

ARTICLE 13 NUISANCES

SECTION 13.1

No person shall keep, maintain or allow upon any premises within the City any carrion, pigsty, decaying animal or vegetable matter, stagnant water or any other thing that may be injurious to the health of or offensive to the public, or by which any noxious or offensive smell may be created. The keeping, maintaining or allowing of any such matter or condition within the City is hereby declared to be a nuisance, which shall be abated as hereinafter set forth.

SECTION 13.2

No person shall dump, throw, place, deposit, maintain, store or keep on any street, alley, premises, public property, private property or land within the City any junk, trash, waste, garbage or other debris and the dumping, throwing, placing, depositing, maintaining, storage or keeping of any such matter as aforesaid shall be declared to be a nuisance, which shall be abated as hereinafter set forth.

SECTION 13.3

No person shall keep or allow any dead grass, dry weeds or any combustible material upon any right-of-way or any premises owned, occupied or controlled by him within the City, and no person shall keep or allow any rank or growing weeds of a height of one foot on any premises within the City owned or occupied by such person. The keeping or allowing of any of the material herein described is hereby declared to be a nuisance which shall be abated as hereinafter set forth.

SECTION 13.4

No person being owner or having custody, care, control or possession of any animal which shall die within the City limits shall allow the carcass thereof to remain in the City limits for more than 12 hours and every such person shall cause such carcass to be removed within 12 hours of the death of such animal.

SECTION 13.5

No person shall have or keep any cattle, hogs, sheep or goats or other animals within the City in such manner as to create any offensive smell or noise or to create any condition dangerous to the health of the public.

Keeping or permitting six or more dogs and/or cats over the age of four months upon or within any lot, structure, dwelling, or premises, except upon a lot, structure, or premises licensed and lawfully operating under the Illinois Animal Welfare Act (225 ILCS 605) and lawfully zoned under Article 21 of the Revised Code of Ordinances, shall constitute and is hereby declared to be a nuisance.

SECTION 13.6

No person shall expectorate or spit on any sidewalk or public place within the City.

SECTION 13.7

No person shall within the City sell or offer for sale any tainted or spoiled matter, vegetable or other food products to be used for human consumption.

SECTION 13.8 Open Burning

A. No person shall kindle or maintain any bonfire or rubbish fire or other open burning fire or authorize any such fire to be kindled or maintained within the limits of the City, except recreational fires, permitted landscape fires, and permitted leaf burning fires as hereinafter defined and except small open flames for heating tar, welding, acetylene torches, highway safety flares and the like.

B. Recreational fires shall consist of the burning of fuels for a legitimate campfire, recreational, and cooking purposes, or in a domestic fireplace or device in areas where such burning is consistent with other laws.

C. Recreational fires, permitted landscape fires, and permitted leaf burning fires shall be subject to the following conditions and restrictions:

(a) A recreational fire may only burn sticks, limbs, logs not exceeding four inches in diameter, charcoal, cooking fuel or camping fuel only.

(b) No recreational fire shall be burned or be permitted to smolder between the hours of midnight and 6:00 a.m.

(c) No recreational fire, permitted landscape fire, or permitted leaf burning fire shall be burned during periods of high wind or extreme drought.

(d) Recreational fires shall be in a fire pit, fire ring, outdoor fireplace, chiminea, or other such device designed for such burning, or shall be in an area surrounded by non-combustible material. If the recreational fire is not within a device designed for such burning, permission shall be obtained from the Mt. Vernon Fire Department before igniting the recreational fire; in addition, no recreational fire shall exceed an area dimension of 6 feet by 6 feet (i.e. no width or length measurement of the fire area shall exceed 6 feet).

(e) No garbage, trash, debris, waste, refuse, lumber, building materials, or tires shall be burned in a recreational fire, a permitted landscape fire, or leaf burning fire; no landscape waste (including leaves) except sticks, limbs, and logs described within subparagraph (a) above shall be burned in a recreational fire.

