

# TITLE 4

## PUBLIC HEALTH AND SAFETY

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# CHAPTER 1 NUISANCES

## SECTION:

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### **4-1-1: DEFINITION:**

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

- A. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public.
- B. In any way render the public insecure in life or in the use of property.
- C. Greatly offend the public morals or decency.
- D. 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. (1978 Code §12.02)

### **4-1-2: PUBLIC NUISANCES PROHIBITED:**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the City. (1978 Code §12.01)

### **4-1-3: NUISANCES AFFECTING 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 Section 4-1-1 of this Chapter:

- A. Sale of Tainted Foodstuff: All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.
- B. Improper Disposal of Carcasses: Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within twenty four (24) hours after death.
- C. Accumulation of Debris: Accumulations of decayed animal or vegetable matter, 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.
- D. Still Water: All stagnant water in which mosquitoes, flies or other insects can multiply.
- E. Faulty Garbage Cans: Garbage cans which are not flytight.
- F. Air Pollution: 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.
- G. Water Pollution: The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances.
- H. Obnoxious Odors: Any use of property, substances or things within the City emitting or causing any foul, offensive, noisesome, 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.
- I. Unsanitary Animals and Animal Houses: 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.
- J. Well Openings: All abandoned wells not securely covered or secured from public use.
- K. Weeds: All noxious weeds as defined by 505 Illinois Compiled Statutes 100/1 et seq. (1978 Code §12.02)

#### **4-1-4: 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 Section 4-1-1 of this Chapter:

- A. Premises Used for Unlawful Purposes: All disorderly houses, bawdy houses, house of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling, except when such gambling takes place in accordance with Illinois Video Gaming Act, 230 ILCS 40/1 *et. seq.*, as now or hereafter amended. (Ord 2012-17, 7-7-2012)
- B. Gambling Devices: All gambling devices and slot machines, except video gaming terminals when used in accordance with the Illinois Video Gaming Act, 230 ILCS 40/1 *et. seq.*, as now or hereafter amended. (Ord 2012-17, 7-7-2012).
- C. Violation of Liquor Control Provisions:
  - 1. 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.
  - 2. 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 or the ordinances of the City.
- D. Disregard for Laws: 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. (1978 Code §12.02)

#### **4-1-5: NUISANCES AFFECTING 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 Section 4-1-1 this Chapter:

- A. Violation of Building Regulations: 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.

- B. Unauthorized Traffic-Control Signs and Signals: 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.
- C. Visual Obstruction: 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 [31](#) .
- D. Impeding Traffic: 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.
- E. Hazardous Trees: All limbs of trees which project over a public sidewalk less than eight feet (8') above the surface thereof or less than ten feet (10') above the surface of a public street.
- F. Fireworks: All use or display of fireworks except as provided by the laws of the State and ordinances of the City. A violation of this paragraph shall be punishable by a fine of One Hundred Dollars (\$100). (Ord. 2011-29, 09-20-2011)
- G. Dangerous Buildings or Structures: All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.
- H. Suspended Wires: All wires over streets, alleys or public grounds which are strung less than fifteen feet (15') above the surface of the street or ground.
- I. Noise and Vibrations: All loud and discordant noises or vibrations of any kind. A violation of this paragraph shall be punishable by a fine of One Hundred Dollars (\$100). (Ord. 2011-29, 09-20-2011)
- J. Excavations or Obstructions to Public Ways: 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 thereof has been accomplished.
- K. Openings: All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.
- L. Abandoned Appliances: 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.

- M. Fire Hazards: Any structure, material or condition which constitutes a fire hazard or will impair extinguishing a fire.
- N. Any nuisance described in the Illinois Compiled Statutes. (1978 Code §12.02)
- O. Illumination: Any owner/occupant of private property who intentionally casts any illumination or glare onto the private property of another, which disturbs the peace, use, or enjoyment of a person's property or public way shall be in violation of Section 4-1-5 of this Code. This shall include, but is not limited to, any direct or sky-reflected glare of light beams that is determined by the City to cause excessive lumens emitted from a lamp that creates light intrusion into windows and on private property. (Ord 2005-17, 05-17-2005)

#### **4-1-6: ABATEMENT PROCEDURES:**

- A. Inspections: Whenever complaint is made that a public nuisance exists or has existed within the City, the Health Officer, Chief of Police or building inspector for the City 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 (Ord 2015-19, 10-6-2015).
- B. Summary Abatement:
  - 1. Notice to Abate: If the inspecting officer shall determine that a public nuisance exists on private property and that there is 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 twenty four (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 person causing the nuisance cannot be found, the Health Officer, Chief of Police or the building inspector for the City or some other City official whom the Mayor shall designate shall cause the abatement or removal of such public nuisance.

