

TITLE 4

PUBLIC HEALTH AND SAFETY

Subject	Chapter
Nuisances.....	1
Garbage, Junk and Refuse.....	2
Weed Control.....	3
Outdoor Burning.....	4

CHAPTER 1 NUISANCES

SECTION:

4-1-1: Definition

4-1-2: Public Nuisances Prohibited

4-1-3: Nuisances Affecting Health

4-1-4: Nuisances Offending Morals and Decency

4-1-5: Nuisances Affecting Peace and Safety

4-1-6: Property Defacement—Graffiti

4-1-7: Abatement Procedures

4-1-8: Abatement Costs

4-1-9: Other Remedies & Penalty

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. 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.

- B. 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. The deposit of garbage, rubbish, or any offensive substance on any street, sidewalk, or public place or any private property except as may be permitted by Ordinance.
- C. Still Water: All stagnant water in which mosquitoes, flies or other insects can multiply.
- D. Faulty Garbage Cans: Garbage cans which are not fly tight.
- E. 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.
- F. 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.
- G. Obnoxious Odors: 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.
- H. Unsanitary Animals and Animal Houses: Any yard, or other place where animals are kept which is not maintained in a clean condition or any animals which, because of disease, unsanitary conditions, odor or noise, discomfort or injure the health or well being of residents of the City.
- I. Well Openings: All abandoned wells not securely covered or secured from public use.
- J. Weeds: All noxious weeds as defined by Chapter 3 of this Title.
- K. STORAGE OF PERSONAL PROPERTY AND VEHICLES:

1. The unenclosed or unsheltered storage or standing of any one or more items of tangible personal property that is abandoned, discarded, unused, stripped, junked, wrecked, dismantled, scrapped, salvaged, not in running condition, unlicensed, or not in good and safe operating condition for a period of ten (10) days or more is hereby declared to be a nuisance and dangerous to public health, safety and welfare. Such tangible personal property is hereinafter referred to as "personalty" and includes, but is not limited to, automobiles, trucks, trailers, buses, tractors, farm implements, farm machinery, motorcycles, wagons, construction equipment, and any other type of vehicle, or any part or parts thereof, lumber, wood, junk, trash, debris, paper, tires, furniture, stoves, refrigerators, freezers, plumbing fixtures, cans, containers, industrial and other waste, copper, brass, iron, steel, tin, aluminum, lead, any other metal or alloy, rags, batteries, any other machinery, and any other ferrous or nonferrous material, goods or articles.

2. The owner, owners, tenants, lessees and/or occupants of any real estate upon which such storage or standing is made, and also the owner, owners and/or lessees of said personalty involved (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate said nuisance by the prompt removal of said personalty.

3. If said owners allow said nuisance to exist or fail to abate said nuisance, they, and each of them, shall be guilty of a separate offense for each day during or on which such nuisance exists.

4. It shall be an affirmative defense to any charge brought against said owners for violation of this section that such storage or standing is on real estate that is lawfully zoned, under the City UDO, as amended, as a "Wrecking Yard, Vehicle".

L. SUMP PUMP DISCHARGE:

1. Sump Pump Discharge on Public Property: No person shall construct, alter, maintain or in any way provide for the discharge of flow from a sump pump hose or pipe that results in the creation of a hazard or standing water on a public right-of-way, public sidewalk, or street pavement. Such hazard or standing water is hereby declared to be a nuisance and dangerous to public health, safety, and welfare.

2. Sump Pump Discharge on Private Property: Unless otherwise reviewed and approved by the Public Works Department, no person shall construct, alter, maintain or in any way provide for the discharge of flow from a sump pump hose or pipe that is closer than five feet (5') from any lot line, or that results in the creation of a hazard or standing water on private property. Such hazard or standing water is hereby declared to be a nuisance and dangerous to public health, safety, and welfare.

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, or structures kept or resorted to for the purpose of prostitution.

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. 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.

- 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
- 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.
- 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.

- 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 and any outdoor lighting in excess of those permitted under the City's UDO. (Ord 2005-17, 05-17-2005)
- P. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street, or other private or public property without permission of the owner thereof.
- Q. Any sign, marquee, or awning, that is in an unsafe condition, or that overhangs any roadway or that overhangs any sidewalk less than 7' above the sidewalk surface.

4-1-6: 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.

