

**Chapter 11
NUISANCES**

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11.01 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.

11.02 PUBLIC NUISANCES, GENERALLY

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; or
- 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.

11.03 PUBLIC NUISANCES AFFECTING HEALTH

The following acts, omissions, places and things hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of Section 11.02-A.

- A. All decayed, harmfully adulterated food or drink sold or offered for sale to the public;
- B. Carcasses of animals, birds or fowl not disposed of in a sanitary manner within 24 hours after death;
- C. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, 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;
- D. All stagnant water in which mosquitoes, flies or other insects can multiply;
- E. Garbage cans which are offensive and not fly-tight, vermin and rodent proof;
- F. The pollution of any public well or cistern, stream, lake, body of water by sewage, industrial wastes or other substances;
- G. All abandoned wells not securely covered or secured from public use to prevent ground water pollution or other hazard to public health or safety;
- H. All diseased animals running at large;
- I. The keeping of horses or other animals or fowl on property zoned for uses other than agriculture unless appropriate provisions of this section relating to keeping of animals and appropriate local zoning regulations are met;
- J. Any open burning contrary to the regulations of this Code;
- K. The deposit of garbage, rubbish or any offensive substance on any street, sidewalk or public place, or on any private property, except as may be permitted by ordinance. No such refuse shall be so placed that it can be blown about or scattered by the wind;
- L. The deposit of any offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway;
- M. The rental or lease of property or properties which have been declared unfit for human habitation by the City;
- N. Buildings, either occupied or unoccupied that are an exposed public health hazard.
- O. Bushes, brush and heavy undergrowth causing directly or indirectly the impoundment of surface waters in residential areas

creating a breeding place for mosquitoes or otherwise becoming detrimental to the public health;

P. Any obstruction or pollution in or across any water course, drainage ditch, ravine or source of water supply in the City;

Q. Building foundations or other excavations which remain uncovered for a period in excess of 10 days;

R. Refrigerators, freezers, stoves and similar equipment which has been abandoned to the potential peril of persons;

S. Any act or omission to act which would constitute a nuisance in fact under common or statutory law; and

T. Automobiles, trucks, motorcycles or other motor vehicles parked or located outside of the front yard parking space referred to in Section 15.02-B of the Code. (Ord. 2003-105,§3, 2003)

U. To kill, slaughter or butcher animals including, but limited to livestock or wild game, except in a slaughter house, meat processing plant or, if and when permitted under applicable laws and regulations, in a butcher shop, subject to the following exceptions:

1. Fish, small birds, such as chickens, or small animals, such as rabbits, obtained live for human consumption or other use by an individual privately, rather than for commercial use, may be killed subject to all applicable zoning, health and related rules and regulations in the privacy of one's home but under no circumstances in public view.
2. As to larger animals that may be obtained live for human consumption or use, whether private or commercial, including but not limited to goats, pigs and cows, such animals may only be killed in a slaughter house or meat processing plant or in a related business establishment permitted by applicable laws to slaughter animals.

11.04 PUBLIC NUISANCES REGARDING PLANT, LAWN AND WEED CONTROL

Failure to comply with the height restrictions, weed restrictions and all other provisions of this section shall be declared a nuisance.

A. Purpose: The purpose of this section is to insure some minimal standards for the maintenance of lawns, yards and parcels of land in the City; to prevent unsightly conditions; to encourage the neat and orderly maintenance of property; to control all weeds, including nuisance and noxious weeds, and to provide for a system of abatement should the provisions of this section be violated.

B. Prohibitions and Restrictions Regarding Weeds:

1. Weeds - General: A weed is any plant that establishes itself entirely, or predominately in areas under cultivation, and is not deliberately planted. The seeds, resulting in the growth of the weed, are in place as a result of natural conditions. Weeds that do not fall into the category of nuisance and noxious weeds, as further defined hereunder, shall be subject to the general height restrictions for all parcels of property set forth in Section 11.04-D.
2. Nuisance Weeds: Any weeds such as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of a like kind, found growing in any lot or tract of land in the City are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any such place. The following further weeds are also specifically categorized as nuisance weeds, in addition to those named above: giant ragweed (*Ambrosia trifida*); common ragweed (*Ambrosia artemisiifolia*); orchard grass (*Dactylis glomerata*); timothy (*Phleum pratense*); redtop grass (*Agrostis alba*); bermuda grass (*Cynodon dactylon*); pigweeds (*Amaranthus* spp.); and goosefoot (*Chenopodium* spp.).
3. Noxious Weeds: Noxious weeds are defined in the Noxious Weed Law of the State of Illinois as any plant which is determined by the Director of the Illinois Department of Agriculture, the dean of the College of Agriculture of the University of Illinois and the director of the Agricultural Experiment Station at the University of Illinois, to be injurious to public health, crops, livestock, land or other property (505 ILCS 100/2). Said weeds are prohibited and cannot be allowed to grow.