(f) No person shall willfully leave any recreational fire, permitted landscape fire, or leaf burning fire including any smoldering fire, unattended; a fire shall be considered unattended if a person of not at least 18 years of age is not physically present out-of-doors and in visible contact with the fire at all times.

(g) No recreational fire, permitted landscape fire, or leaf burning fire shall be burned upon any public street, public sidewalk, any drainage ditch within the public right-of-way, or any manhole cover or burned upon the property of another without written permission.

(h) Recreational fires, permitted recreational fires, and leaf burning fires shall be extinguished immediately upon direction of police or fire personnel.

(i) A leaf burning fire (which may burn leaves and also sticks and logs not exceeding four inches in diameter) may be burned as hereinafter stated, but on no other dates, except as may be permitted within subparagraph D below. A leaf burning fire is permitted between the hours of sunrise and sunset each day as determined by the Astronomical Applications Department of the U.S. Navy Observatory during the following periods: Monday through Sunday during each the second full week of April, the second full week of May, the second full week of October, and the second full week of November each year. Leaf burning may be prohibited during a permitted leaf burning period by order of the Chief of the Mt. Vernon Fire Department upon a determination by him that leaf burning constitutes a fire hazard due to high winds, dry conditions or other factors. No leaf burning fire shall be burned or shall be permitted to smolder between the hours of sunset and sunrise.

D. No person within the City of Mt. Vernon shall burn any landscape waste (including leaves) on any date or at any time except (i) as hereinafter provided, (ii) except sticks, limbs, and logs within recreational fires or leaf burning fires as permitted as within subparagraph C above, and (iii) except leaves within leaf burning fires as permitted within subparagraph C above; provided, however, that in the event of an emergency or other special circumstance, the burning of landscape waste (including leaves) may be authorized for a definite period of time by the City Manager upon the written recommendation of the Fire Chief of the Mt. Vernon Fire Department, or by the Mayor by written declaration, or by the City Council by resolution. In addition, individuals who own five or more acres of contiguous property may burn landscape waste (including leaves) within the confines of their respective property, provided that only landscape waste which is generated from that property shall be burned; and individuals in possession of a valid permit issued by an agency of the State of Illinois or of the United States

authorizing the burning of landscape waste may burn landscape waste in accordance with the terms of the permit; each of said fires being “permitted landscape fires”. In no event shall any person burn any landscape waste (including leaves) upon any public street, public sidewalk, any drainage ditch within the public right-of-way, or any manhole cover or upon the property of another without written permission. No permitted landscape fire shall be burned or shall be permitted to smolder between the hours of sunset and sunrise.

Any person who shall violate the provisions of the Section shall be subject to the penalties provided in Article 22 of the Revised Code of Ordinances of the City of Mt. Vernon. In addition, any person who shall violate the provisions of this Section shall be liable for and shall reimburse the City for all costs and expenses incurred by the City, including without limitation any labor expenses, man hour costs, machinery and equipment costs, and any material costs, incurred by the Mt. Vernon Fire Department, associated with or relating to responding to the violation and/or fire or the containment of said fire, and all reasonable attorney’s fees and other costs incurred by the City in the collection of said costs and expenses.

SECTION 13.9

No person shall, within the City, make or create any loud, unnecessary or unusual noises and the making or creating of any loud, unnecessary or unusual noises is declared to be a nuisance.

SECTION 13.10

No person shall store or place any refrigerator, ice box or ice chest in any open, unattended or unguarded place within the City limits without first removing the door or doors therefrom, and placing or storing any such article in any such place without first removing the door or doors is hereby declared to be a nuisance.

