2019 Code)

4-1A-6: **PENALTIES:**

- A. Any person who shall violate this article shall, on conviction thereof, be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each violation. Each day during which a violation continues beyond the specified time for correction shall constitute a separate punishable offense.
- B. In addition to the penalties prescribed herein, the City may avail itself of all legal and equitable remedies permitted by the Illinois Municipal Code and other Statutes of the State to abate a nuisance including, but not limited to, seeking preliminary and permanent injunctive relief. (Ord. 2013-13, 10-4-2013)

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ARTICLE B. VEGETATION, RUBBISH AND PESTS

SECTION:

- 4-1B-1: Definitions
- 4-1B-2: Nuisances Declared
- 4-1B-3: Failure Of Owner Or Occupant To Remove; Removal By City; Costs
- 4-1B-4: Contract For Or Removal By City; Costs
- 4-1B-5: Enforcement Official
- 4-1B-6: Penalties

4-1B-1: **DEFINITIONS:** As used in this article, the following terms have the following definitions:

**NUISANCE
VEGETATION:**

Includes:

A. Trees, shrubs, bushes, weeds (as defined herein) or plants permitted to grow on premises adjacent to any street or alley or other public way in a manner as to obstruct the view and endanger traffic conditions.

B. Weeds (as defined herein) and dead or dying trees or bushes, stumps and roots on land within the City.

C. Elm trees infected with Dutch elm disease or ash trees infected with the emerald ash borer.

PESTS:

Undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals,

but does not include a feral cat, a "companion animal" as that term is defined in the Humane Care for Animals Act¹, "animals" as that term is defined in the Illinois Diseased Animals Act², or animals protected by the Wildlife Code³.

RUBBISH:

Any unsightly material, waste products, refuse, debris, trash or waste lumber deposited, left, piled or scattered that may become a breeding place for insects, rodents or vermin or that may give off unpleasant odors or create a health or fire hazard where located.

WEEDS:

An annual or perennial herbaceous plant of volunteer growth, not cultivated or useful for human food or enjoyment and shall include, but not be limited to, the following: jimson, burdock, ragweed, thistles of all kinds, cocklebur, barberry (tall, common or other horticultural varieties), poison ivy, yellow dock, Indian mallow, sweet clover, wild mustard (including black mustard and yellow mustard), May weed, lambs' quarters, pigweed, beggar ticks, wild lettuce, shepherds purse, smart weed, sow thistle, tumbleweed, milkweed, dandelions, etc.; any plant that, when in blossom, gives off an unpleasant or obnoxious odor or pollen irritating to human tissue; any plant growth that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry; grass that is more than ten inches (10") in height; random growth or volunteer growth of bushes or brush that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry; or any plant that causes or adds its influence in bringing on hay fever; or other similar or noxious plant; and all plants fitting within the term "weeds" as used in the Illinois Municipal Code. (Ord. 2014-8, 6-2-2014; amd. 2019 Code)

1. 510 ILCS 70/1 et seq.

2. 510 ILCS 50/1 et seq.

3. 520 ILCS 5/1.1 et seq.

4-1B-2: **NUISANCES DECLARED:** Nuisance vegetation, rubbish, weeds and pests, as defined in section 4-1B-1 of this article, are hereby declared to be nuisances. (Ord. 2014-8, 6-2-2014)

