

CHAPTER 24

ARTICLE I. NUISANCES

*Cross references - Foul and offensive smells from places where animals are kept, Sec. 6-3; certain acts by dogs declared nuisances, Sec. 6-31; solid waste and rubbish, Sec. 16-1 et seq; health, Sec. 18-1 et seq.; health, Sec.18-1 et seq. failure of second hand dealers to maintain premises declared a nuisance, Sec. 25-65; non complying sidewalks declared nuisance, Sec. 29-125; junked, abandoned and wrecked vehicles, Sec. 32-72 et seq.

State law references - Municipal authority to pass ordinances for air contamination control, Ill. Rev. Stat. Ch. 24. Sec. 11-19.1-11; air pollution control, Ch. 111 1/2, Sec. 240.1 et seq.

Sec. 24-01. Smoke control required.

No person owning or in charge of any smokestack of any locomotive, tar kettle, steam machine or contrivance, or of any open fire, smokestack or chimney of any building or premises shall allow the emission of dense smoke except for a period of or periods aggregating six (6) minutes in any one hour at the time when the firebox is being cleaned out or a new fire being built therein, during which period of or periods aggregating six (6) minutes in any one hour, the emission of smoke of a shade or density greater than Number Three of the Ringelmann Chart as published by the United States Bureau of Mines, is prohibited. Such emission of dense smoke as herein defined is hereby declared to be a nuisance. Any person participating in the violation of this section either as owner, proprietor, lessee, agent, manager, superintendent, engineer, fireman, janitor, or otherwise, shall be severally liable therefore. (Code 1965, Sec 11.10)

Sec. 24-02. Weed control required.

- (a) 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 no person shall permit any such weeds to grow or remain in any such place. No person shall permit weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding six (6) inches anywhere in the City; any such plants or weeds exceeding such height are hereby declared to be a nuisance. Any trees, grasses or weeds, but not vines, hedges, shrubs or flowers, in excess of six inches, growing in the fence line and intertwined with a fence shall be deemed a nuisance. (Ord. 2000-72, 9-18-2000)
- (b) The Department of Building and Zoning and/or The Environmental Services Utility shall cause to be served a Notice upon the owner or occupant of any premises on which weeds, plants or grass are permitted to grow in violation of the provisions of this Section, and demand the abatement of the nuisance within three (3) days. In the event that the owner is a non-resident or cannot be found, notice by mailing to the person who last paid the taxes on such premises, postage fully prepaid, shall be sufficient. The notice will be the only notice to the owner or occupant and no further Notice will be given. In the event of a subsequent

violation within the same growing season, a second notice shall not be required in order for the Department to proceed with abatement of a subsequent nuisance. (Ord. 2000-72)

- (c) In addition to all other abatement procedures, the Superintendent of the Environmental Services Utility may proceed to abate such nuisance by applying growth retardant to the neglected properties after cutting the weeds, grass or plants. A charge of \$75.00 (Seventy-Five Dollars) minimally shall be made for each lot so treated plus the reasonable value of labor and equipment utilized by the City in the implementation of said growth retardant process. (Ord. 2002-30, 5-20-02)
- (d) If the person so notified does not abate the nuisance within three (3) days after such Notice has been given or mailed as aforesaid, or refuses or neglects to cut the weeds, grass or other plants herein referred to, the Superintendent of the Environmental Services Utility may proceed to abate such nuisance by cutting the weeds, grass or plants. A charge of one hundred dollars (\$100.00) minimally shall be made for each lot cleaned plus the reasonable value of labor and equipment utilized by the City in effectuating said cleaning or abatement.

For each subsequent occurrence with the 12 month period next following, the minimum charge shall be two hundred dollars (\$200.00) (Ord. No. 99-76, Sec. 1, 8-2-99)

- (e) In the case of an emergency where there is not time to send notice, the work will be performed and charged to the owner and/or occupant.
- (f) If the fees plus costs are not paid within thirty (30) days of the service rendered, the fees and costs shall be considered delinquent. The City of Kankakee may in its discretion file suit in a civil action to collect such amounts as are delinquent and due against the occupant, tenant, landlord, owner or agent responsible for the upkeep of the property. The City shall collect as well as, all court costs pertaining to said action, reasonable attorney fees, plus the sum of twenty-five dollars (\$25.00) to cover the costs of preparation of all notices and forms as may be required.
- (g) The City shall add interest at the rate of nine per cent (9%) per annum on all delinquent fees and on all judgments rendered against the responsible party. (Code 1965, Sec. 11-11; Ord. No. 74-18, Sec. 1, 6-3-74; Ord. No. 74-19, Sec. 1, 6-3-74, Ord. No. 91-26, Sec.1, 5-6-91).

