

## **CHAPTER 12**

### **NUISANCES**

**Latest Revision:** August 27, 2018 (Ordinance 2018-045)

**Sections:**

**12.01 NUISANCES DECLARED.**

**12.02 DUTCH ELM DISEASE.**

**12.03 ABATEMENT OF NUISANCES.**

**12.04 PENALTIES.**

**12.05 CITATIONS.**

**12.01 NUISANCES DECLARED.**

It is hereby declared to be a public nuisance for any person, firm, corporation or any owner, agent, occupant or person in possession, charge or control of any lot, building or premises within the City or within its territorial jurisdiction:

1. Offensive Odors. To so negligently conduct any business or use any premises as to create such an offensive smell as to taint the air and render it unwholesome or disagreeable to the neighborhood.
2. Encroaching Upon Highways, etc. To obstruct or encroach upon public highways, private ways, streets, alleys, commons.
3. Offensive or Unwholesome Business. To establish, maintain, and carry on any offensive or unwholesome business.
4. Cemeteries. To establish a cemetery within the corporate limits or within one mile of the limits thereof, without first having obtained permission to do so by ordinance of the Council.
5. Railroad Cars, Stock Yards. To own, keep or use any railroad car, yard, place or premises in or upon which cattle or swine or sheep shall be confined or kept.
6. Renderers, Tanneries. To locate and carry on, without having obtained permission of the Council to do so, any packing house, renderers, tallow chandlers, glue or bone factories, soap factory or tannery.
7. Breweries and Distilleries. To locate in the City, without first having obtained permission of the Council to do so, any brewery or distillery except if such business is otherwise licensed under the provisions of Chapter 38 of the DeKalb Municipal Code. (1994-005)

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8. House of Prostitution. To conduct or carry on any house of ill fame or assignation where men and women resort for the purpose of prostitution or lewdness.
9. Slaughter Houses. To slaughter or kill any meat, cattle, hogs or sheep, or keep, maintain or use therein any house or place in which the business of slaughtering any of said animals may be carried on in the City without a permit to do so from the Council.
10. Storage of Junk. To deposit or allow to be deposited or stored junk, trash, brush and refuse on private or public property within the City where such storage is not specifically authorized under the provisions of the zoning regulations of the City. Junk, trash and refuse are defined herein to include any and all waste matter, whether reusable or not, which is offensive to the public health, safety or to the aesthetics of the neighborhood, and is specifically intended to include, but not be limited to, paper wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar materials, old refrigerators, freezers, stoves, carpeting, padding, roofing shingles, plumbing fixtures and piping, upholstered furniture, tractors, machinery of any kind, inoperable or abandoned automobiles and a motor vehicle not currently licensed by the State of Illinois or other state or country, exposed to the view of the general public and not either enclosed in a building or structure, or located on the sales lot of a licensed automobile dealer. (88-109, 93-119)
11. Smoke. To allow or permit any dense smoke to come or be emitted from any chimney or engine within the City.
12. Intoxicating Liquors. To sell directly or indirectly, or keep for sale, or to give away in any place in the City intoxicating malt, vinous, mixed or fermented liquors, or other like drinks, in any quantity whatever, unless the same shall be kept, sold or given away under a permit or license duly granted by the Council.
13. Cottonwood Trees. To plant or permit the growth of cottonwood trees or box elder trees upon any premises to the injury or prejudice of others.
14. Foul Substances. To cause or suffer the carcass of any animal, or any animal or vegetable matters, slop, swill, suds, garbage, filth, stable droppings or offal or noisome substances of any kind to be collected, deposited or to remain in any place in the City to the prejudice of others.
15. Offensive Matter in Water Courses. To throw or deposit, or cause to be thrown or deposited, any offal or any offensive matter, or the carcass of any animal, in any water course, pond, spring or well or on any land.
16. Filth in Streets. To deposit any night soil, dead animal or other filthy, offensive or noisome substance upon any lot, street, alley, highway, park or other place.
17. Polluting Water Supply. To corrupt or render unwholesome or impure the water of any

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drinking hydrant, spring, stream, pond or lake, to the injury or prejudice of others.

