

CHAPTER 13

NUISANCES

.01 PUBLIC NUISANCES PROHIBITED.

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

.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 affecting health. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but shall to 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, trash, rubbish, rotting lumber, bedding, packing material, inoperative, junked or abandoned vehicles or machinery, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed; or which may constitute a fire hazard;
 4. All stagnant water in which mosquitoes, flies or other insects can multiply;
 5. Garbage cans which are not fly-tight;
 6. The escape of smoke, soot, cinder, 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;
 7. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, creamery or industrial wastes or other substances;
 8. 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;
 9. All abandoned wells not securely covered or secured from public use;
 10. Any barn, stable or shed used for keeping animals;
 11. Any obstruction in or across any water course, drainage ditch or ravine;
 12. Any open burning contrary to the regulations of the Illinois Pollution Control Board;
 13. The deposit of garbage, rubbish, junk, refuse or any offensive substance on any street, sidewalk or public place, or on any private property, except as may be permitted by ordinance;
 14. Any noxious weeds on private property, as defined by Chapter 18 of the Illinois Revised Statutes.
- (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; except for video gaming devices operated pursuant to a license or permit from the Illinois Department of Revenue pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1 et seq so long as such video gaming is conducted in compliance with all requirements of said Act and all rules and regulations of the Illinois Department of Revenue (2012-6)
 2. All gambling devices and slot machines except for video gaming devices operated pursuant to a license or permit from the Illinois Department of Revenue pursuant to the Illinois Video Gaming Act, 230 ILCS 40/1 et seq so long as such video gaming is conducted in compliance with all requirements of said Act and all rules and regulations of the Illinois Dept. of Revenue(2012-6)
 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 ordinances or state laws relating to public health, safety, peace morals, or welfare are openly, continuously, repeatedly and intentionally violated;
- (d) Public 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 subsection (a) of this section:
1. All buildings erected, repaired or altered in violation of the provisions of the ordinances of the City relating to materials and manner of construction of buildings and structures;
 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 or explosives, 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, unsanitary 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 of 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 thereof 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 or opening from the inside by pushing only with the strength of a small child;
 12. 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;
 13. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street or other private or public property without permission of the owner thereof;
 14. Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalk less than seven feet above the sidewalk surface;
 15. Any condition or practice constituting a fire hazard;
 16. Any nuisance so defined by the Illinois Revised Statutes;

17. Any junk shop except as permitted in Section 9 of this chapter;
18. Parking or storing junk vehicles or disabled vehicles, including trailers and parts for vehicles or trailers unless so licensed to do so, on either public or private property.
19. Any person or entity who violates Chapter 13, Section .02(d)18 shall be fined \$100.00 for each violation. Each junk vehicle or disabled vehicle, including trailers or parts for vehicles or trailers parked or stored in violation of Chapter 13, Section .02(d) 18 shall constitute a separate violation. Each day that said junk vehicles or disabled vehicles, including trailers or parts for vehicles or trailers are not removed after second notice to do so shall constitute a separate violation. The violator shall also be assessed the city's attorneys fees for enforcement of this provision. (2009-4)

.03 ABATEMENT OF PUBLIC NUISANCES.

- (a) Inspection of premises. Whenever a complaint is made to the Mayor that a public nuisance exists, or has existed, within the City, he or his official designee shall promptly inspect or cause to be inspected the premises and shall make a written report of his findings to the City Council. 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 great and immediate danger to the public health, safety, peace, morals or decency, the Mayor may direct the City Clerk, 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 person causing the nuisance cannot be found, the Street Commissioner, or some other City official who the Mayor shall designate, shall cause the abatement or removal of such public nuisance. This paragraph shall authorize the Police Department to tow and remove abandoned or junk vehicles.
- (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 Mayor, who shall cause an action to abate such nuisance to be commenced in the name of the City.

.04 COST OF ABATEMENT.

The cost of abating a public nuisance shall be borne by the owner of the property or person causing, permitting or maintaining the nuisance. Such cost shall be assessed against the real estate as other special taxes and shall include the attorney fees of the City.

.05 PARKING MOTOR HOMES, TRAILERS, BOATS.

- (a) No person shall park or store on any property owned or occupied by him any motor home, camper vehicle, trailer or boat which is not owned by him or a member of his family. Storage by the owner of any such item shall be only in the rear yard.
- (b) No person shall locate more than one motor home on each undeveloped lot, as originally platted, or on any area having less than fifty feet of frontage to the street.
- (c) Guests of any owner or occupant of any dwelling in the City may park a motor home in the rear yard of such dwelling for not more than 15 days, provided the motor home is used for sleeping purposes only during such period.

.06 NOXIOUS PLANTS AND WEEDS.