SECTION 13.11

When complaint shall be made by any person to the Police Department of the City, the Inspection Department of the City, or the City Manager of the City of Mt. Vernon about any condition that exists within the City which is a nuisance to the public, including any condition or thing described in this Article, the Police Department, the Inspection Department, the City Manager or the designee of any of them or other agency of the City, is hereby authorized to serve or cause to be served a notice in writing upon the owner, occupant, and lien holders of the premises upon which such nuisance shall be alleged to be located and such notice shall state the condition of the thing alleged to be a nuisance and shall require such owner, occupant, and lien holder to abate such nuisance within the reasonable time of not more than five (5) days after service of such notice in writing either personally or by regular mail (service being complete upon deposit within U.S. Mail Box) or to the last-known address of such person or persons or if

no address is known, by posting notice upon the property. In the event the owner, occupant, or lien holder shall fail, neglect, or refuse to abate such nuisance within five days after the service of notice, the City may proceed to abate such nuisance, and the reasonable costs and expenses of such abatement by the City will be and the same is hereby assessed against such owner and occupant personally as well as against the property respectively. The costs and expenses of abatement of the nuisance shall, in all events be a lien upon the premises superior to all subsequent liens and encumbrances except tax liens, and if notice has been given as provided above superior to prior or existing lien holders, if within 120 (one hundred twenty) days after such costs and expenses incurred by the City of Mt. Vernon or by the person performing the service by authority of the City of Mt. Vernon in his or its own name files notice of lien in the Office of the Recorder of Jefferson County, Illinois.

The notice of lien shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof; (2) the amount of money representing the costs and expenses incurred or payable for the service, and (3) the date or dates when such costs and expense were incurred by the City of Mt. Vernon. The lien of the City shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to the abatement of the nuisance and prior to the filing of the notice of lien, and the lien of the City shall not be valid as to any mortgagee, judgment creditor or other lien or whose right in and to the premises arises prior to the filing of the notice of lien and to whom notice was not personally served or mailed as provided above. If notice to a mortgagee or lien holder was given by personal service or by mail then the lien of the City shall be valid, prior and superior to any lien or claim of said mortgagee, judgment creditor, or lien holder. Such lien may be foreclosed by the City of Mt. Vernon; or, at the City's election, the City may sue and recover from any owner or occupant if he fails, neglects, or refuses to abate such nuisance within the aforesaid five-day period for the reasonable costs and expenses of such abatement by the City provided that the City may file and foreclose such lien or suit personally or both. Reasonable costs and expenses of abatement shall include (but shall not be limited to) inspection and reinspection fees; abstracting and title costs; postage or service fees; cost of notice preparation; labor expenses; man hour costs; machinery and equipment costs and fees; travel time for equipment to and from the property; other costs associated with abatement of the nuisance; all costs of disposal of material, debris, or other such items; administrative and clerical costs; recording fees, including costs incurred for filing of lien and release of same; all reasonable attorney fees and costs arising from preparation, institution, enforcement, collection or forfeiture of any lien or suit filed or defended hereunder; and any other costs or expenses incurred by the City pursuant to exercise of its authority hereunder.

The foreclosure of any lien hereunder shall be a remedy coexistent with any other remedy of the City, including the imposition of a fine for the maintenance of any such nuisance or the violation of any Section of this Article.

SECTION 13.12

The following definitions shall apply in the interpretation and enforcement of this Section.

- (1) "Vehicle" shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transports persons or property or pulls machinery and shall include without limitation automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

- (2) "Property" shall mean any real property within the City of Mt. Vernon.
- (3) "Street or Highway" shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- (4) "Inoperable motor vehicle" shall mean any motor vehicle which for a period of at least thirty (30) days has for any reason been incapable of being actually driven under its own power.

"Inoperable motor vehicle" shall not include motor vehicles that are kept within a building when not in use or to a motor vehicle on the premises of a place of business lawfully engaged in wrecking or junking motor vehicles.