The control authority over noxious weeds pursuant to said statute is the governing body of each County which represents all cities within the county boundaries and state law shall be applicable to noxious weeds.

C. General Maintenance and Height Provisions:
(Ord. 2001-134,§2, 2001; Ord. 96-158,§1,1996)

1. The following landscaping regulations shall apply to all residential lots:
 - a. Areas of the lot not covered by structures, pools, decks/patios or pavement shall be planted with live landscaping.
 - b. Decorative stone, brick or pavement may be used for edging planting beds but may not cover more than 20 percent of the landscaped area.

- c. Building foundations shall be landscaped to provide massings of natural colors and shapes to offset the mass of the building and to provide visual relief to the straight lines of building architecture, parking lots and other man-made features.
2. Except as provided herein, all parcels of land in the City shall be covered with grass, mowed and maintained so that the height of the grass or other vegetation thereon, at no time exceeds five inches and to a depth of 250 feet along the property line which is adjacent to the developed property. Parcels of land used for agricultural purposes shall be exempt from this paragraph 2 of Section 11.04-C. (Ord. 2004-116,§1)
3. Ornamental flower and shrub plantings shall not interfere with required mowing.
4. An individual owner of record or occupant of a parcel may seek an exception to the height provisions for vegetation not otherwise prohibited by applying to the City Council for permission to establish and/or maintain a native or natural planting pursuant to the guidelines set forth in Section 11.04-D.(Ord. 2004-116,§3)

D. Exceptions:

1. Those seeking an exception to the requirements of Section 11.04-C must submit an application to the City Council containing the following documentation: (Ord. 2004-116,§3)
 - a. A site plan for the proposed or existing planting or an existing native natural area.
 - b. A list of plants species that are in or are to be in the site.
 - c. A certification of involvement in a particular program, or a statement of sources of technical assistance or expertise.
 - d. A written proposal of maintenance or of visual screening of such plantings.
2. The types of exceptions that may be considered by the City Council which would allow uncontrolled plant growth are as follows:
 - a. Native Plantings: The use of native plant species for aesthetic and/or wildlife reasons.

- b. Wildlife Plantings: The use of native and/or introduced plant species to attract and aid wildlife.
- c. Erosion Control: To offset and control any soil loss problems both occurring or predicted.
- d. Soil Fertility Building: The enrichment and eventual stabilization of soil fertility through the use of various plant species.
- e. Governmental Programs: Any federal, state or local programs which require the unimpaired growth of plants during majority or all of the growing season.
- f. Educational Programs: Any areas designated for educational studies.
- g. Cultivation: Any plant species or group of plant species native or introduced and grown for consumption, pleasure or business reasons.
- h. Biological Control: The planting of a particular plant species or group of species which will effectively out compete and replace a noxious or troublesome weed species without additional soil disturbance of the site.
- i. Parks and Open Space: Any and all public parks and open space lands under the jurisdiction of federal, state and local agencies including private conservation/preservation organizations.
- j. Wooded Areas: All areas that are predominately woods.

3. The City Council shall review the application for an exception. If the application is for one of the exceptions set forth in Section 11.04-D-2 the City Council shall consider same if the Council finds that the site plan, as submitted, will result in the property being in an overall neat and maintained condition, and the uncontrolled growth will be separated from the lawn area, and will not interfere with the required mowing of the lawn.