4-1B-3: **FAILURE OF OWNER OR OCCUPANT TO REMOVE;
REMOVAL BY CITY; COSTS:**

- A. In all cases where the owner, occupant or lessee of real estate on which there is rubbish, pests or nuisance vegetation, shall: 1) fail to cut or remove nuisance vegetation; 2) fail to remove rubbish; or 3) fail to prevent or exterminate pests within seven (7) calendar days after notice in writing, mailed to him or her by certified mail, return receipt requested, at his or her last known address ascertainable by the City, notifying him or her to: 1) cut or remove nuisance vegetation; 2) remove rubbish; or 3) prevent or exterminate pests, the Enforcement Officer may cause the nuisance vegetation to be cut, trimmed or removed, or the rubbish removed or pests exterminated or removed. Nuisance vegetation, when cut down, shall be removed from the lot or disposed of in such manner as not to create a nuisance or hazard.
- B. The entire expense for removal shall be chargeable to both the person who owns and the one who controls the real estate, to be collected by suit or otherwise, in addition to the penalty prescribed in this chapter. The seven (7) days referred to in subsection A of this section shall begin from date of such mailing. In the alternative to mailing the notice, the notice may be hand delivered by a City police officer, and the seven (7) days will begin to run from the date of hand delivery. Notice to a violator may be, but is not required to be, in the form of attachment A on file in the City.
- C. Any person liable hereunder for payment of the foregoing expense to the City shall pay the full amount of said charge within seven (7) days after the date of mailing the statement to owner, occupant or lessee at his last known address or said charge shall be delinquent. Failure to pay the charge within the time specified shall thereafter subject the violator to a penalty of ten percent (10%) of the unpaid amount of said delinquent charge or ten dollars (\$10.00), whichever is greater, which shall be collected as part of said delinquent charge. (Ord. 2014-8, 6-2-2014; amd. 2019 Code)

4-1B-4: CONTRACT FOR OR REMOVAL BY CITY; COSTS:

- A. Contract Authorized: If the person served with notice fails or refuses to remedy the violation, the violation may be removed or remedied by private contractors hired by the City, or, at the discretion of the Enforcement Officer after consultation with the Mayor, by City personnel.
- B. Charges:
1. The City hereby establishes a charge, payable to the City, of one hundred dollars (\$100.00) per hour or any portion thereof for the use of City employees, equipment and fuel for removal of rubbish, pests and nuisance vegetation. The Corporate Authorities of the City hereby find that said charge is fair and reasonable to recompense the City for its expenses. (Ord. 2014-8, 6-2-2014)
 2. In the event the Enforcement Officer contracts with a third party for the removal of rubbish or nuisance vegetation, the charge to any person in control, the owner, occupant or lessee shall be the City's out of pocket expenses, plus a twenty five dollar (\$25.00) service charge for administering the contract, which the Corporate Authorities find to be fair and reasonable to recompense the City.
- C. Lien Provisions:
1. Costs A Lien: In the event that the nuisance vegetation, pest or rubbish removal expense remains unpaid for more than seven (7) days after said service is performed and expense incurred by the City, the unpaid charge shall constitute a lien upon the real estate, and the City Office Manager may file a notice of lien in the Office of the Recorder of Deeds of Macoupin County and mail a copy of the lien to the last ascertainable owner of record. (Ord. 2014-8, 6-2-2014; amd. 2019 Code)
 2. Release Of Lien: Upon payment of all costs, expenses, charges and penalties, the lien created under this section shall be released by the City, which release shall be filed of record in the same manner as filing notice of the lien, pursuant to law, the expense of said filing to be paid by the violator.
 3. Foreclosure Of Lien: In addition to any other action authorized by this article or by the Illinois Municipal Code, the City may, to the extent permitted by law, bring suit to foreclose the lien and to sue the owner or lessee or occupant of the real estate or their agent, in a

civil action to recover the money due for services rendered, plus all expenses and reasonable attorney fees to be fixed by the court. Any such judgment shall be enforced in accordance with law. In addition to the charges due, the City is entitled to collect the costs of filing notice of lien, foreclosing said lien and litigation costs, together with all office and legal expense incurred in connection with the collection of the amount due. (Ord. 2014-8, 6-2-2014)

4-1B-5: **ENFORCEMENT OFFICIAL:** Enforcement of this article shall be by the City Enforcement Officer, who shall be so designated by the Mayor, with the advice and consent of the City Council. (Ord. 2014-8, 6-2-2014; amd. 2019 Code)

4-1B-6: **PENALTIES:**

- A. Any person who shall violate any provisions of this article shall, on conviction thereof, be punishable by a fine of not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each violation. Each day during which a violation continues beyond the specified time for correction shall constitute a separate punishable offense.
- B. In addition to the penalties and liens prescribed herein, the City may avail itself of all legal and equitable remedies permitted by the Illinois Municipal Code and other Statutes of the State to abate a nuisance including, but not limited to, seeking preliminary and permanent injunctive relief. (Ord. 2014-8, 6-2-2014)

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ARTICLE C. GARBAGE AND DEBRIS

SECTION:

- 4-1C-1: Accumulation Prohibited; Nuisance Declared
- 4-1C-2: Notice Requirements
- 4-1C-3: Abatement By City; Costs
- 4-1C-4: Lien Provisions

4-1C-1: **ACCUMULATION PROHIBITED; NUISANCE DECLARED:**
 No person shall permit any garbage or trash to accumulate on his premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the person in control, the owner or the occupant of real estate to refuse or neglect to remove the garbage or debris. (2008 Code § 25-3-1; amd. 2019 Code)

4-1C-2: **NOTICE REQUIREMENTS:**

- A. The Chief of Police or a 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. (2008 Code § 25-3-2)
- B. Service of notice provided for herein may be effected by handing of 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 is unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises. (2008 Code § 25-3-3)

4-1C-3: **ABATEMENT BY CITY; COSTS:** If the person so served does not abate the nuisance within five (5) days, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by the owner or occupant. (2008 Code § 25-3-4)

4-1C-4: **LIEN PROVISIONS:** Failure to pay charges for removal may be a lien upon the premises. If a lien is filed, the following procedures shall apply:

- A. **Bills For Service; Notice Of Lien:** 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 expense thereof incurred by the City shall be recorded in the following manner: (2008 Code § 25-3-5; amd. 2019 Code)
1. A description of the real estate sufficient for identification thereof.
 2. The amount of money representing the cost and expense incurred or payable for the service.
 3. 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. (2008 Code § 25-3-5)
- B. **Release Of Lien:** 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. (2008 Code § 25-3-6)
- C. **Foreclosure Of Lien:** Property subject to a lien for unpaid charges shall be sold for nonpayment 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. Suit to foreclose this lien shall be commenced within two (2) years after the date of filing notice of lien. (2008 Code § 25-3-7)

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ARTICLE D. DANGEROUS BUILDINGS

SECTION:

4-1D-1:	Definition
4-1D-2:	Nuisance Declared
4-1D-3:	Abatement Procedures
4-1D-4:	Enforcement Official
4-1D-5:	Violations; Penalty

4-1D-1: **DEFINITION:** As used in this article, the term dangerous building includes any building, shed, fence or other manmade structure with one or more of the following characteristics:

- A. It is dangerous to the public health because of its construction, age, lack of proper repair or any other cause or condition which causes or aids or may cause or aid in the spread of disease, or the harboring and spread of rodents, insects or other vermin, or garbage, debris, and other hazardous, noxious, or unhealthy substances or materials, or which causes or may cause injury to the health of the occupants thereof or of neighboring structures.
- B. Because of faulty construction, age, lack of proper repair or any other cause, it is especially liable to fire and constitutes or creates a fire hazard.
- C. Because of faulty construction, age, lack of proper repair or any other cause, it is liable to cause injury or damage by collapsing or the falling of any part of such structure.
- D. Because of its condition or because of lack of doors or windows, it is available to and is frequented or may be frequented by malefactors or other persons who are not lawful occupants of such structure, or it poses an attractive nuisance to children.

- E. It contains any interior wall or other vertical structural member which lists, leans or buckles to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- F. Exclusive of the foundation, it shows 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.
- G. It has 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.
- H. It is uncompleted or abandoned. (Ord. 2013-11, 10-4-2013)

4-1D-2: **NUISANCE DECLARED:** Any dangerous building in the City is hereby declared to be a nuisance. (Ord. 2013-11, 10-4-2013)

4-1D-3: **ABATEMENT PROCEDURES:**

- A. Authority To Abate: Pursuant to section 11-31-1 of the Illinois Municipal Code, the City is empowered to demolish, repair, or enclose, or cause the demolition, repair, or enclosure, of dangerous and unsafe buildings or uncompleted and abandoned buildings within the territory of the City and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those buildings.
- B. Notice Requirements:
 1. Whenever the Enforcement Officer, based upon a viewing of the premises, is of the opinion that any building or structure in the City is a dangerous building, the Enforcement Officer may serve, or cause written notice to be served, upon the owner thereof and upon the occupant thereof, if any, by certified mail, registered mail or personal service. Where, upon diligent search, the identity or whereabouts of the owner or owners of the building, including the lienholders of record, are not ascertainable, notice mailed to the person or persons in whose name the real estate was last assessed is sufficient notice under this subsection. Notice by certified or regular mail pursuant to this subsection shall be accomplished if the City receives a return

receipt from the addressee or if the certified or regular mailing is returned "unclaimed" or "refused". Such notice shall state that the building has been declared to be in a dangerous condition, that such dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it and that the condition must be remedied at once. Such notice may be, but is not required to be, in the form on file in the Office of the City Office Manager. (Ord. 2013-11, 10-4-2013; amd. 2019 Code)

2. If seeking a demolition order is reasonably contemplated by the Enforcement Officer, the Enforcement Officer shall consult with the City Attorney to ascertain lienholders of record of the property and shall copy all lienholders on the notice.