"Junked vehicle" means any vehicle including but not limited to recreational vehicles and equipment, farm and other machinery which because of one of the following characteristics, constitutes a threat to public health and safety:

- A. Any vehicle with a broken or cracked windshield, window, headlight, taillight or any other cracked or broken glass;
- B. Any vehicle with a broken or loose fender, door, bumper, hood ornament, window handle, running board, steering wheel, trunk handle, radio aerial, tailpipe or decorative piece, or machinery with rotted, rusted or loose parts;
- C. Any vehicle which has become the habitat of rats, mice, snakes or other vermin or insects;
- D. Any vehicle which contains gasoline or other flammable fuel; or
- E. Any other vehicle which because of its defective condition constitutes a serious threat to the public health and safety of the citizens of the City.
- a. Except the term junked vehicles shall not include vehicles stored within a locked garage or on the premises of a place of business lawfully engaged in wrecking or junking motor vehicles.
- b. No person shall keep or have any inoperative motor vehicle as defined herein on public or private property; same is hereby declared to be a nuisance.
- c. No person shall store any junked vehicles as herein defined upon private property nor shall any person place, leave or keep any junked vehicle upon public property; same are hereby declared to be a nuisance.
- d. No person shall leave any partially dismantled, nonoperating or wrecked vehicle or junked vehicle on any street or highway in the City; same are

hereby declared to be a nuisance.

- e. No person shall use any motor vehicle or permit any motor vehicle to be used for storage of anything or item. Any motor vehicle used for said purpose is hereby declared to be a nuisance.
- f. No person shall park, store, place, leave or keep any motor vehicle required to be licensed by the State of Illinois upon public or private property unless said vehicle is properly licensed for the current year as required by law; any unlicensed vehicle is hereby declared to be a nuisance.
- g. If any vehicle is found to be kept, stored or left in violation of this Ordinance, the person in possession of the property upon which such vehicle is kept, stored or left, or in absence of such person, any known or ascertainable owner of the vehicle, shall be liable for such violation. Possession of the property upon which the vehicle is kept, stored or left, or ownership of the vehicle in absence of any person known to be in possession, shall be prima facie evidence of responsibility and liability for the condition giving rise to the nuisance.
- h. Any person who violates Subsection b, c, d, e or f shall be subject to a fine as provided in Section 22.6 of the Revised Code in addition to such other remedies as permitted or provided by law.
- i. Upon discovery of any vehicle which reasonable appears to be in violation of this Ordinance, the corporate authorities of the Chief of Police or his duly designated agent shall notify in writing the person in possession of the property upon which the vehicle is kept, stored or left, or in absence of such person, shall notify any known or ascertainable owner of the vehicle, that:
 - 1) The vehicle constitutes a nuisance under the provisions of this Section;
 - 2) The person must within ten (10) days remove or repair the vehicle or otherwise abate the nuisance;
 - 3) The failure to remove or repair the vehicle or abate the nuisance will be sufficient cause for its removal by the City under the terms of this Section; that the continued failure of the person to remove or repair or abate may also subject him to a fine as provided in this Subsection; and that the person receiving the Notice may appear before the Building Official for the City of Mt. Vernon and show cause why the motor vehicle should not be removed or repaired.

If the person in possession of the property upon which the vehicle is kept, stored or left, or in absence of such person, any known or ascertainable owner of the vehicle, fails to remove or repair the

vehicle or abate the nuisance in accordance with the terms of this Section, the Chief of Police or his duly designated agent shall abate such nuisance by causing the vehicle to be towed or transported to a designated storage place as determined by the City and the cost of the towing transportation and storage shall be charged and assessed to each person who shall have received a Notice to Abate Nuisance hereunder and shall be assessed against the motor vehicle. Such charges shall be assessed and collected and such vehicle shall be impounded until lawfully claimed or disposed of as an unclaimed vehicle after passage of 30 days in accordance with Section 18.19(m) of the Revised Code.