4-1-7: 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 City Administrator 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 City Administrator may direct the Chief of Police, Building Inspector, or other designee to serve a notice on the owner and, when appropriate if such information can be readily ascertained, on the occupant or person causing, permitting or maintaining such nuisance (in person or by U.S. mail to the current taxpayer of record) and to post a copy of the notice on the premises. If the owner cannot be found, notice may be served on the occupant or person causing, permitting or maintaining such nuisance in addition to posting a copy of the notice on the premises. If there is no structure on the property, a sign may be posted anywhere 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 a time specified by the City 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. (Ordinance 2020-25, 11-17-2020)
2. Abatement by City for Nuisances Causing Great and Immediate Danger:
 - a If the nuisance causing great and immediate danger to the public health, safety, peace, morals or decency is not abated within the time provided or if the owner, occupant or person causing such nuisance cannot be found, the Health Officer, Chief of Police or the building inspector for the City or some other City official whom the City Administrator shall designate shall cause the abatement or removal of such public nuisance.
 - b If the nuisance is of such threat to the welfare and safety of the community that it must be abated immediately, the City Administrator (or designee), in his or her sole discretion, is authorized to take such steps as may be necessary to affect the abatement regardless of the requirements of this section and may thereafter provide notice to the owner of such action and then follow the lien provisions of this section to recover abatement and associated costs.

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, the inspecting officer shall cause an action to abate such nuisance to be commenced in the name of the City. (1978 Code §12.03)

4-1-8: ABATEMENT COSTS:

- A. After incurring costs and expenses for abatement of a nuisance on private property, the City shall serve notice of the amount due on the person to whom the last general tax bill on the property was sent.
- B. The notice shall be served either personally or by U.S. mail and it shall include the following: 1) statement that the City has authority to abate a nuisance pursuant to this chapter and to collect its costs and expenses from the owner; 2) identify the underlying parcel by common description; and 3) describe the abatement activity and costs incurred by the City; and 4) require payment and indicate that a lien may be filed by the City against the property for remaining unpaid charges and associated City costs.
- C. A second notice shall be served in the same manner if the amount remains unpaid twenty (20) days after the first notice has been served or mailed. A one-time late penalty of ten percent (10%) of the bill shall be added to the amount due.
- D. If, forty-five (45) days after service of the first notice, the costs and expenses incurred by the City have not been paid, the City may file a notice of lien in the Office of the DeKalb County Recorder of Deeds.
- E. Said notice of lien shall consist of a sworn statement including the following: 1) a description of the underlying parcel that sufficiently identifies the parcel; 2) the abatement activity and the amount of the abatement cost plus any late fees, administrative and recording costs; and 3) the date or dates when the abatement cost was incurred by the City.
- F. A release of lien shall be prepared by the City for the owner to file only upon payment of the amount due plus any late fees, administrative and recording costs incurred by the City or at the direction of the City Administrator (or designee).
- G. At the direction of the City Administrator (or designee), the City Attorney is authorized to file suit in a court of competent jurisdiction to foreclose on any lien recorded pursuant to this section. The City shall be entitled to recover

reasonable attorney fees in any action to foreclose a lien recorded pursuant to this section.

4-1-9: OTHER REMEDIES & PENALTY

The use of the remedies set forth in this Chapter does not bar the use of any other remedy provided for under this chapter, or any other remedy as may be allowed by any other ordinance of the City or laws of the State of Illinois. This includes, but is not limited to the City's right to issue a citation of this Chapter and to fined in accordance with Section 1-4-1 of the City's Code.

CHAPTER 2 GARBAGE, JUNK AND REFUSE

SECTION:

4-2-1: Reserved

4-2-2: Garbage and Refuse Collection Provided; Restrictions

4-2-3: Storage Containers

4-2-4: Penalty

4-2-1: Reserved

(Ordinance 2019-1, 01-02-2019)

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 the City's residential garbage or refuse collection and disposal. It shall be unlawful to dispose of any residential refuse or garbage except as provided in this chapter.
- 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)
- D. Cost: Unless otherwise provided for in the contract, the cost of the services provided in this Section shall be the responsibility of individual property owners.

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 any matter other than garbage.
- B. Placement of Containers: 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: 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) (Ordinance 2019-1, 01-02-2019)

CHAPTER 3 WEED CONTROL

SECTION:

- 4-3-1: Nuisance Weeds and Plants**
- 4-3-2: Height Restrictions**
- 4-3-3: Planned Natural Landscaping**
- 4-3-4: Abatement & Costs**
- 4-3-5: Penalty**

4-3-1: NUISANCE WEEDS AND PLANTS:

- A. Noxious Weeds: any plant which is determined by the Director, the Dean of the College of Agricultural, Consumer and Environmental Sciences 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. "Noxious weed" does not include industrial hemp as defined and authorized under the Industrial Hemp Act.
- B. Any noxious weeds 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.
- C. Barberry Bushes: It shall be a nuisance and unlawful to plant or permit the growth of the bush of the species of tall, common or European barberry, further known as *Barberis vulgaris* or its horticultural varieties within the City. (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 & COSTS

The provisions of Section 4-1-7 and 4-1-8 of this Chapter related to nuisance abatement and costs shall apply to violations of this Section.

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

4-4-8: Penalty

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, 4-23-1996)

4-4-8: PENALTY:

Any person who violates this chapter and has been issued a citation signed by a Law Enforcement Officer of this section shall be fined in accordance with Section 1-4-1. (Ordinance 2019-21, 08-06-2019)