State law reference - authority of municipality to require weed destruction, Ill. Rev. Stat. Ch. 24, Sec. 11-20-6; weed cutting. Ch. 24, Sec. 11-20-7.

Sec. 24-02.1 Lien placed on property for failure to pay fine.

Failure of any person to pay any charges levied by the City of Kankakee or agents for cutting of weeds, grass, or plants as provided in this article within 30 days of mailing any bill for such charges shall be subject to a lien on said premises, which may be recorded in the office of the Recorder of deeds of Kankakee County.

The City of Kankakee is further authorized to foreclose on said lien in accordance with law of the State of Illinois. (Ord. No. 99-77, Sec. 1, 8-2-99).

Sec. 24-03. Unhealthy or offensive conditions on premises.

Keeping on any premises any carrion, pigsty, decaying animal or vegetable matter, or stagnant water, or any other thing which may be injurious to the health or offensive to the neighborhood, or by which any noxious or offensive smell may be created is hereby declared a nuisance. (Code 1965, Sec. 11-13)

Sec. 24-03.1. Noise nuisance.

It shall be unlawful for any person to make, continue, or cause to be made or continued, any excessive, unnecessary or unusual noise which either annoys, disturbs, injures or endangers the comfort, repose, health or safety of others within the City, except in cases of urgent necessity in the interest of public safety.

The following are hereby declared to be excessive, disturbing, loud and unnecessary noises in violation of this Section, however, said enumeration shall not be deemed to be exclusive, namely:

- (a) Radio, compact disc or tape player, television sets, musical instruments and similar devices. The playing, using, operating or permitting to be played, used, or operated, any radio, compact disc, tape player, musical instrument, phonograph, television or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for the convenient hearing of the persons who are in the room, chamber, vehicle or outdoor area within the City in which or where such machine or device is played, used or operated and who are voluntary listeners thereto. The operation of any such radio, compact disc or tape player, instrument, phonograph, machine or device in such a manner as to be plainly audible at a distance of fifty feet (50') from the location of such set, instrument or device, shall be prima facie evidence of a violation of this Section. (Ord. No 95-39, Sec 1, 7-3-95; Ord. No. 15-29)
- (b) Permit for outdoor area. No band, group, disc jockey (D.J.), orchestra or other person using amplified sound equipment, in an outside area, may operate in violation of subparagraph (a), without first obtaining approval for the permit from the City Council. The City Clerk shall issue such permits, to such groups, organizations or charities that the City Council deems to be in the best interest of all of the citizens, in no event, shall any permit allow for sound to be amplified

past 11:00 P.M. Sunday-Thursday and 12:00 A.M. for Friday and Saturday nights. All Park District Property shall be exempt from the provisions of this Ordinance. (Ord. No 95-39, Sec 1, 7-3-95; Ord. No. 15-29)

*Prohibited and declared a public nuisance, the use of Citizen Band Radios in excess of established limits which cause noise to be received by other citizens on their electronic equipment: Operation of Citizen Band Radios and their peripheral equipment, which results in transmission of radio signals in excess of the wattage output allowed by the Federal Communication Commission, whose signals are transmitted over and received as noise by electronic equipment of others, including, but not limited to televisions, radios and telephones. *(Ord. 93-20; 3-15-93; repealed by Ord. 93-38; 6-21-93)

(c) Motor Vehicles.

- (1) Horns, Signaling Devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place of the City except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; the sounding of any such device for an unnecessary and unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- (2) Exhaust System. The discharge into the open air within the City of the exhaust of any steam engine, gasoline engine, stationary internal combustion engine or other kind or type of engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (3) Defect in Vehicle or Load. The use within the City of any weapon, automobile, motorcycle, truck, cart of any other vehicle, so out of repair or loaded in such a manner or with material of such nature as to create loud and unnecessary grating, grinding, rattling or other noises.
- (4) Tires. The operating of a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such noise from the tires in contact with the ground because of rapid acceleration or excessive speed turning corners or other such reason.