3. If the owner of the premises concerned is unknown or if his address is unknown, service of any notice provided in this subsection B may be made by posting a copy thereof on the premises and by publishing one time a copy thereof in a newspaper of general circulation within the City.

C. Abatement By City; Costs:

1. If the person receiving the notice has not complied therewith within fifteen (15) days from the time the notice is served upon such person by personal service or by certified mail, the Enforcement Officer or other officer of the City directed by the Mayor and City Council, may proceed to remedy the condition or demolish the dangerous building by filing a lawsuit in the Circuit Court seeking any or all remedies available under this article or section 11-31-1 of the Illinois Municipal Code including, but not limited to, the following:

a. An order authorizing action to be taken by the City with respect to a building if the owner or owners of the building, including the lienholders of record, after at least fifteen (15) days' written notice by mail so to do, have failed to put the building in a safe condition or to demolish it.

b. A fine as set forth in section 4-1D-5 of this article.

c. An order requiring the owner or owners of record to demolish, repair, or enclose the building or to remove garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from the building.

d. A judgment against the owner or other person causing the dangerous condition for the payment of the City's costs and reasonable attorney fees in connection with the City's enforcement of this article.

2. It shall not be a defense to an action brought pursuant to this article that the building is boarded up or otherwise enclosed, although the court may order the defendant to have the building boarded up or otherwise enclosed.

3. In addition to the actions authorized by this article, the City officials may proceed under any and all of the provisions of the Illinois Municipal Code including, but not limited to, section 11-31-1, which authorizes imposition of a lien when the City is compelled to take action; and section 11-31-2, which authorizes an injunction to require compliance with building, fire, health and safety standards; or should the City adopt a Property Maintenance Code, the City may proceed under the provisions of the Property Maintenance Code. (Ord. 2013-11, 10-4-2013)

4-1D-4: **ENFORCEMENT OFFICIAL:** Enforcement of this article shall be by the City Enforcement Officer, who shall be so designated by the Mayor, with the advice and consent of the City Council. (Ord. 2013-11, 10-4-2013; amd. 2019 Code)

4-1D-5: **VIOLATIONS; PENALTY:** It shall be unlawful to maintain or permit the existence of any dangerous building in the City, and it shall be unlawful for a record owner, occupant or person in custody of any dangerous building to permit the same to remain in a dangerous condition or to occupy such building or permit it to be occupied while it is or remains in a dangerous condition. Any person convicted of a violation of this section shall, upon conviction, be punishable by imposition of a fine of not less than one hundred dollars (\$100.00) and not more than seven hundred fifty dollars (\$750.00) per offense. Every day a building shall be maintained or permitted to exist in a dangerous condition shall constitute a separate offense. (Ord. 2013-11, 10-4-2013)

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ARTICLE E. INOPERABLE, ABANDONED VEHICLES

SECTION:

- 4-1E-1: Definitions
- 4-1E-2: Inoperable, Abandoned Vehicles On Public Property
- 4-1E-3: Inoperable Vehicles On Private Property
- 4-1E-4: Towing Certain Vehicles
- 4-1E-5: Abandoned But Not Inoperable Vehicles On Private Property
- 4-1E-6: Other Abatement Remedies
- 4-1E-7: Parking Vehicles With Expired Registration Stickers
- 4-1E-8: Penalties And Remedies

4-1E-1: **DEFINITIONS:** As used in this article, the following terms have the following meanings:

ABANDONED VEHICLE: As defined in section 1-101.05 of the Illinois Vehicle Code¹, any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any motor vehicle that has not been moved or used for seven (7) consecutive days or more and is apparently deserted.