18. **Offensive Premises.** To keep, or suffer to be kept, in a foul, offensive, nauseous or filthy condition any chicken coop, stable, cellar, drain, pool, toilet, sewer or sink, upon any premises belonging to or occupied by him, or any railroad car, building, yard, grounds, and premises be-longing to or occupied by him.
19. **Privies.** To erect or maintain any privy within the City.
20. **Keeping Animals or Fowl.** To keep or suffer any swine, sheep, goats, chickens, ducks and geese in any enclosure or pen within the City, or to keep, house or pasture within the City any swine, sheep, goats, chickens, ducks or geese so as to be offensive to those residing in the vicinity.
21. **Cellars, Sewers, and Drains.** To suffer or permit any cellar, vault, private drain, pool, sewer or sink upon any premises belonging to or occupied by him to become nauseous, foul, offensive or injurious to the public health.
22. **Weeds.** To permit the growth upon any premises in the City of any noxious weeds, or to permit any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants to grow to a height exceeding eight (8) inches anywhere in the City, or to permit any premises to become grown up with weeds and brush so that the same become injurious to the health of the community. (2018-045)
23. **Mosquito Breeding Places.** To keep or suffer any low-lying swampy land with poor drainage or artificially impounding and retaining of water until it becomes stagnant so as to be susceptible to becoming a mosquito breeding place. (2005-059)
24. **Refuse, Recyclables and Landscape Waste Collection:** To cause, permit, or maintain garbage, garbage cans, recyclables, recycling containers, refuse, landscape waste or any other trash, debris, or other items, to be placed in the right of way (street, curb or alleyway) in violation of Chapter 15 of this Municipal Code. (2005-059)
25. **Boarded Up Buildings:** To cause, permit or maintain a building or structure with windows, exits, doorways, areas of entry or other openings boarded up, unless the boards are cut to properly fit the opening, installed in a workmanlike manner, free of advertising, painted to match the building, and otherwise maintained in accordance with Chapter 13 or 24 of this Municipal Code. (2005-059)
26. **General.** To cause, permit or maintain any other act or condition which is injurious or dangerous to public health, or which causes injury, annoyance or inconvenience to the public.
27. **Statutory nuisance.** To cause or maintain any nuisance defined as such by Illinois

Statutes. (2005-059)

## **12.02 DUTCH ELM DISEASE.**

- a) No person owning real estate within the City, shall permit to grow thereon or remain thereon, any elm tree infected with Dutch elm disease, and to do so is hereby declared to be a nuisance.
- b) The owner of any premises within the City upon which there is an elm tree infected with Dutch elm disease, shall remove the same immediately upon discovering it, by cutting the same down. The tree so cut down, together with all its limbs, shall be cut into lengths not to exceed four feet and placed upon the parkway in the street to be removed by the City of DeKalb. Upon so cutting the trees and placing them upon the parkway, the owner of said property shall notify the City Engineer, in order that the same may be removed by the City.

## **12.03 ABATEMENT OF NUISANCES.**

- a) When ordering a nuisance abated, the City Manager or the Community Development Director or his designee, shall serve a notice in writing to the owner, agent, occupant or person in possession, charge or control of any lot, building or premise in or upon which any nuisance may be found requiring them to abate the same within a time specified in such manner as the City Manager or Community Development Director shall prescribe. The notice to abate may be served either in person or by first class mail. It shall not be necessary in any case to specify in what manner the nuisance shall be abated. If the person so notified shall fail, refuse or neglect to comply with such order within the time and manner specified, the City Manager or Community Development Director or his designee shall cause the summary abatement of such nuisance at the expense of the person responsible for the same. (1988-109, 2005-070)
- b) Abatement of Inoperable Motor Vehicles. The City of DeKalb hereby finds that inoperable motor vehicles on public or private property, constitute a nuisance and are a threat to the public health, safety and welfare. The abatement procedures to be utilized in removing such nuisance shall be as follows:
  - 1. An "inoperable motor vehicle" is defined as any motor vehicle from which, for a period of at least seven (7) days, 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. For purposes of this section, "inoperable motor vehicle" shall mean any motor vehicle with one or more flat tires.