- (d) Construction, Repair of Buildings. The use of any hammer, derrick, hoist tractor, roller, pile driver, shovel or other mechanical apparatus operated by fuel or electric power in building or construction operations other than between the hours of seven o'clock (7:00 a.m.) and nine o'clock (9:00 p.m.) on week days and Saturdays, except in case of urgent necessity in the interest of public health and safety then only with written permission from the Code Enforcement Officer, which permission may be granted for a period not to exceed three (3) days or less

while the emergency continues. If the Code Enforcement Officer should determine that the public health and safety will not be impaired by such acts and if it shall further be determined that loss or inconvenience would result to any party, in interest, said official may grant permission for such work to be done, other than within the hours of seven o'clock (7:00) a.m. and nine (9:00) p.m. upon application.

- (e) Animals, Birds, etc. The keeping of any such animal or bird shut up or tied up in any yard, enclosure, house or other place within the City which by barking, howling, crying, singing or causing frequent or long continued noises, shall disturb the comfort or repose of person in the vicinity.
- (f) Lawn Care Equipment. The use of any mower, hedge cutter, edger or chain saw other than between the hours of seven o'clock (7:00) a.m. and ten o'clock (10:00) p.m. on Monday through Saturday and between ten o'clock (10:00 a.m.) and ten o'clock (10:00) p.m. on Sundays and holidays. (Ord. 87-32; 9-21-87)

Sec. 24-03.2. Fees for violating nuisance ordinance.

Any person who violates any provision of this Ordinance shall upon conviction be fined not less than \$50.00 nor more than \$500.00. Each hour during which a violation occurs shall be deemed a separate and distinct offense. Said fines may be levied or imposed as provided in Section 36-12 of this Code. (Ord. No. 87-32, Sec.3, 9-21-87; Ord. No 95-39, Sec.1 & 2, 7-3-95; Ord. No. 98-88, Sec.24.03.2, 11-2-98).

Any person who violates any provision of this Ordinance while operating any vehicle, shall subject that vehicle to immediate impounding and towing. The Vehicle shall only be released to the owner upon payment of all towing and storage costs. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with Chapter 625 ILCS 5/2 - 201 et.seq. (Ord. No. 95-39, Sec.1 & 2, 7-3-95).

State law references - Authority of municipality over unwholesome or nauseous places, Ill. Rev. Stat. Ch. 24, Sec. 11-42-10; same declared nuisance, Ch. 100 1/2, Sec. 26.

Sec. 24-04. Offensive business.

Any building or other place used for trade, employment or manufacture, which by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals or of the public is hereby declared a nuisance. (Code 1965, Sec. 11-18)

State law references - Authority of municipality to prohibit offensive businesses, Ill. Rev. Stat. Ch. 24, Sec. 11-42-9; same declared nuisance, Ch. 100 1/2, Sec. 26.

Sec. 24-05. Unauthorized slaughterhouses, tanneries, etc.

Any slaughterhouse, tannery, rendering plant, soap factory, or packinghouse operating without the consent of the City Council is hereby declared a nuisance. (Code 1965, Sec.11-13)

State law reference - Authority to regulate packinghouses, tanneries, etc. Ill. Rev. Stat., Ch. 24, Sec. 11-42-7.

Sec. 24-06. Dumping or depositing refuse.

Dumping or depositing on any premises, public or private, any decaying animal or vegetable matter or any refuse of any kind from any store or other place, or any waste liable to create any offensive smell, or liable to become ignited by combustion or otherwise is hereby declared a nuisance. (Code 1965, Sec.11-13)

Cross Reference - Littering prohibited, Sec. 16-21; deposit of grass and rubbish prohibited in public streets, Sec. 16-23. State law reference--Authority of municipality to prohibit deposits of offensive matter in streets, alleys, or other municipal property, Ill. Rev. Stat. Ch. 24, Sec. 11-80-10; dumping solid waste declare a nuisance, Ch. 100 1/2 Secs. 27,28.

Sec. 24-07. Obstructing watercourses.