E. Notice to Remove, Abatement, Costs: The City shall serve a notice upon the owner or occupant upon any premises which are in violation of the various provisions of this section, which notice shall demand that the nuisance created by said violation be abated within five days. Upon failure of the owner or occupant to abate the nuisance, the City may proceed to abate same and such expense shall be charged and paid by such owner or occupant. (Ord. 2004-116,§4)

F. Statutory Lien, Weed Removal: In addition to the other remedies of the City, as set forth in this section, the City shall, with reference to weeds, exercise all rights accorded to the City under the applicable state law, as currently set for in 65 ILCS 5/11-20-6 and 5/11-20-7, as amended. Said rights include the right of the City to destroy the weeds, cut the weeds upon the owner's failure to do so, collect from the owner the cost thereof, and the right to file a lien upon the subject real estate for such costs. This provision is not intended to limit the rights of the City to abate any other nuisance created by the violation of this section pursuant to Section 11.04-E, even though such nuisance might not necessarily involve weeds. (Ord. 2004-116,§4)

11.05 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 this chapter.

A. All buildings erected, repaired or altered in violation of the provision of the ordinances of the City relating to materials and manner of construction of building and structure;

B. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from having a clear view of traffic when approaching an intersection or pedestrian crosswalk;

C. All limbs of trees which project over a public sidewalk less than eight feet above the surface thereof or less than 10 feet above the surface of a public street;

D. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

E. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;

F. All loud and discordant noises or vibrations of any kind;

G. 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;

H. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk;

I. Any sign, marquee or awning which is in an unsafe condition, or which overhangs any roadway, or sidewalk less than eight feet above the surface.

J. Any condition or practice constituting a fire hazard;

K. All unsheltered storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, within the corporate limits of this City;

L. All unsheltered storage of unlicensed automobiles for a period of 10 days or more.

11.06 CHRONIC NUISANCE

A. Definitions: For purposes of this Section, the following definitions are applicable.

Chronic nuisance: Nuisance activity which occurs on three or more instances on the same property or dwelling unit during any 120-day period of any one or any combination of the activities listed below and as a result of any three separate factual events that have been independently investigated by any agent of the City that have resulted in an arrest, issuance of a warrant for an arrest or issuance of a ticket or citation.

1. Disorderly conduct as defined in 720 ILCS 5/26-1 *et seq.*
2. Any felony or Class A (730 ILCS 5/5-4.5-55) misdemeanor crime.
3. Violation of Chapter 11, 12, 19, 21, 25, 26 or 27 of this Code.

An act of domestic violence, dating violence, sexual assault or stalking in which the victim is the tenant or occupant shall not qualify as a nuisance activity pursuant to this Section.

City official: The Chief, Community Development Director, Deputy Chief, Code Enforcement Officer or any of their designees.

Dwelling: A building or a portion thereof designed or used exclusively for residential occupancy but not including overnight or transient accommodations in hotels or motels.

Dwelling unit: One or more rooms that are located in a dwelling that are arranged, designed or used as living quarters for one family only, and containing complete kitchen and toilet facilities, permanently installed.

Housing Board: The Mayor, Chief of Police and Community Development Director.

Property manager: A natural person, a partnership, corporation or any other individual or entity, which has been designated by the owner with operating real estate property on a day to day basis, when the owner is unable to personally attend to such details, or is not interested in doing so.

Tenant: Any firm, corporation, group or person who holds, occupies or possesses any land, building or any other real property of another.

B. Rental Property Registration: All owners of rental property shall register each residential rental property with the Community Development Department every two years between January 1 and February 28. If there is any change in the registration information, the owner must update the registration information within 30 days. Registration shall be made on line at www.cityofharvard.org and include the following information:

1. Identity of the property location by common address and property index number (PIN);
2. The number of dwelling units;
3. Name, address, phone number and e-mail address (if available) of the property owner;
4. Name, address, phone number and e-mail address (if available) of the property manager (if applicable);
5. In the case of a corporation or trust, the name, address, phone number and e-mail address (if available) of the person who is a corporation officer or trustee that has authority to take corrective action; and
6. If applicable, an agent designated by the owner for service purposes.

C. Notice and Hearing Before Housing Board: When a City official determines pursuant to the requirements of this Section 11.06 that a chronic nuisance exists, the City official shall seek a hearing before the Housing Board for the purpose of implementation and/or enforcement of an abatement plan.

1. Notice of Hearing Board: Whenever a hearing is scheduled before the Housing Board, the owner or property manager on the owner's behalf shall be afforded notice of such hearing. The notice shall be sent by certified mail, return receipt requested, personal notice or electronic mail to the address provided to the applicable contact persons identified through the registration process of 11.06(B) and shall state the following:
 - a. The time, place and nature of the hearing;
 - b. The common address or PIN of the location of the alleged chronic nuisance activity;
 - c. A statement by the City official with a detailed description of

the facts meeting the criteria of a chronic nuisance;

- d. A reference to the particular sections of ordinances or statutes involved; and
- e. A statement informing the owner of his or her ability to respond by presenting evidence or argument.