INOPERABLE MOTOR VEHICLE: As defined in section 11-40-3 of the Illinois Municipal Code², any motor vehicle from which, for a period of at least seven (7) days, the engine, wheels, tires, or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapa-

1. 625 ILCS 5/1-101.05.

2. 65 ILCS 5/11-40-3.

ble of being driven under its own motor power. "Inoperable motor vehicle" does 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 nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicle over twenty five (25) years of age, nor to a motor vehicle on a premises lawfully engaged in the wrecking and junking of motor vehicles.

- MOTOR VEHICLE:** As defined in section 1-146 of the Illinois Vehicle Code, every vehicle which is self-propelled, except for vehicles moved solely by human power, motorized wheelchairs, low speed electric bicycles, and low speed gas bicycles.
- PERSON:** Any human being, firm, partnership, association, corporation, company, or organization of any kind.
- PROPERTY:** Any real property, public or private, within the corporate limits within the City of Virden that is not a street or highway.
- STREET OR HIGHWAY:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (Ord. 2013-12, 10-4-2013; amd. 2019 Code)

4-1E-2: **INOPERABLE, ABANDONED VEHICLES ON PUBLIC PROPERTY:** Inoperable or abandoned motor vehicles which are on public property, a street or a highway are hereby declared a nuisance. They shall be towed or otherwise dealt with by the Police Department in accordance with procedures set forth in chapter 4, article II of Illinois Motor Vehicle Code¹, which is herein incorporated by reference, together with all future amendments thereto. (Ord. 2013-12, 10-4-2013; amd. 2019 Code)

1. 625 ILCS 5/4-201 et seq.

4-1E-3: **INOPERABLE VEHICLES ON PRIVATE PROPERTY:**

A. Nuisance Declared: Inoperable motor vehicles on private property are hereby declared a nuisance. (Ord. 2013-12, 10-4-2013)

B. Notice Requirements:

1. Whenever a police officer discovers an inoperable motor vehicle on private property, the officer shall determine the owner of record of the property, and if the vehicle has a license plate, the owner of the vehicle. The officer shall attempt to determine the identity of persons occupying the property if different from the owner of record. The officer shall cause a notice, in substantially the form on file in the Office of the City Office Manager, to be mailed, by certified U.S. mail, return receipt requested, or by personal delivery to the owner of record of the property, and to all persons known to the officer, after reasonable investigation, to occupy such property, and also to the owner of the motor vehicle, if the owner is known. (Ord. 2013-12, 10-4-2013; amd. 2019 Code)

2. Notice by certified mail pursuant to this subsection B shall be accomplished if the City receives a return receipt from the addressee or if the certified or regular mailing is returned "unclaimed" or "refused". (Ord. 2013-12, 10-4-2013)

4-1E-4: **TOWING CERTAIN VEHICLES:** In the event that a violation of section 4-1E-2 or 4-1E-3 of this article is not corrected within the time specified in the notice, or if there is a hearing conducted by the Chief of Police in accordance with the notice and the Chief determines that the vehicle is inoperable, then, within five (5) days after the hearing, the Police Department may proceed to tow and dispose of the inoperable motor vehicle in accordance with the procedures set forth in chapter 4, article II of Illinois Motor Vehicle Code¹, which is herein incorporated by reference. (Ord. 2013-12, 10-4-2013)

4-1E-5: **ABANDONED BUT NOT INOPERABLE VEHICLES ON PRIVATE PROPERTY:** Vehicles which are not inoperable, but which are abandoned in the sense of not having been moved for seven (7) consecutive days or more and being apparently deserted, may be

1. 625 ILCS 5/4-201 et seq.

removed by the Police Department and otherwise dealt with in accordance with article II of section 4 of the Illinois Vehicle Code, but only if:

- A. The owner of the property on which the vehicle was abandoned is different from the owner of the vehicle; and
- B. The owner of the property on which the vehicle was abandoned requests the Police Department to take action; and
- C. If approved by the Chief of Police in his sole discretion. (Ord. 2013-12, 10-4-2013)

4-1E-6: **OTHER ABATEMENT REMEDIES:** In addition to any other remedies, the Corporate Authorities may at any time instruct the City Attorney to file a lawsuit in the Circuit Court of Macoupin County seeking any or all remedies available in the Illinois Municipal Code or otherwise under law, respecting abatement of nuisances. The Corporate Authorities may seek penalties in accordance with section 4-1E-8 of this article. (Ord. 2013-12, 10-4-2013)