SECTION 13.13

(a) Definitions

- 1) Ashes shall include cinders, fly ash or other solid material resulting from combustion and may include other solid material resulting from combustion and may include unburned combustibles.
- 2) Atmospheric Pollution shall mean discharging from stacks, chimneys, exhausts, vents, ducts, openings, premises, structures, vehicles, processes or other source, or any smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, oxides, gases, vapors, odors, toxic substances, waste, particulate, solid, liquid or gaseous matter or any other materials in such place, manner or concentration as to cause injury, detriment, nuisance or annoyance to the public or to endanger the health, comfort, repose, safety or welfare of the public, or in such manner as to cause or have a natural tendency to cause injury or damage to business or property.
- 3) Cinders shall mean particles not ordinarily considered as fly ash or dust because of their greater size, consisting essentially of fused ash and/or unburned matter.
- 4) Dust shall include fly ash, cinders, dirt, grime and any other solid particles resulting from any industrial process or other source.
- 5) Fly Ash shall include particulate matter capable of being gas-borne or airborne and consisting essentially of fused ash and/or burned or unburned material.
- 6) Fumes shall include gases, acids or vapors that are of such character as to create an unclean, destructive, offensive or unhealthful condition.
- 7) Particulate Matter shall include material, other than water, which is suspended in or discharged into the atmosphere in a finely divided form as a liquid or solid.
- 8) Ringlemann Chart shall include and mean that chart published and

distributed by the United States Bureau of Mines Information Circular 6888 and on which are illustrated the graduated shades of gray or black for use in estimating the light obscuring capacity of smoke.

- 9) Smoke shall mean small, gas-borne particles resulting from incomplete combustion consisting predominantly of carbon and other combustible material and present in sufficient quantity to be observable independently of the presence of other solids.
- 10) Smoke Units shall mean and represent the number obtained by multiplying the density of the smoke observed and determined in Ringlemann numbers under the Ringlemann Chart by the time of emission in minutes.
- 11) Soot shall include agglomerated particles consisting essentially of carbonaceous materials.

(b) It shall be unlawful within the City of Mt. Vernon for any person owning or operating, either as principal agent, or an employee, any burning combustion equipment or device, or process equipment device or portable boiler, or any other device, to cause, suffer or allow emission or discharge into the open air of dust, soot, fumes, smoke or other particulate matter, air contaminant or atmospheric pollution from any single such source, except in conformity with the limits set forth hereinafter:

- 1) Not more than 15 smoke units under the Ringlemann Chart shall be permitted per hour.
- 2) No smoke more intense than number two on the Ringlemann Chart shall be allowed, except that during one hour of a 24-hour day, 30 units of smoke may be emitted but with no more soot or intensity than number three on the Ringlemann Chart.
- 3) No smoke, dust, soot, fumes or other particulate matter, air contaminant or atmospheric pollution shall be permitted in quantities sufficient to produce an opacity at any point greater than number three on the Ringlemann Chart, except a plume consisting entirely of condensed steam.
- 4) The total quantity of emitted solids from any single source shall not exceed one pound per hour, per acre.

(c) Notwithstanding the provisions of Section 13.13B hereof, it shall be unlawful for any person to permit or cause the escape of such quantities of dust, soot, fumes, smoke or other particulate matter, air contaminant or atmospheric pollution in such places as to be detrimental to any person or the public or to endanger the health, safety or welfare of any person or the public and the escape of such is declared to be a public nuisance.

(d) It shall be unlawful for any person to cause or permit the handling, loading, unloading, storing, transferring, transporting, placing, depositing, or scattering of any ashes, fly ash, cinders or dust collected from any combustion process, any dust, dirt, chaff, wastepaper, trash, rubbish, waste or refuse matter of any kind, or any other substance or other material

whatever, which is likely to be scattered by the wind, or is susceptible to being wind-borne, without taking reasonable precautions or measures so as to minimize atmospheric pollution and it shall be unlawful for any person to operate, maintain or cause to be operated or maintained, any building, structure or premises or other place which has or involves any matter, material or substance likely to be scattered by the wind or susceptible to being wind-borne so as to minimize atmospheric pollution.

(e) Observations of smoke or emissions described above under the Ringlemann Chart shall be made by comparing the observed density of the smoke with the Ringlemann Chart numbers and where the density of smoke observed falls between two consecutive Ringlemann Chart numbers, the lower Ringlemann Chart number shall be considered the density of the smoke or other condition observed.