C. Abatement by Court Order: 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 finding with the Mayor who shall cause an action to abate such nuisance to be commenced in the name of the City. (1978 Code §12.03)

#### **4-1-7: ABATEMENT COSTS:**

Costs incurred by the City in the abatement of a nuisance in the manner set forth in Section 4-1-6 shall be paid by the person causing, permitting or maintaining the nuisance. If, after demand for payment of such costs has been sent to such person, such amounts remain unpaid, the debt shall be recoverable by the City in a civil action filed in the Circuit Court. (1993 Code)

#### **4-1-8: PROPERTY DEFACEMENT – GRAFFITI**

- A. Definition. Graffiti means any word, painting or other defacement of real property existing without the consent of the owner that is written, drawn, painted or otherwise affixed to any surface of the exterior of private property visible to the public.
- B. Nuisance. The appearance of graffiti within the City of Genoa is hereby declared a public nuisance. The abatement of this nuisance by the City will render the property owner liable for abatement costs, inspection and late fees, as specified in paragraph 3.b.4 below.
- C. The Chief of Police and Public Works Director, or their designees are authorized to abate the graffiti nuisance, as follows:
1. Abatement by Owner
    - a) Service of Notice: The owner of real property upon which appears graffiti may be given a written notice to abate the nuisance by removing the graffiti from the property within 10 days after personal service upon the owner, or within 15 days of the posting of the notice to abate upon the property and mailing a copy of the notice to the owner.
    - b) Contents of Notice: The abatement notice shall contain:
      - The location of and a description of the violation;

- A request that the graffiti be removed within the time specified in the notice;
- A statement that the owner's failure or refusal to remove or eradicate the graffiti may result in abatement of the nuisance by the City and that the City will invoice the property owner for the actual costs of abatement plus \$75.00 for inspection and any incidental costs associated with the abatement; and
- A statement that if the costs of abatement plus the \$75.00 fee for inspection and incidental costs is not paid to the City within thirty (30) days after notice, an additional \$75.00 will be assessed for administrative and other incidental costs.

## 2. Abatement by City

- a) The City may abate the nuisance if the property owner fails to abate the nuisance within the time specified in the notice issued pursuant to paragraph C.1.a of this Section. The City shall assess the costs of abatement, plus inspection fees and a \$75.00 late fee if the assessment is not paid within 30 days of mailing the assessment charges to the owner.
- b) Assessments and charges may be collected pursuant to Section 4-1-7. (Ord 2005-24, 07-05-05)

## **CHAPTER 2 GARBAGE, JUNK AND REFUSE**

### **SECTION:**

- 4-2-1: Accumulation of Garbage and Refuse Prohibited**
- 4-2-2: Garbage and Refuse Collection Provided; Restrictions**
- 4-2-3: Storage Containers**
- 4-2-4: Storage of Junk, Trash and Refuse**
- 4-2-5: Rates for Garbage and Recycling Collection**
- 4-2-6: Penalty**

### **4-2-1: ACCUMULATION OF GARBAGE AND REFUSE PROHIBITED:**



No person shall allow any garbage or refuse matter to accumulate on his premises or in any public street or alley. (1978 Code §11.02)

#### **4-2-2: GARBAGE AND REFUSE COLLECTION PROVIDED; RESTRICTIONS:**

- A. There shall be provided by the City regular garbage collection and disposal.
- B. All residents of the City shall have a right, pursuant to the terms and conditions of the contract, to have the service of residential garbage or refuse collection and disposal.
- C. Residents receiving garbage and refuse collection and disposal service, pursuant to the terms and conditions of the contract, shall deliver up for collection and disposal only that garbage and refuse generated on their own premises. It shall be unlawful for any person to deliver or place for collection and disposal within the City limits any garbage and refuse generated or delivered from premises outside the City limits. (1978 Code §11.02)

#### **4-2-3: STORAGE CONTAINERS:**

- A. Use Required; Restrictions: Every business place, building and residence generating garbage shall have a garbage receptacle for the receiving of garbage. All garbage shall be placed in such receptacles, and any receptacle used for garbage shall not contain ashes, tin cans or any other matter other than garbage, except paper used for garbage wrapping.
- B. Location of Containers: The occupant of any place of business or residence, or the owner if there is no occupant, shall cause his garbage to be placed in receptacles at the rear of the building or near the alley so as to facilitate the collection of such garbage. No person shall place any container or garbage for collection, on site for collection, sooner than the day before the garbage collection service is due to arrive to collect the garbage, and within twenty four (24) hours after collection all containers shall be removed from the collection site. (1978 Code §11.02)

#### **4-2-4: STORAGE OF JUNK AND REFUSE ON PRIVATE PROPERTY:**

- A. Definition: "Junk", "Trash and "Refuse" are defined herein to include any and all waste matter, whether reusable or not, which is offensive to the public health, safety or to the aesthetics of the neighborhood, and is specifically intended to include, but

not to be limited to, worn out, wrecked, inoperable and/or abandoned automobiles, trucks, tractors, machinery of any kind, any parts thereof, appliances, bathroom fixtures and hot water tanks.