4-1E-7: **PARKING VEHICLES WITH EXPIRED REGISTRATION STICKERS:** No person may stop, park, or leave standing upon a public street, highway, or roadway a vehicle upon which is displayed an Illinois registration plate or plates or registration sticker after the termination of the registration period for which the registration plate or sticker was issued or after the expiration date set by section 3-414 or 3-414.1 of the Illinois Vehicle Code. (Ord. 2013-12, 10-4-2013)

4-1E-8: **PENALTIES AND REMEDIES:**

- A. Any person who violates or aids and abets in the violation of this article shall be fined not less than one hundred dollars (\$100.00) and not more than seven hundred fifty dollars (\$750.00), plus the cost to the City of its attorney fees, and shall be required by the court to make a disposition on the abandoned, unclaimed, or inoperable vehicle. Each day a violation occurs shall constitute a separate offense. (Ord. 2013-12, 10-4-2013; amd. 2019 Code)
- B. In addition to the remedies set forth in this article and in article II of chapter 4 of the Illinois Motor Vehicle Code, the City may bring a common law nuisance action against a person who is responsible for

a nuisance as defined in this article and, in connection therewith, may seek all remedies available in law or equity in connection with such an action, and shall be entitled as part of the action to an award of its attorney fees and costs. (Ord. 2013-12, 10-4-2013)

CHAPTER 1

NUISANCES

ARTICLE F. SPECIAL ASSESSMENT FOR COST RECOVERY

SECTION:

4-1F-1: Special Assessment Authorized

4-1F-1: **SPECIAL ASSESSMENT AUTHORIZED:** In addition to any other method authorized by law, if: a) a property owner is cited with a violation under this chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement; b) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the violation or with an order for abatement; c) costs for services rendered by the City to correct the violation remain unpaid at the point in time that they would become a debt due and owing the City, as provided in 65 Illinois Compiled Statutes 5/11-31-1.1 et seq.; and d) a lien has been filed of record by the City in the Office of the Recorder of Deeds in Macoupin or Sangamon County, then those costs may be collected as a special assessment on the property pursuant to 65 Illinois Compiled Statutes 5/9-2-1 et seq. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the City, and the release shall be filed of record in the same manner as the filing of notice of the lien. (2008 Code § 25-7-1; amd. 2019 Code)

CHAPTER 2
LITTER CONTROL

SECTION:

- 4-2-1: Definitions
 4-2-2: Littering Prohibited Generally
 4-2-3: Use Of, Tampering With Receptacles
 4-2-4: Accumulation Of Litter Prohibited
 4-2-5: Types Of Littering Prohibited
 4-2-6: Handbills
 4-2-7: Construction Sites
 4-2-8: Loading And Unloading Docks
 4-2-9: Parking Lot Receptacles

4-2-1: **DEFINITIONS:** For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein:

AIRCRAFT: Any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter than air powered craft and balloons.

AUTHORIZED PRIVATE RECEPTACLE: A container of watertight construction with a tight fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

CONSTRUCTION SITES: Any private or public property upon which repairs to existing buildings, construction of new

buildings or demolition of existing structures is taking place.

HANDBILL:

Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service including, but not limited to, those which:

A. Advertise for sale any merchandise, product, commodity or thing; or

B. Direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or

C. Direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

LITTER:

Garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

LOADING AND UNLOADING DOCK:

Any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

PRIVATE PREMISES:

All property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

- PUBLIC PLACE:** Any and all streets, sidewalks, boulevards, alleys or other public ways; lakes, rivers, water-courses, or fountains; and any and all public parks, squares, spaces, grounds, and buildings.
- PUBLIC RECEPTACLES:** Any receptacles provided by or authorized by the City.
- VEHICLE:** Every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks. (2008 Code § 27-5-1)

4-2-2: **LITTERING PROHIBITED GENERALLY:** No person shall deposit any litter within the City except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility. (2008 Code § 27-5-2)

4-2-3: **USE OF, TAMPERING WITH RECEPTACLES:**

- A. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises. (2008 Code § 27-5-3)
- B. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises. (2008 Code § 27-5-4)

4-2-4: **ACCUMULATION OF LITTER PROHIBITED:**

- A. **Public Ways:** Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter. (2008 Code § 27-5-5)
- B. **Private Premises:**
 - 1. The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.