(a) Noxious plants and weeds declared nuisance. Any weeds such as known as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind, and plants or bushes of the species of tall, common or European Barberry, otherwise known as Barberis Vulgaris, or its horticultural varieties, found growing in any place or location within the corporate limits of the City, are declared to be a nuisance. It shall be unlawful for any person to cause or permit any such weeds, plants or bushes to grow or remain in any place or location within the corporate limits of the City to a height in excess of eight inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. (2015-8)

(b) Removal of noxious plants and weeds. It shall be the duty of every owner or occupant of every lot or tract of land within the corporate limits of the City to cut, destroy or remove, or cause to be cut, destroyed or removed, every such weed, plant or bush as hereinabove described upon every such lot or tract of land in such manner and on or before such time as such weeds, bushes or plants reach or exceed the height of twelve inches. Upon the failure of any such owner or occupant so to do, it shall be the duty of the Mayor or the Chief of Police to serve or cause to be served a notice upon any such owner or occupant of any premises upon which any such weeds, plants or bushes are caused or permitted to grow in violation of the provisions of this section, demanding the abatement of such growth as a nuisance, within a period of ten days from the date of such service. Failure of any owner or occupant to comply with the provisions and demands of such notice shall constitute a violation of the provisions of this section.

(c) Abatement. If, upon the expiration of the 10-day period provided in the notice to any owner or occupant of any premises in the City upon which any such weeds, plants or bushes are caused or permitted to grow in violation of the provision of this section, it shall be the duty of the Mayor or the Chief of Police to proceed to abate the nuisance by cutting, destroying or otherwise removing the weeds, plants or bushes, and to keep an account of the expense thereof, and such expense shall be charged to the owner, or the owner and occupant jointly, of the premises, and it shall be the duty of the owner or the owner and occupant jointly to pay such expense.

(d) Lien.

1. The City of Fairbury shall have a continuing lien upon the premises and real estate upon which any noxious weeds, plants or bushes shall be caused or permitted to grown in violation of the provisions of this section, for or on account of which it is necessary for any expense to be suffered or incurred by the City for the cutting, destroying or otherwise removing of any weeds, plants or bushes. Every lien shall, upon compliance with the conditions hereinafter set forth, become and be prior and superior to the rights and interests of creditors, encumbrances, purchasers and other parties in interest in such premises and real estate, except taxes.
2. Such lien may be preserved and enforced in the following manner: The City Clerk shall within 60 days after the accrual of such expense or cost or charge, file or cause to be filed with the Livingston County Recorder of Deeds, a claim for lien, verified by the affidavit of himself or any other officer of the City having knowledge of the facts, which shall consist of a brief statement of the facts of the claim including the dates such expenses were incurred, the balance due after allowing all credits, and a sufficiently correct description of the lot, lots, or tract or tracts of land or real estate to properly identify such land or real estate. No such lien shall be defeated in the proper amount thereof because of error or overcharging on the part of the City, nor shall any such lien be defeated upon proof that the expense or cost or charge resulted from or was incurred by reason or fault of any tenant or occupant or other person in possession other than the owner.

(e) Foreclosure of lien.

1. If payment shall not be made as provided in this section of any amount due by virtue of its provisions when the same shall become due, the City may file or cause to be filed a petition or bill in the appropriate court for a foreclosure of such lien, and the City may proceed in its corporate name to foreclose such lien in like manner and with like effect as provided by the Illinois Revised Statutes in foreclosure of mortgages. Such suit shall be commenced within one year after the

accrual of such expense or cost or charge. Any decree rendered in court may be enforced and collected as other decrees or judgments in such court.

2. The remedy provided in this section shall not be construed to abridge or in any manner interfere with the right and power of the City to enforce the collection thereof by an action at law or as otherwise provided in this section, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent expense or cost or charge.

.07 BURNING OF MATERIALS.

- (a) Fires regulated. It shall be unlawful for any person to willfully or negligently make, use or leave any fire, or depositor leave any ashes, or other combustible or inflammable material, liquid or substance; or use or leave any lighted fire, lamp, gas or electric light at such time or in such manner as to endanger any building or other property, or so as to cause any damage or injury to any building or other property; or make, kindle or use any fire in any shed, or in any barn, not fire-proof, except in a secure fireplace, furnace or stove built for that purpose; or make or kindle any outdoor fire, near any building or other property likely to be endangered thereby; unless in a secure furnace or enclosure made for that purpose; or leave any outdoor fire unattended; or in any such fire burn or cause to be consumed anything productive of foul, noxious or unpleasant odors, to the annoyance and discomfort of those being or residing in the vicinity of such fire. No person shall start or maintain any fire whatsoever after dark.
- (b) Burning trash. It shall be unlawful for any person to burn any trash or waste matter within the City, except material such as paper, cardboard, tree trimmings and other products which burn freely and without objectionable quantities of smoke and obnoxious odors.
- (c) Penalty. Any person convicted of violating any of the provisions of this chapter shall be deemed guilty of a Class C Misdemeanor as provided in Illinois Revised Statutes, and penalized accordingly. Furthermore, the violation of this chapter is declared to be a public nuisance to be abated in the manner provided by law.
- (d) Outdoor burning and fires prohibited. Whenever the Mayor of the City of Fairbury determines, after consultation with the Fire Chief of the City of Fairbury, that it would be a danger to allow outdoor burning or fires because of excessive dryness for an extended length of time or because of reduced water capacity, for whatever reason, of the Waterworks System of the City of Fairbury, then the Mayor shall issue a proclamation prohibiting all outdoor fires and all burning of any and all types of materials within the City of Fairbury commencing immediately upon issuance of the proclamation and continuing until the Mayor shall determine that the conditions no longer exist which required the proclamation. Any person who orders, permits, starts, or oversees any outdoor fire or any outdoor burning of any types of materials in violation of said proclamation shall be punished by a fine of \$100.00 for the first offense, and a fine of \$500.00 for any second and each subsequent offense. If any fine imposed hereunder is not paid within thirty days after issuance of a citation by the Mayor, then the Mayor or City Council may instruct the City Attorney to take such legal action as is necessary to collect said fine. (1988-19)
- (e) Limitations on Burning Leaves.
 1. From September 15 to December 15 of each year and from March 15 to May 15 of each year, the burning of leaves shall be allowed in the City of Fairbury only on Tuesday, Thursday, and Saturday of each week during daylight hours only. The burning of leaves on any other days or times during those months is prohibited. (2003-13)
 2. Any person who burns leaves or orders, permits, or oversees the burning of leaves in the City of Fairbury on any prohibited day or time shall be subject to the following penalties: (2003-13)