2. Conduct of Hearing before Housing Board

- a. A hearing required under this Section shall be held in accordance with the following rules:
 - i. The hearing shall be held at a reasonable time and place;
 - ii. No hearing shall be heard earlier than seven (7) days after notice required under this Section;
 - iii. The owner or property manager may present evidence; and
 - iv. The Housing Board may limit, but not prohibit, the presentation of evidence and argument. Evidence not admissible under the rules of evidence and privilege applied in circuit courts of this state may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.
- b. Where an owner or property manager has received the requisite notice under this Section and fails to appear at a hearing, the Housing Board may act ex parte.
- c. A determination of the Housing Board and/or Abatement Plan which impacts the owner's rights or duties shall be in writing and shall notify the owner or property manager personally, by certified mail, return receipt requested, or electronic mail.
- d. Compliance with procedures contained in this Section may be waived by written stipulation of all the parties.

D. Abatement Plan: In the event the Housing Board issues a decision that chronic nuisance exists, an Abatement Plan will be formulated to alleviate future nuisance activity. The Abatement Plan shall be reasonable with a defined time line, and the owner given an opportunity to comply. The Abatement Plan shall be limited to, and may contain all or some of the following elements:

1. The owner shall, if necessary, perform maintenance and repair, address security, lighting, limiting access to any common areas, prompt removal of graffiti and the posting of no trespassing signs.
2. The signing of a contract with the City for prosecution of Code violations on private property.
3. Banning individuals who are not tenants from the property in accordance with 735 ILCS 5/9-106.2 (g).
4. The offer of City assistance with eviction proceedings.
5. A plan for the owner to implement tenant screening policies and procedures.
6. A time schedule for implementing the plan.

E. Enforcement of Abatement Plans and Housing Board Determination:
A City Official may seek a declaration that an owner or tenant has permitted a chronic nuisance to continue despite the Housing Board Determination and/or Abatement Plan pursuant to this Section by showing the following:

1. That a hearing was conducted as set forth herein;
2. That an Abatement Plan was agreed to and not followed;
3. After being served notice, the owner, property manager or agent failed to appear at the hearing;
4. That eviction proceedings have not begun;
5. That after banning certain individuals who are not tenants from the property it was determined that those individuals are creating the nuisance;
6. If an eviction proceeding was filed but unsuccessful then those tenants subject to the eviction shall be responsible for chronic nuisance;
7. That the owner or property manager is not a victim of nuisance activity that threatens his life or safety; and
8. That the tenants are not a victim of nuisance activity that threatens their life or safety.

Following noncompliance, the City Official may then have a sworn complaint issued for filing with the circuit court.

F. City Assistance: If the owner files suit in circuit court for eviction based upon information provided by the City, the City shall assist by cooperating with the owner, including but not limited to, making law enforcement officers or other City officers available as witnesses in eviction proceedings. However, City law enforcement personnel shall not take the place of County Sheriff in the execution of judgment or order eviction and possession issued by the circuit court.

G. Penalties:

1. Any owner failing to comply with the registration requirements in Section 11.06-B shall be subject to a fine as follows: within 30 calendar days of the registration deadline, \$50; 31 to 60 calendar days of the registration deadline, \$100; and each day thereafter, \$10.
2. Any person, firm, corporation, property owner, property manager or signatory to Abatement Plan who fails to comply with Section 11 .06-D shall be subject to a fine of not less than \$500 plus reasonable attorney, abatement, police and witness costs incurred by the City. If applicable, he or she shall also be required to abate the nuisance at his or her expense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.
3. Prosecution: The City shall refrain from prosecuting any alleged offender of the foregoing offenses after verification that the chronic nuisance has been abated by a City official and receipt of such settlement payment. If settlement payment is not received and the offense is not corrected pursuant to Section 1.14-A of this Code or this Section 11.06, the City may have a sworn complaint issued and prosecute the matter in the 22nd Judicial Circuit Court.