Throwing or depositing in or upon the banks or sides of the Kankakee River or any stream, pond, lake, spring or any other flowing watercourse of any carrion, decaying animal or vegetable matter, or any substance, material or article which might clog, impede or obstruct the free flow of water in the watercourse is hereby declared a nuisance. (Code 1965, Sec.11-13)

Cross References - Deposits in rivers, streams or creeks prohibited, Sec.16-24; water pollution control, Sec. 36-103 et seq.

State law reference - Corrupting or rendering unwholesome watercourses, lakes, etc. and obstructing navigable rivers and waters declared nuisances. Ill. Rev. Stat. Ch. 100 1/2, Ch. 26.

Sec. 24-08. Waters, filth and unclean liquids in streets.

Throwing or permitting the escape into any street or other public place, or into or upon any adjacent ground, any filth or unclean water, or any foul or noxious liquid from any premises or causing rainwater to be conducted in any manner so as to throw the same into any street or public place from a greater height than three (3) feet is hereby declared a nuisance. (Code 1965, Sec. 11-138)

Sec. 24-09. Dead animal.

Permitting the carcass of any animal, which may die within the city, to remain more than twelve (12) hours thereafter is hereby declared a nuisance. (Code 1965, Sec. 11.13)

State law reference - Dead animals, generally, Ill. Rev. Stat. Ch. 8, Sec. 149 et seq.

Sec. 24-10. Standing water in cellars.

Any cellar containing any standing or stagnant or filthy water is hereby declared a nuisance. (Code 1965, Sec. 11-13)

Sec. 24-11. Stagnant ponds.

Any pond, lake or body of water in a stagnant condition or in a condition that is detrimental or injurious or dangerous to the public is hereby declared a nuisance. (Code 1965, Sec. 11-13)

Sec. 24-12. Pits or excavations.

Any pit, hole or excavation dangerous to the public is hereby declared a nuisance. (Code 1966, Sec.11-14)

Sec. 24-13. Nuisances prohibited under state law.

No person shall permit, cause, keep, maintain or create a nuisance as defined by the laws of this state or by this Code within the City or within one-half mile of the corporate limits of the City. (Code 1965, Sec. 11.12)

State law reference - Nuisances generally, Ch. 100 1/2, et seq.

Sec. 24-13.1. Maintenance of public nuisance prohibited; penalty for violation.

Editor's note - Being not specifically amendatory of the Code, the provisions of Secs. 1 and 2 of Ord. No. 83-61, adopted Nov. 21, 1983, have been codified, at the editor's discretion, as Sec. 24-13.1.

- (a) It shall be unlawful to maintain a public nuisance as defined in this code, or any other code adopted by reference, including the BOCA code, the property maintenance code, or the zoning code, within the limits of the City of Kankakee.
- (b) Violation of this section shall be punishable by a fine of not less, than fifty dollars (\$50.00) nor more than one thousand dollars (\$1,000.00). (Ord. No. 83-61, Secs. 1, 2, 11-21-83)

Sec. 24-14. Abatement of nuisances.

The Health Officer or Chief of Police shall notify the owner of the premises on which a nuisance exists or the person causing or maintaining a nuisance to abate the nuisance within such reasonable time as is specified in the notice. If such person fails to abate the nuisance within the time stated, he shall be subject to the penalty provided for a violation of this Code. In addition thereto, the city may proceed to abate the nuisance and the cost of abatement shall be a charge against the person creating or maintaining the nuisance and against the property on which the

nuisance is located. The city may file a notice of lien for the charge against the property and may add such amount to the next tax bill on the property. (Code 1965, Sec. 11.14)

Sec. 24-15. Impoundment of vehicles.

Any vehicle which is the subject of six (6) or more unsatisfied fines for violation of any parking ordinance of the City of Kankakee is hereby declared to be a nuisance and the Police Department of the City of Kankakee is authorized to impound in place or remove the vehicle at the expense of the owner thereof. Any vehicle removed or impounded in place pursuant to this section shall be released to the owner thereof upon showing of adequate evidence of ownership and right to possession, and payment of all accrued fines and costs involving the subject vehicle, or upon the posting of a bond in the amount of accumulated fines and costs with the Police Department of the City. Any vehicle impounded in place which remains unclaimed after seventy-two (72) hours shall be disposed of in accordance with the provisions of Section 32.76 of this Code. (Ord. No. 83-35, Sec. 1, 8-1-83)

Sec. 24-16. Inoperable Vehicles.