B. Nuisance Declared: The depositing or storing of junk, trash and refuse on private or public property or the storing or parking of inoperable or unlicensed automobiles, motorcycles, or trucks on private or public property within the City limits where such storage is not specifically authorized under the provisions of Title 11 of this Code, Unified Development Ordinance, or this Chapter is hereby declared a nuisance.

C. Abatement of Nuisance:

1. Notice To Abate: Any police officer, building inspector, or health officer of the city, upon observing any violation of this section, shall issue a notice directed to the owner of record of the property on which said nuisance occurs, as shown in the records of the recorder of deeds of DeKalb County, or to the occupant of said property, or to both, which said notice shall describe the violation and shall establish a reasonable time limit for the abatement thereof by such owner or occupant, which time shall not be less than two (2) days nor more than ten (10) days after service of such notice.
2. Duty of Citizens: Any citizen of the city who observes a violation of this section may file his affidavit setting forth in detail the violation, its location and the name of the owner and occupant of the property on which such nuisance is alleged, and may file said affidavit with the building inspector who shall issue a notice to the owner or occupant of the property as provided in subsection C1 of this section.
3. Inspection: Immediately upon the termination of the time allowed in any such notice for the abatement of such nuisance, the policeman, building inspector or health officer of the city who served such notice, or any other police officer, shall investigate to determine whether or not such nuisance has been abated.
4. Failure to Abate: In the event the owner or occupant where such nuisance exists has failed within the prescribed time to abate such nuisance, then the police officer, building inspector or health officer of the City who served notice, may file a complaint within the administrative adjudication system charging the owner of the property or the occupant thereof with the violation of this section. (Ord 2005-03, 02-15-05) (Ord 2011-29, 09-20-2011)

Penalty: Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ord. 2011-29, 09-20-2011)

#### **4-2-5: RATES FOR GARBAGE AND RECYCLING COLLECTION:**

- A. The Garbage and Recycling Rate shall begin with the services rendered May 1, 2017 and shall be twenty-three dollars and twenty-five cents (\$23.25) per month or any portion thereof.
- B. The Garbage and Recycling Rate assessed to, and payable by, any person aged sixty-five (65) years and older who is liable for payment, and who occupies the residence which receives the service, shall be discounted twenty-five percent (25%). (Ord 2015-3, 4-6-2015; Ord. 2017-13, 04-18-2017))

**4-2-6: PENALTY:**

Any person who violates this section and has been issued a citation signed by a City Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1.(Ord. 2011-29, 09-20-2011)

## **CHAPTER 3 WEED CONTROL**

**SECTION:**

**4-3-1: Nuisance Weeds and Plants**

**4-3-2: Height Restrictions**

**4-3-3: Abatement Procedure**

**4-3-4: Penalty**

**4-3-1: NUISANCE WEEDS AND PLANTS:**

- A. Weeds: Any weeds such as jimson, burdock, ragweed, thistle, cockleburr 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. 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. (1978 Code §12.05)

**4-3-2: HEIGHT RESTRICTIONS:**

It shall be unlawful for anyone to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants and Planned Natural Landscaping to grow to

a height exceeding twelve inches (12") anywhere in the City; any such plants or weeds exceeding such height are hereby declared to be a nuisance. (1978 Code §12.05)

#### **4-3-3: PLANNED NATURAL LANDSCAPING:**

Planned Natural Landscaping means a planned, intentional and maintained planting of native plants, ornamental grasses, groundcovers and rain gardens. Planned Natural Landscaping does not include any species of turf grasses and is not intended to allow a property owner to ignore lawn care duties.