An inoperable motor vehicle shall not include a motor vehicle which has been temporarily incapable of being driven under its own power in order to perform ordinary service or repair operations, or to any motor vehicle that is kept within a

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building when not in use, or an operable historic vehicle over 25 years of age; or a motor vehicle on the premises of a business engaged in the wrecking or junking of motor vehicles

2. A Building and Code Enforcement Officer or Police Officer may remove, or cause to be removed, any inoperable motor vehicle, or parts thereof, seven (7) days from the issuance of a written notice to the person in control of an inoperable motor vehicle. The notice may be served either in person or by first class mail. A failure to comply with the notice within the time specified in the notice shall be considered a violation of this Chapter 12. (2005-070)

c) Abatement Expenses. Following the city sponsored cutting of weeds, or the abatement of nuisances as defined by this Chapter 12, the City Manager or his designee shall:

1. After said abatement has been completed, send a bill for any related fines, the cost of abating the nuisance, and assessing an additional penalty in the amount of One Hundred Fifty Dollars (\$150.00) to the property owner, his agent or legal representative, or occupant in legal possession or control of the premises, or in the case of inoperable vehicles, the person named on the certificate of title.
2. If said bill is not paid within fifteen (15) days of the date of said bill, the City Manager or his designee may prepare and record a notice of lien against the property with the DeKalb County Recorder in the amount of the cost and expense incurred in abating the nuisance, plus late fees or interest, penalties, inspection fees, an administrative fee of One Hundred Twenty Five Dollars (\$125.00), recording fees incurred and current recording fees in effect at the time of recording the release. (1988-109, 2005-070)
3. Said notice of lien shall consist of a sworn statement by the City Manager or his/her designee and shall set forth (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred. The notice of lien, along with the copies of Section 5/11-20-7 of the Illinois Compiled Statutes and Section 12.03 of the DeKalb Municipal Code, shall be sent by certified mail or hand delivered to the property owner, his agent or legal representative, or occupant in legal possession or control of the premises and, if different, to the person who received the tax bill for the preceding year. (2005-070)

d) Legal Action: (2005-070)

1. Foreclose Lien: Subsequent to the filing of said lien, the City may file a complaint for foreclosure of such lien, or upon becoming a defendant in a pending suit affecting the premises or real estate, by answer to the complaint or in the nature of an intervening petition or cross-complaint the City may proceed in its corporate name to foreclose such lien.

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2. Civil Action: The City may also sue the owner of the property to recover the money due for services rendered, plus reasonable attorney's fees.
3. Other: The actions authorized by subsections (c)(1) and (2) shall be in addition to, and without waiver of, any other available remedies.
4. Separate from or in addition to taking independent action to abate a nuisance, the City shall be authorized to seek a Court Order or Administrative Hearing Order directing that a nuisance or other similar violation of applicable City Codes and Ordinances be abated, cleaned up or otherwise remediated, and the City shall be authorized to impose a lien for the costs associated with such remediation action.  
(2014-037)

**12.04 PENALTIES.**

- a) Any person who shall create, maintain or cause to be created or maintained a nuisance upon conviction thereof, shall be fined not less than \$25.00 nor more than Five \$500.00 for each offense. (1988-109)
- b) Each day or portion thereof for which any nuisance is continued or maintained, or suffered to be continued or maintained, by the person creating, causing or suffering the same to be created or maintained, after reasonable notice to abate the same, shall be deemed a separate and distinct offense.

**12.05 CITATIONS.**

The citation system established in Chapter 13. "Housing and Property Maintenance Regulations", Section 13.04 "Citations", may be used for enforcement of Section 12.01 "Nuisances Declared", Paragraphs 10, 18, 21, 21.5, 22, 23 and 24. (1988-109)