Definition - Inoperable motor vehicle means any motor vehicle for which for a period of at least 7 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 motor power in order to perform ordinary service or repair.

Sec. 24-17. Inoperable Vehicle - as a Nuisance.

All inoperable motor vehicles, whether public or private property, and in view of the general public, are hereby declared to be a nuisance.

Sec. 24-18. Fines for failure to dispose of inoperable vehicle.

A fine of twenty-five dollars (\$25.00) per day will be levied against any person for failure to obey a notice received from the City which states that such person is to dispose of any inoperable motor vehicle under his control.

Sec. 24-19. Police Department removal of inoperable vehicle.

The Police Department of the City may remove any inoperable motor vehicle or parts thereof after seven (7) days from the issuance of the municipal notice to the owner and/or party in possession or control.

In the event that the identity and/or whereabouts of the owner or party in possession or control cannot be determined upon due diligence, the City may effectuate aforesaid notice by posting same upon the motor vehicle or parts thereof in question.

Sec. 24-20. Exceptions - inoperable vehicles.

Nothing in this Ordinance shall apply to any motor vehicle that 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. (Ord. No. 88-36. Sec. 1-5, 11-17-88)

Sec. 24-21. Prohibiting purchasing a controlled substance - definitions.

"Cannabis" shall have the same meaning as defined in the Cannabis Control Act, Chapter 720, Act 550, Illinois compiled Statutes, as presently enacted and hereinafter amended by the Illinois Legislature.

"Controlled Substance" shall have the same meaning as defined in the Illinois Controlled Substance Act, Chapter 720, Act 570, Illinois Compiled Statutes. As presently enacted and hereinafter amended by the Illinois Legislature.

Section 24-22. Offense - controlled substance.

A person commits an offense if, with intent to acquire cannabis or a controlled substance, he requests, commands, or attempts to induce another to sell, donate, or otherwise transfer or deliver cannabis or a controlled substance to the person.

It is no defense to prosecution under this Act that:

- (a) no monetary or other consideration was tendered to the person solicited; or
- (b) the person solicited was unable or unwilling to transfer or deliver the cannabis or controlled substance.

Sec. 24-23. Penalty regarding controlled substances.

Any person convicted of violating this section shall be subject to a fine of five hundred dollars (\$500.00). (Ord. 94-43, 6-20-94)

Sec. 24-24.

The following Section 24-24 is hereby added to the City Code, Article I of Chapter 24, which Section shall read as follows:

24-24 Minimum Fees

Minimum fees to be charged by the City of Kankakee personnel for abating any nuisances or performing any work from a code violation of any section of the City Code of the City of Kankakee shall be as follows:

Minimum charge is one hour:

Labor (Operator/driver)	\$43.77 per person/per hour
Tipping Fees	\$20.00 per cubic yard
End Loader	\$33.56 per hour
Dump Truck	\$36.98 per truck/per hour

Mowing:

Riding Mower:	\$ 6.36 per hour
(Truck)	\$ 9.40 per hour
(Trailer)	\$ 5.00 per hour
(Trimmer)	\$10.00 per hour
Push Mower	<u>\$10.00</u> per hour
TOTAL	\$40.76 per hour

Bucket Truck:	\$44.02 per hour
Compressor:	\$11.72 per hour
Excavator:	\$50.63 per hour
Generator/Light Truck	\$17.62 per hour

Grader	\$30.00 per hour
Skid Steer	\$23.02 per hour
Street Sweeper	\$45.55 per hour
Trackless	\$19.52 per hour
Pickup truck (1/2, ¾, 1 ton)	\$ 9.40 per hour
Tub Grinder	\$71.80 per hour

Wide Area/Tractor Mower	\$19.52 per hour
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\$100.00 (minimum) Mowing fee (Chapter 24, Article 24.02 (d) Municipal Code)

\$150.00 Mowing fee for entire property.

Section Two:

These fees may be modified from time to time to reflect the actual costs of performing said services by Administrative Order of the Superintendent of the Environmental Services Utility and by placing a copy of said charges on file in the Office of the City Clerk and at the Office of the Environmental Services Utility.

(Ord. 2016-18)

Sec. 24-25 through 29 Reserved.

ARTICLE II. CHRONIC NUISANCE PROPERTY.