11.08 ABANDONED MOTOR VEHICLES

A. Definitions: Terms used in this section shall be found in Appendix A.

B. Abandoning Vehicle: The abandonment of a motor vehicle or other vehicle or any part thereof on any highway in the City is unlawful and subject to penalties as set forth herein. The abandonment of a motor vehicle or other vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in the City is unlawful. (Ord. 96-104, §1, 1996)

A motor vehicle or other vehicle or any part thereof so abandoned on private property may be authorized for removal by or upon the order of the Chief of Police after expiration of a 10-day notice sent to the registered owner. (Ord. 96-104,§1, 1996)

A motor vehicle or other vehicle or any part thereof so abandoned on any public property may be authorized for removal by or upon the order of the Chief of Police after expiration of a 3-day notice sent to the registered owner. (Ord. 96-104,§1, 1996)

Any subsequent violation of this subsection shall result in the immediate issuance of a citation to the registered owner pursuant to Section 11.14 herein. (Ord. 96-104,§1, 1996)

C. Notice to Police: When an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this state, not the owner of the vehicle, such person shall immediately notify the Police Department when the vehicle is within the corporate limits of the City.

Upon receipt of such notification, the Chief of Police shall authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed motor vehicle or other vehicle.

The towing service will safely keep the towed vehicle and its contents, maintain a record of the two until the vehicle is claimed by the owner, or any other person legally entitled to possession thereof, or until it is disposed of as provided by this section.

D. Removal of Vehicles:

1. When a motor vehicle or other vehicle is abandoned within the City 10 hours or more, its removal by a towing service may be authorized by order of the Chief of Police.
2. When a stock car, demolition derby vehicle or abandoned, unattended, wrecked, burned, or partially dismantled motor vehicle or other vehicle is creating a traffic hazard within the City or its physical appearance is causing the impediment of traffic, its immediate removal by a towing service may be authorized by order of the Chief of Police.
3. When a vehicle is removed from either public or private property authorized by order of the Chief of Police, the owner of the vehicle will be responsible for all towing costs.

E. Records of Vehicle Removed: When a motor vehicle or other vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of the manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number and license plate year and number displayed on the

vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

F. Search for Owner: When the Police Department does not know the identity of the registered owner or other legally entitled person, they will cause the motor vehicle records of the State of Illinois to be searched by a directed communication to the Secretary of State for the purpose of obtaining the required ownership information.

The Police Department shall cause the stolen vehicle files of the Illinois State Police to be searched by a directed communication to the Illinois State Police for stolen or wanted information on the vehicle. When the Illinois State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the Illinois State Police. The information determined from these record searches will be used by the Police Department in sending a notification by certified mail to the owner or legally entitled person advising where the vehicle is held, requesting a disposition to be made and setting forth public sale information.

G. Notice to State Police: When the registered owner or other person legally entitled to the possession of a motor vehicle or other vehicle cannot be identified from the registration files of this state or from the registration files of a foreign state, if applicable, the Police Department shall notify the Illinois State Police for the purpose of identifying the vehicle's owner or other person legally entitled to the possession of the vehicle. The information obtained by the Illinois State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification of owner.

H. Reclaiming Vehicles: Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided herein, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle.

No vehicle shall be released to the owner or other person under this section until all towing and storage charges have been paid.

I. Sale of Vehicle: Whenever an abandoned, lost, stolen or unclaimed motor vehicle or other vehicle, seven years of age or newer, remains unclaimed by the registered owner or other person legally entitled to its possession for a period of 30 days after notice has been given as provided herein, the Police Department having possession of the vehicle shall cause it to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least 10 days prior to the sale on the premises where the vehicle has been impounded.

At least 10 days prior to the sale, the Police Department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner or other person known by the

Police Department or towing service to be legally entitled to the possession of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.

In those instances where the certified notification specified herein has been returned by the postal authorities to the Police Department due to the addressee having moved, or being unknown at the address obtained from the registration records of this state, the sending of a second certified notice will not be required.

J. Older Vehicles: When the identity of the registered owner or other person legally entitled to the possession of an abandoned, lost or unclaimed vehicle of seven years of age or older cannot be determined by any means provided for in this section, the vehicle may be sold as provided herein or disposed of in the manner authorized by this section without notice to the registered owner or other person legally entitled to the possession of the vehicle.

When an abandoned vehicle of more than seven years of age is impounded as specified by this section, it will be kept in custody for contacting the registered owner by the U.S. Mail, public service or in person for a determination of disposition, and an examination of the Illinois State Police stolen motor vehicle files for theft and wanted information. At the expiration of the 10 day period, without the benefit of disposition information being received from the registered owner, the Chief of Police will authorize the disposal of the vehicle as junk only.