- A. The height restrictions provided in Section 4-3-2 shall not apply to natural plants on privately owned, occupied residential property and properties contiguous to the privately owned, occupied residential property provided that such contiguous properties are owned by the same individual, when such natural plants are part of a Planned Natural Landscape Area. Planned Natural Landscaped Areas shall be set back a minimum of three (3) feet from all property lines. Turf grass is required to border the edge of the Planned Natural Landscape areas along all property lines.
- B. Planned Natural Landscape is prohibited on City property such as parkways, right-of-ways, unimproved alleys, and tree banks, Planned Natural Landscaped Areas shall not be permitted to overhand or encroach onto any public or private properties.
- C. Flowers, groundcover and ornamental plants are allowed to be planted on City parkways not to exceed twenty-five (25) percent of turf area and shall not overhang or encroach onto any public sidewalk, street or private properties and the City shall not be liable for damages to the plants by City crews performing snow plowing or work along City streets or on City parkways. (Ord 2016-19, 10-18-2016)

#### **4-3-4: ABATEMENT PROCEDURE:**

- A. Abatement by City; Costs: When the owner or owners of real estate refuse or neglect to cut, trim and remove weeds, grass or nuisance bushes or trees, the Director of Public Works may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by the owner.
- B. Unpaid Bill; Claim Filed:
  - 1. Within one year after the abatement expenses have been incurred, the Finance Office Manager may file a statement of lien claim in the Office of the DeKalb County Recorder, as authorized by Section 11-20-15 of the Illinois Municipal Code (65 ILCS 5/11-20-15). If, for any one parcel, abatement expenses were incurred on more than one occasion within 12 months, the City may combine any

or all abatement expenses incurred in each of those activities into a single notice of lien (Ord 2015-14, 9-1-2015; Ord 2015-19, 10-6-2015).

2. Notice of such lien claim shall be personally served upon or sent via certified mail to the person to whom was sent the tax bill for the general taxes on the property for the last preceding year.

C. Foreclosure of Lien:

1. Property subject to a lien for unpaid cutting, trimming or removing 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 equity in the name of the City.
2. The City Attorney may institute such proceedings, in the name of the City, in any court having jurisdiction over such matters, against any property for which such bill has remained unpaid sixty (60) days after it has been rendered. (Ord. 2008-28, 08-19-2008)

**4-3-5: PENALTY:**

Any person violating any of the provisions of this Chapter shall be subject to penalty as provided in Section 1-4-1 of this Code, and a separate offense shall be deemed committed on each day during or on which such nuisance continues unabated after ten (10) days from receipt of notice. (1978 Code §12.05; 1993 Code)

## **CHAPTER 4 OUTDOOR BURNING**

**SECTION:**

**4-4-1: Burning of Garbage Prohibited**

**4-4-2: Recreational Burning Allowed**

**4-4-3: Leaves, Grass Clippings, Yard Waste and Garden Debris**

**4-4-4: Supervision**

**4-4-5: Charcoal or LP Gas Grills**

**4-4-6: Construction Debris**

**4-4-7: Special Conditions**

**4-4-1: BURNING OF GARBAGE PROHIBITED:**

The outdoor burning of refuse material and debris within the corporate limits of the City shall not be allowed. (Ord. 94-3-37, 4-23-1996)

#### **4-4-2: RECREATIONAL BURNING ALLOWED:**

Recreational burning is defined as "an occasional outdoor fire contained in a fire-safe vessel or pit, similar in size and duration to a small campfire, which uses only dried, seasoned timber not thicker than six inches (6") in diameter". Recreational burning shall be allowed, except under certain conditions stipulated in Sections 4-4-4 and 4-4-7 of this Chapter. Recreational burning shall not be allowed upon any City property, including any City Rights of Way.(Ord. 94-3-37, 4-23-1996;amd. Ord. 2008-27, 08-05-2008)

#### **4-4-3: LEAVES, GRASS CLIPPINGS, YARD WASTE AND GARDEN DEBRIS:**

The burning of leaves, grass clippings, yard waste and garden waste is expressly prohibited. (Ord. 94-3-37, 4-23-1996: amd. Ord. 2008-27,08-05-2008)

#### **4-4-4: SUPERVISION:**

Any open burning shall be constantly attended by at least one responsible adult individual until the fire is extinguished. A water hose or water fire extinguisher, or comparable fire extinguishing equipment, shall be immediately available near the fire site. (Ord. 94-3-37, 4-23-1996)

#### **4-4-5: CHARCOAL OR LP GAS GRILLS:**

Open burning for the purposes of cooking and preparing a meal using charcoal or LP gas in a typical grilling procedure and equipment is not prohibited by this Chapter. (Ord. 94-3-37, 4-23-1996)

#### **4-4-6: CONSTRUCTION DEBRIS:**

The burning of construction debris for waste disposal purposes is strictly prohibited. (Ord. 94-3-37, 4-23-1996)

#### **4-4-7: SPECIAL CONDITIONS:**

The Code Official may prohibit any burning irrespective of any implied permission granted herein, which will be offensive or objectionable due to smoke or odorous emissions when atmospheric or local circumstances make such fires a nuisance or hazardous. The Code Official may order the extinguishment of any burning which creates or adds to a hazardous or objectionable situation or condition. (Ord. 94-3-37, 423-1996)