*Editor's Note--Ord. No. 96-68, Secs. 1-9, passed August 19, 1996, was non-amendatory of the Code; hence, codification herein as a new Article II, Secs. 24-30--24-36, was at the discretion of the editor.

Sec. 24-30. Abatement of Chronic Nuisance Properties.

Any certain property within the City of Kankakee which becomes a Chronic Nuisance Property is in violation of this Chapter and is subject to its remedies.

Any person in charge who permits property under his or her ownership or control to be a Public Nuisance Property shall be in violation of this Chapter and subject to its remedies.

Sec. 24-31. Definitions.

- A. CHRONIC NUISANCE PROPERTY – Property upon which three or more of the behaviors listed below have occurred during any one-hundred twenty (120) day period, as a result of any three (3) separate factual events that have been independently investigated by any law enforcement agency.
1. Disorderly Conduct as defined in 720 ILCS 5/26-1.
 2. Unlawful Use of Weapons ad defined in 720 ILCS 5/24-1 *et. seq.*
 3. Mob Action as defined in 720 ILCS 5/25-1.
 4. Discharge of a Firearm as defined in 720 ILCS 5/24-1.2 and 1.5.
 5. Gambling as defined in 720 ILCS 5/28.1, except that gambling shall not include gaming terminals for which a video gaming terminal permit has been issued and which is lawfully operated within a license establishment in accordance with Chapter 31 of this code.
 6. Possession Manufacture or Delivery of Controlled Substances as defined in 720 ILCS 570/401 *et. seq.*
 7. Assault or Battery or Any Related Offense as defined in 720 ILCS 5/12-1 *et. seq.*
 8. Sexual Abuse or Related Offenses as defined in 720 ILCS 5/12-15 *et. seq.*
 9. Public Indecency as defined in 720 ILCS 5/11-9 *et. seq.*

10. Prostitution as defined in 720 ILCS 5/11-14 *et. seq.*
 11. Criminal Damage to 8-16 property as defined in 720 ILCS 5/21-1 *et. seq.*
 12. Possession, Cultivation, Manufacture or Delivery of Cannabis as defined in 720 ILCS 550/1 *et. seq.*
 13. Illegal Consumption or Possession of Alcohol as defined in 235 ILCS 5/1 *et. seq.*
 14. Violation of the City of Kankakee Property Maintenance Code relative to garbage. Kankakee Ord. Ch.8, *Building and Building Regulations*, Art. V *Property Maintenance Code* § 8-16 *et seq.*, (adopting International Property Maintenance Code, § 308.1 *et seq.*, *Rubbish and Garbage.*)
 15. Violation of any City of Kankakee Ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.
 16. Domestic Violence as defined in 750 ILCS 60/103 *et seq.* *See*, § 24-36.5 *Exemptions.*
- B. Control: the ability to regulate, restrain, dominate, counteract or govern conduct that occurs on that property.
- C. Owner: any person, agent, firm, partnership, or corporation having any legal or equitable interest in the property. Owner includes, but is not limited to: (1) a mortgagee in possession in whom is vested (a) all or part of the legal title to the property; or (b) all or part of the beneficial ownership and the right to the present use and enjoyment of the premises; or (2) an occupant who can control what occurs on the property. (3) in the case of a condominium or townhouse units “owner” shall mean the legal titleholder of the unit, in the case of an apartment the “owner” shall mean the tenants or persons allowed to reside in the apartment by tenants or owner or manager of the owners of the apartment building.
- D. Permit: To suffer, allow, consent to, acquiesce by failure to prevent, or expressly ascent or agree to the doing of an act.
- E. Person. Any natural person, association, partnership or corporation capable of owning or using property in the City of Kankakee.
- F. Person in Charge. Any person in actual or constructive possession of a property, including but not limited to an owner, occupant or property under his or her domain, ownership or control.

- G. Property. Any real property, including land in that which is affixed, incidental or pertinent to land, including but not limited to any premises, room, house, building, or structure or any separate part or portion thereof, whether permitted or not.