(f) Any emission or escape of dust, soot, fumes, smoke or other particulate matter, air contaminant or atmospheric pollution, in the sense of the limits described above, or in such quantities and in such place as to be detrimental to any person or the public or which shall endanger the health, safety or welfare of any person or the public, is hereby declared to be a public nuisance and shall be abated in the manner described in Section 13.11 of this Article. The City Manager is further empowered to institute legal proceedings on behalf of the City for abatement or prosecution of any such nuisance.

(g) In order to determine the quantity of dust, soot, fumes, smoke or other air contaminant or atmospheric pollution emitted or escaping into the open air from any source, it shall be the duty of any person owning any burning combustion equipment device, process equipment device, or portable boiler or other device at his own expense to make or cause to be made an annual examination and test thereof by a competent person or firm approved by the City Manager, to determine whether same complies with the provisions of this ordinance and shall submit the results of such test to the City Manager.

SECTION 13.14

(a) That any rank or growing weeds over the height of one foot growing on any lot or tract of land within the City limits of the City of Mt. Vernon, Illinois, are hereby declared a nuisance. Such weeds shall be cut and removed by the owner or person having control of such lot or tract of land within five (5) days after notice in writing to the last known address of such person or if no address is known by posting notice upon the property by the Bureau of Inspection or other City official to cut the same. Any person failing to cut such weeds on any premises owned or controlled by him within five (5) days after such notice shall be deemed guilty of violation of this Article and upon conviction thereof be fined.

(b) In the event of failure, neglect or refusal of any person, firm or corporation to abate such nuisance within five (5) days after the service of notice as herein provided, the City may abate such nuisance, and the reasonable cost and expense of such abatement by the City will be and the same is hereby assessed against such firm or corporation, personally, as well as the several lots or parcels of land, respectively. Such lien may be foreclosed by the City of Mt. Vernon, Illinois; or, at the City's election, it may sue and recover from any person, firm or corporation who fails, neglects or refuses to abate such nuisance within the aforesaid five-day period for the reasonable costs and expenses of such abatement by the City provided that the City may file and foreclose such lien or sue personally, or both. Reasonable costs and expenses of

abatement shall include (but shall not be limited to) inspection and reinspection fees; abstracting and title costs; postage or service fees; costs of notice preparation; labor expenses; man-hour costs; machinery and equipment costs and fees; travel time for equipment to and from the property mowed; other costs associated with mowing; all costs of disposal of materials, debris or other such items; administrative and clerical costs; recording fees including costs incurred for filing of lien and release of same; all reasonable attorney fees and costs arising from preparation, institution, enforcement, collection, or foreclosure of any lien or suit filed or defended hereunder; and any other costs or expenses incurred by the City pursuant to exercise of its authority hereunder.

SECTION 13.15 ANIMALS RUNNING AT LARGE

(a) No person shall permit any dog, cat or other animal within the City owned, kept, in the care of, or controlled by such person to be or run at large upon any street, sidewalk, park, or public place or public property nor to be or run at large upon the private property of another person without said person's consent. An animal shall not be deemed running at large when off the premises of its owner, caretaker, or keeper, if such animal shall be restrained by a leash, cord, or chain not exceeding ten feet in length or confined within a secure animal carrier or confined within a motor vehicle.

(b) In the event any dog, cat or other animal is apprehended while running at large within the City and detained or confined within the facilities of the Jefferson County Animal Shelter or other City authorized facility, then the owner, keeper or other person claiming and removing the animal from the facilities shall pay a ten dollar (\$10.00) reclamation fee, in addition to any other fees or charges imposed by the facility or other authority.

SECTION 13.16 FINES

Except as otherwise specifically provided within Article 13, any person who shall violate any section or provision of Article 13 shall be subject to the following fines:

- (a) A fine of \$50 per day for each violation arising from a single Notice to Abate Nuisance during a calendar year;
- (b) A fine of \$100 per day for each violation arising from a second Notice to Abate Nuisance during a calendar year;
- (c) A fine of \$200 per day for each violation arising from a third Notice to Abate Nuisance during a calendar year.

A separate offense shall be deemed to have been committed upon each day on which a violation occurs or continues after the date of service of the Notice to Abate Nuisance.