2. The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises. (2008 Code § 27-5-6)

4-2-5: **TYPES OF LITTERING PROHIBITED:**

A. From Vehicles:

1. No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.

2. No person shall drive or move any loaded or partly loaded truck or other vehicle within the City unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind. (2008 Code § 27-5-7)

B. From Aircraft: No person in an aircraft shall throw out, drop or deposit any litter within the City. (2008 Code § 27-5-8)

C. In Parks: No person shall deposit litter in any park within the City except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner. (2008 Code § 27-5-9)

D. Posting Notices:

1. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public, upon any public place, except as may be authorized or required by law.

2. No person, except the owner or tenant, shall post any such notice on private property without the permission of the owner or tenant. (2008 Code § 27-5-11)

4-2-6: HANDBILLS:**A. Distributing Restricted:**

1. **Public Places:** No person shall deposit or sell any handbill in or upon any public place; provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver any handbill to any person willing to accept it.

2. **Private Premises:** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes may not be so used when prohibited by Federal Postal Law or regulations.

3. **On Vehicles:** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

B. Responsibility For Cleanup: It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

C. Exemptions: The provisions of this section shall not apply to the distribution upon private premises only of newspapers or political literature; except, that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises. (2008 Code § 27-5-10)

4-2-7: CONSTRUCTION SITES:

A. Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

- B. Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises shall be removed by the contractor. (2008 Code § 27-5-12)

4-2-8: **LOADING AND UNLOADING DOCKS:** The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter and shall at all times maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises. (2008 Code § 27-5-13)

4-2-9: **PARKING LOT RECEPTACLES:**

- A. Required: Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this section. Such premises shall include, but not be limited to, such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.
- B. Number Of Receptacles: All premises having parking lots shall provide, in an easily accessible location, a minimum of one refuse container for every fifty (50) parking spaces.
- C. Specifications: Litter receptacles shall have tight fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of twenty (20) gallons or 75.7 liters shall be used.
- D. Cleanliness: Premises used for the purpose designated herein shall be kept in a litter free condition, and all litter shall be removed periodically from the receptacles.
- E. Use Required: It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as provided in this section for the purposes intended, and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot. (2008 Code § 27-5-14)

CHAPTER 3
OPEN BURNING

SECTION:

- 4-3-1: Definitions
4-3-2: Prohibited Burning
4-3-3: Burning Landscape Waste

4-3-1: **DEFINITIONS:** Unless the context otherwise requires, the words and phrases herein defined are used in this chapter in the sense given them in the following definitions:

- AGRICULTURAL WASTE:** Any refuse, except garbage and dead animals, generated on a farm or ranch by crop and live-stock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.
- GARBAGE OR HOUSEHOLD TRASH:** Refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products, including plastic containers.
- LANDSCAPE WASTE:** Any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
- OPEN BURNING:** The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under section 9(b) of the Environmental Protection Act of the State of Illinois. (2008 Code § 27-9-1)

4-3-2: PROHIBITED BURNING:

- A. It shall be unlawful to cause or allow open burning of agricultural waste, dimension lumber, construction material, debris, household trash or garbage.
- B. Burning of any materials or waste in barrels is strictly prohibited within the City limits. (2008 Code § 27-9-2)

4-3-3: BURNING LANDSCAPE WASTE: The open burning of landscape waste shall be permitted only on the following conditions:

- A. Landscape waste shall be burned on the premises on which such waste is generated; and
- B. Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and
- C. Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and
- D. Open burning of landscape waste may only take place during daylight hours with a person over eighteen (18) years of age in attendance during the entire period of burning; and
- E. No open burning of landscape waste shall be permitted on any streets or roadways; and
- F. No open burning shall occur during periods of time when the Fire Chief or the Chief of Police has determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous; and (2008 Code § 27-9-3)
- G. All open burning shall occur between eight o'clock (8:00) A.M. and the end of daylight; provided, however, that all fires shall be extinguished by sunset. (2008 Code § 27-9-3; amd. 2019 Code)