Sec. 24-32. Remedy

- (a) In the event a court determines property to be a Chronic Nuisance Property, the court may order that the property be closed and secured against all use and occupancy for a period of not less than thirty (30) days, but not more than one hundred and eighty (180) days, or the court may employ any other remedy deemed by it to be appropriate to abate the nuisance.
- (b) In addition to the remedy provided in paragraph (a) above, the court may impose upon the owner of the property a civil penalty in the amount of up to One Hundred Dollars (\$100.00) per day, payable to the City of Kankakee, for each day the owner had actual knowledge that the property was a public nuisance property and permitted the property to remain public nuisance property.
- (c) In determining what remedy or remedies shall employ, the court may consider evidence of other conduct which has occurred on the property, including, but not limited to:
 - (1) The disturbance of neighbors.
 - (2) The recurrence of loud and obnoxious noises.
 - (3) Repeated Consumption of Alcohol in Public.
 - (4) The repeated sale or possession of controlled substances on the premises.

Sec. 24-33. Abatement of Nuisance.

The Corporation Counsel of the City of Kankakee or the States Attorney of Kankakee County may commence an action to abate public nuisance as described above. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists, the court may without notice or bond enter a temporary restraining order or preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance.

Sec. 24-34. Procedure.

When the Chief of Police of the City of Kankakee receives two or more police reports documenting the occurrence of Nuisance Activity on or within a Property, the Chief of Police shall independently review such reports to determine whether they describe criminal acts. Upon such findings, the Chief may:

- (a) Notify the person in charge in writing that the Property is in danger of becoming a Chronic Nuisance Property. The notice shall contain the following information:
 - (1) The street address or a legal description sufficient for identification of the Property.
 - (2) A statement that the Chief of Police has information that the Property may be Chronic Nuisance Property, with a concise description of the Nuisance Activities that may exist, or that have occurred. The Chief of Police shall offer the Person in Charge an opportunity to propose a course of action that the Chief of Police agrees will abate the Nuisance Activities giving rise to the violation.
 - (3) Demand that the Person in charge respond to the Chief of Police within ten (10) days to discuss the Nuisance Activities.

- (b) After complying with the notification procedures described herein when the Chief of Police receives a police report documenting the occurrence of a third Nuisance Activity at or within a Property and determines that the Property has become a Chronic Nuisance Property, the Chief of Police shall:
 - (1) Notify the Person in Charge in writing that the Property has been determined to be a Chronic Nuisance Property. The notice shall contain the following information:
 - i) The street address or legal description sufficient for identification of the Property.
 - ii) A statement that the Chief of Police has determined the property to be Chronic Nuisance Property with a concise description of the Nuisance Activities leading to his/her findings.
 - iii) Demand that the Person in Charge respond within ten (10) days to the Chief of Police and propose a course of action that the Chief of Police agrees will abate the Nuisance Activities giving rise to the violation.
 - iv) Service shall be made either personally or by first class mail, postage pre-paid, return receipt requested, addressed to the Person in Charge at the address of the Property believed to be a Chronic Nuisance Property, or such other place which is likely to give the Person in Charge notice of the determination by the Chief of Police.

- v) A copy of the notice shall be served on the owner at such address as shown on the tax rolls of the county in which the Property is located, and/or the occupant, at the address of the Property, if these persons are different than the Person in Charge, and shall be made either personally or by first class mail, postage pre-paid.
 - vi) A copy of the notice shall also be posted at the Property after ten (10) days has elapsed from the service or mailing of the notice to the Person in Charge and the Person in Charge has not contacted the Chief of Police.
 - vii) The failure of any Person to receive notice that the Property may be a Chronic Nuisance Property shall not invalidate or otherwise affect the proceedings under this Chapter.
- (2) If after the notification, but prior to the commencement of legal proceedings by the City pursuant to this Chapter, a Person in Charge stipulates with the Chief of Police that the Person in Charge will pursue a course of action the parties agree will abate the Nuisance Activities giving rise to the violation, the Chief of Police may agree to postpone legal proceedings for a period of not less than ten (10) nor more than thirty (30) days, except in the case of a Nuisance Activity under Section 3 (b) (7) where a search warrant was executed at the Property. If the agreed course of action does not result in the abatement of the Nuisance Activity or if no agreement concerning abatement is reached within thirty (30) days, the Chief of Police shall request authorization for the Corporation Counsel to commence a legal proceeding to abate the nuisance.
- (3) Concurrent with the notification producers set forth herein, the Chief of Police shall send copies of the notice, as well as, any other documentation which supports legal proceedings to the Corporation Counsel.
- (c) When a Person in Charge makes a response to the Chief of Police as required above, any conduct or statements made in connection with the furnishing of that response shall not constitute an admission that any Nuisance Activities have or are occurring. This subsection does not require the exclusion of any evidence which is otherwise admissible or offered for any other purpose.