A motor vehicle or other vehicle classified as an antique vehicle is excluded from the section.

K. Records: When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this section, a record of the transaction shall be maintained by the Police Department for a period of one year from the date of the sale or disposal.

L. Disposition of Sale Proceeds: When a vehicle located within the corporate limits of the City is authorized to be towed away by the Chief of Police and disposed of as set forth in this section, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the municipal treasury.

M. Liability of Officers: Any police officer, towing service owner, operator or employee shall not be held to answer or be liable for damages or his legal representatives, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this section.

11.09 INOPERABLE VEHICLES

A. Definitions: Terms used in this section are defined in Appendix A.

B. Abandonment of Vehicles: No person shall abandon any vehicles within the City, and no person shall leave any vehicle at any place within the City for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

C. Wrecked, Non-Operating Vehicles on Streets: No person shall leave any partially dismantled, non-operating, wrecked or junked vehicle on any street in the City.

D. Inoperable Vehicles Declared to be a Nuisance: Inoperable motor vehicles, as defined herein, whether on public or private property, are hereby declared to be a nuisance.

E. Disposal: All persons are required to dispose of any inoperable motor vehicles under their control upon written notice received from the corporate authorities or from the Chief of Police, or any member of his department designated by him commending such disposition of such inoperable motor vehicle.

F. Impounding: The Chief of Police or any member of his department designated by him is hereby authorized to remove to have removed any vehicle left at any place within the City which reasonably appears to be in violation of this section or which reasonably appears to be lost, stolen, unclaimed, or which is an inoperable vehicle as defined herein. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with 625 ILCS 5/4--201 et seq.

11.10 FIRE HAZARDS

No person shall create or maintain a fire hazard on any property contrary to the provisions of 20 ILCS 2905/0.01 (State Fire Marshal Act) or the regulations of the State Fire Marshal or otherwise, or maintain or fail to remove a fire hazard on any property owned or occupied by him. Specific conditions in conformity with the regulations of the State Fire Marshal or with current fire prevention regulations of the American Insurance Association shall be evidence of compliance with this section.

11.11 FLAMMABLE LIQUIDS

A. The storage of all flammable liquids and the transportation and use thereof, shall be done under the regulations of the State Fire Marshal of the State of Illinois.

B. On application, in writing, made to the City Council, the Council may, in its discretion, grant permits upon such terms and conditions as the Council may prescribe, to the applicant to construct tanks or structures for the purpose of storing flammable liquids.

C. If any person shall construct any tank or structure for the purpose of storing any flammable liquids without first having obtained a permit therefor, such tank or structure is declared a nuisance and shall be abated as such.

11.12 ABATEMENT OF PUBLIC NUISANCES (Revised Ordinance 2004-111)

A. Inspection of Premises: Whenever a complaint is made to the City that a public nuisance exists, or has existed, within the City, the complaint shall be forwarded to the City Administrator.

B. Summary of Abatement:

1. Notice to Owner:

- a. If the department determines that a public nuisance exists on private property, notice shall be delivered to the owner, via first class mail, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and a copy of the notice shall be posted on the premises.
- b. Such notice shall include:
 - i) A declaration that a nuisance exists on the premises;
 - ii) The section on the Code violated and a description of the condition constituting the nuisance;
 - iii) An order to remove or abate such condition within 7 days, unless it is determined by the Administrator, department head or designee that the nuisance constitutes an immediate danger to the public health, safety, peace, morals or decency. In such a case such nuisance must be abated within 24 hours.
 - iv) A statement that if the owner fails to remove or abate such nuisance within the time allowed, the City shall cause the condition constituting the nuisance to be removed or abated and that the cost of such removal or abatement shall be paid for by the owner and may constitute a lien upon the subject property.

2. Abatement by City: If the nuisance is not abated within the time provided herein or if the owner, occupant or person causing the nuisance cannot be found, the Administrator, department head or designee may cause the abatement or removal of such public nuisance, or person causing, permitting or maintaining such nuisance to abate or remove such nuisance immediately.
3. Abatement by Court Action: If the City determines that a public nuisance exists on private property the City Counsel may, in lieu of abating such nuisance, file a complaint in the Circuit Court of the 19th Judicial Circuit, McHenry County, Illinois.