First offense – a written warning shall be given. (2003-13)

Second offense – a fine of Seventy-Five Dollars (\$75.00) if paid to the City Clerk within 30 days of the issue date of the ticket for such offense and if not paid to the City Clerk within 30 days of the issue date of the ticket for such offense, then the fine for such offense shall be not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00). (2003-13)

Third offense and all subsequent offenses - a fine of Two Hundred Fifty Dollars (\$250.00) if paid to the City Clerk within 30 days of the issue date of the ticket for each such offense and if not paid to the City Clerk within 30 days of the issue date of the ticket for each such offense, then the fine for such offense shall be not less than Three Hundred Dollars (\$300.00) nor more than Five Hundred Dollars (\$500.00) for each such offense. (2003-13)

3. If any fine imposed by this subsection (e) is not paid within thirty days of the issue date of the ticket for such offense, then the Mayor or City Council may instruct the City Attorney to take such legal action as is necessary to collect said fine. (2003-13)

.08 JUNK DEALERS.

- (a) License required. It shall be unlawful to operate or carry on the business of junk dealer or to keep any junk shop, store or place for the purchase or sale of junk, rags, old rope, paper or bagging, old iron, brass, copper or empty bottles, without having obtained a license therefore, as herein provided.
- (b) Applications. Applications for such licenses shall be made to the City Clerk, and upon forms approved by the City Council. Licenses shall be granted to all applicants upon payment of the required fee, provided that the operation of the business of each licensee shall not violate any of the provisions of this ordinance, or of any other ordinance of the City.
- (c) Fee. The fee to be paid for such license shall be \$25.00.
- (d) Stolen goods. Every keeper of junk shop who shall receive or be in possession of any goods, articles or things of value which may have been lost or stolen shall upon demand produce such goods, articles or things to any law enforcement officer for examination.
- (e) Penalty. Any person convicted of violating any of the provisions of this chapter shall be deemed guilty of a Class C Misdemeanor punishable by a fine not less than \$50.00 nor in excess of \$500.00. Furthermore, the violation of this chapter is declared to be a public nuisance to be abated in the manner provided by law.

.09 INOPERABLE MOTOR VEHICLES

- (a) Inoperable motor vehicles, whether on public or private property, and in view of the general public are hereby declared to be a public nuisance. (1988-7)
- (b) Inoperable motor vehicles means any motor vehicle from which, for a period of at least seven days, the engine, wheels, 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 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 power in order to perform ordinary service or repair operations. (1988-7)
- (c) Whenever any person or entity maintains an inoperable motor vehicle under their control in view of the general public on either public or private property for at least seven days, the Mayor of the City of Fairbury is hereby authorized to notify said person or entity that such inoperable motor vehicle constitutes a public nuisance and such person or entity shall dispose of said inoperable motor vehicle within seven days after issuance of such notice. If said inoperable motor vehicle is not removed within seven days after such notice, then the Chief of Police of the Police Department of the City of Fairbury shall remove said inoperable motor vehicle at the cost of such person or entity. (1988-7)
- (d) If such person or entity fails or refuses to pay the cost of removal and storage of such inoperable motor vehicle or parts thereof, then the Mayor is authorized to direct the City Attorney payment of such costs of removal and storage. (1988-7)
- (e) Nothing in this Section .09 shall apply to any motor vehicle which is kept within a building when not in use, to operable historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles. (1988-7)
- (f) In lieu of following the procedures of this Section .09, the Mayor may seek to have such nuisance abated as in Sections .03 and .04 of this Chapter 13. (1988-7)
- (g) Any person or entity who violates paragraph (c) of Chapter 13, Section .09 shall be fined \$100.00 for each violation. Each inoperable motor vehicle shall constitute a separate violation. Each day that said inoperable motor vehicle is not removed after second notice to do so shall constitute a separate violation. The violator shall also be assessed the city's attorneys fees for enforcement of this

provision. (2009-4)