Sec. 24-35. Commencement of Action, Burden of Proof.

- (a) In an action seeking closure of a Chronic Nuisance Property, the City shall have the initial burden of showing by preponderance of the evidence that the property is a Chronic Nuisance Property.

- (b) It is a defense to an action seeking the closure of Chronic Nuisance Property that the owner of the property at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become a public nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading of the findings that the property is a Chronic Nuisance Property.
- (c) In establishing the amount of any civil penalty requested, the court may consider any of the following factors if they need be found appropriate, and shall site those found applicable:
 - (1) the action or lack of action taken by the Person in Charge to mitigate or correct the problem at the property.
 - (2) Whether the problem at the property was repeated or continuous.
 - (3) The magnitude or gravity of the problem
 - (4) The cooperation of the Person in Charge with the City.
 - (5) The cost of the City investigating and correcting or attempting to correct the condition.

Sec. 24-36. Emergency closing procedure.

- (a) In the event that it is determined that the property is an immediate threat to the public safety and welfare, the City may apply to the court for such interim relief, as is deemed by the Chief of Police to be appropriate. In such an event, the notification provision set forth in Section 5 above need not be complied with, however, the City shall make a diligent effort to notify the person in charge prior to a court hearing.
- (b) In the event that the court finds the property constitutes a Chronic Nuisance Property as defined in this Section, the court may order the remedy set out above, in addition, in the event that it also finds the Person in Charge had knowledge of activities or conditions of the property constituting or violating this Chapter and permitted the activities to occur, the court may assess a civil fine as provided above.
- (c) The court may authorize the City of Kankakee to physically secure the property against use or occupancy in the event the owner fails to do so within the time specified by the court. In the event that the City is authorized to secure the property, all costs reasonably incurred by the City to affect a closure shall be made and assessed as a lien against the property. If used herein, "costs" mean these costs actually incurred by the City for the physical securing of the property, as well as, tenant relocation costs.

- (d) The City of Kankakee Environmental Services Utility affecting the closure shall prepare a statement of cost and the City of Kankakee shall thereafter submit said statement to the court for its review. If no objection of the statement is made within the period described by the court, a lien in said amount may be recorded against said property.
- (e) Any person who is assessed the cost of closure and/or civil penalty by the court shall be personally liable for the payment thereof by the City.
- (f) A tenant is entitled to their reasonable relocation costs, as those are determined by the court if, without actual notice, the tenant moved into the property, after either:
 - (1) The owner or tenant received notice as described herein of the Police Chief's determination as described above.
 - (2) Unknown owner or other agent received notice of an action brought pursuant to this Section.
 - (3) Any person who is assessed with costs of closure and/or civil penalty by the court shall be personally liable for the payment thereof to the City.

Sec. 24-36.5 Exemptions. Notwithstanding any other provision within this Article, and consistent with the terms and conditions of 65 ILCS 5/1-2-1.5, no property shall be considered a chronic nuisance if the police investigations described herein arise from calls for assistance from any victim of domestic abuse or person with a disability. Additionally, no victim of domestic abuse or person with a disability shall be evicted, sanctioned or punished in any way resulting from his or her seeking public assistance or police protection relating to that abuse or condition. However, nothing herein shall prevent the enforcement of this code against an owner of the property who may be a victim of domestic abuse or be disabled, but whose status as a victim or disability is unrelated to the law enforcement activity causing the property to be a chronic nuisance. (Ord. 15-57; passed 11/1/15)

Sec. 24-37. Severability - Chronic Nuisance Property.

If any provision of this Ordinance or its application, or any person or circumstance held to be invalid for any reason, the remainder of said application of its provisions to the other persons or circumstances shall not be in any way affected.

Sec. 24-38. Effective Date of Ordinance.

This Ordinance shall be in full effect as of the date of final passage and shall remain in effect for a period of two (2) years from the date of original passage. (Ord. No. 96-68, Sec. 1 - 9, 8-19-96; Ord. No. 97-38; Sec.9, 6-16-97; Ord. No. 2002-31, 6-3-02)

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