C. Cost of Abatement: In addition to any other penalty imposed by this Chapter 11, the cost of abating such nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining such nuisance, and such cost shall constitute a lien on the subject property pursuant to Illinois Law.

11.13 GARBAGE AND REFUSE

A. Deposit in Street: No garbage or refuse of any kind shall be deposited in any street, alley or public way, excepting as may, from time to time, be provided in this Code. No such refuse shall be so placed that it can be blown about or scattered by the wind.

B. Non-residents Depositing Garbage: No person who does not reside within the City and no firm or corporation which does not maintain an office within the city shall deposit garbage or refuse of any kind within the City limits. No such person, firm or corporation shall utilize garbage pick-up or storage facilities within the City. This prohibition is applicable at all times and extends to and includes official clean-up days.

C. Depositing Garbage in Pick-up and Storage Facilities: No person, firm or corporation shall deposit garbage or refuse of any kind in garbage pick-up or storage facilities within the City which are leased or owned by others, or which have been placed in a particular location for the use of individuals or businesses residing at, or doing business at such location.

D. Depositing Garbage on or in City Property: No person, firm or corporation shall deposit their waste, garbage, refuse or other material on City owned property which lies inside or outside of the corporate limits, or within any dumpster placed on City owned property, which dumpsters are owned or leased by the City, or placed on such property for use by the City for its own purposes.

No person, firm or corporation shall deposit garbage, refuse, waste or any other material in a dumpster in a City park, other than such waste as has been routinely accumulated in a normal, legal and appropriate use of the park facilities by the person, firm or corporation concerned and incidental and directly related to the use of such park as a recreational facility.

No garbage, refuse, waste or other material shall be brought onto the park property for the purpose of disposing of same or for any other purpose.

E. Garbage Dumpsters: Unless permitted by the Building Department for a period of time not to exceed six weeks, garbage dumpsters from one yard to 25 yards in capacity, shall be prohibited in residential areas, except for those residential areas that contain a multiple family dwelling of four or more units. (Ord. 96-116,§1,1996)

F. Storage of Garbage Receptacles: Garbage receptacles shall be stored no closer to any street than the building line of the front yard (which is the street address) of the building and within four feet of the building on corner lots. Garbage receptacles shall be fly and vermin proof, made of a weather proof material with a tight fitting lid, and free of dirt, grime or other offensive debris. Residential garbage receptacles may be placed at the curb after 6 p.m. on the day before garbage is collected; such receptacles shall be removed from the curb by 7 a.m. on the day after garbage is collected. (Ord. 2001-121,§1,2001; Ord. 96-116,§1,1996)

G. Recyclable Items: The City shall, from time to time, promulgate rules regarding the pick-up of recyclable items by the Collector with whom the City contracts for garbage pick-up. All recyclable materials deposited and collected pursuant to such rules, shall be the sole property of the Collector. It shall be unlawful for any person, firm or corporation to remove, carry away or disturb any recyclable material which has been deposited by others at a designated pick-up place for such material. It shall also be unlawful for any individual, firm or corporation to deposit recyclable items or package same at any place, or in any manner, that does not fully comply with the rules promulgated by the City pertaining thereto. (Ord. 96-130,§1,1996)

H. Landscape Waste:

1. It shall be unlawful to accumulate any yard waste, including leaves, grass, underbrush, branches or other combustible matter on any property in such quantities and in such condition to constitute an undesirable nuisance, a public health hazard, or a public safety or fire hazard, except in a compost pile. (Ord. 2001-128,§2, 2001)
2. It shall be unlawful to dump any yard waste, as described hereinabove, on any public or private property. (Ord. 2001-128,§2, 2001)

I. Penalty: Any person, firm or corporation violating any portion of this Section 11.13 shall be fined not less than \$250.00 or more than \$500.00 of each offense, plus reasonable attorney fees incurred by the City. If applicable, the offender shall also be required to remove the

garbage, refuse or yard waste at his or her expense. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues. (Ord 2008-123,§4)

11.14 PENALTIES
(Revised Ord 2014-108, §2)

Except as provided herein, any person, firm or corporation violating any provision of this chapter shall be fined not less than \$100.00 nor more than \$500.00 for each offense, plus reasonable attorney fees incurred by the City. A separate offense shall be deemed committed on each day during or on which such violation occurs or continues.

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