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1-8-97  
ORDINANCE NO. 1-8-97

AN ORDINANCE REGULATING NUISANCES WITHIN  
THE CITY OF EARLVILLE, ILLINOIS

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF  
EARLVILLE, ILLINOIS:

**SECTION I: DEFINITION.**

For the purpose of this ordinance,, the following definition shall apply unless the context clearly indicates or requires a different meaning:

**PUBLIC NUISANCE.** A thing, act, occupation, condition or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
2. In any way render the public reasonably insecure in life or in the use of property;
3. Substantially offend the public morals, or decency; or
4. 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.

**SECTION II: PUBLIC NUISANCES PROHIBITED.**

No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city or within its police jurisdiction.

**SECTION III: ENUMERATION OF 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 set forth in Section I.

(A) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

(B) Carcasses of animals, birds or fowl on private property not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

(C) Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed, or which may constitute a fire hazard;

(D) All stagnant water in which mosquitoes, flies or other insects can multiply;

(E) Garbage cans which are not fly-tight;

(F) 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 susceptibilities or to threaten or cause substantial injury to property;

(G) The pollution of any public well or cistern, stream, river, lake, canal, or body of water by sewage, creamery or industrial waste, waste attributable to any slaughter house, or other substances; or the obstruction of any water course, drainage ditch or ravine;

(H) Any use of property, substances or things within the city emitting or causing any foul, offensive, noisesome, nauseous, or noxious odors, effluvia or stenches 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;

(I) All abandoned wells not securely covered or secured from public use;

(J) All noxious weeds as defined by 505 ILCS 100; and

(K) Any accumulation of junk, rubbish, scrap metal, automotive parts, building materials, machinery, dead trees or parts thereof on any premises unless related to a business use otherwise legally permissible on such premises.

#### **SECTION IV: ENUMERATION OF 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 as set forth in Section 1.

(A) All gambling devices and slot machines;

(B) 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 law or ordinance;

(C) Any place or premises within the city where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly and repeatedly violated; and

(D) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state or the ordinances of the city.

**SECTION V: ENUMERATION OF 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 I.

(A) All unauthorized signs, signals, markings or devices which purport to be or may reasonably be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing;

(B) 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;

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

(D) All use or display of fireworks except as provided by the laws of the state, and any other ordinance of the city;

(E) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human use; or to be an invitation to children and endanger the safety of such children; or to be a fire hazard;

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

(G) All loud and discordant noises or vibrations which annoy, discomfort, or disturb the repose of any appreciable number of persons within the city, other than such noises or vibrations which arise from construction or repair of public devices, structures, or roadways by the city or its agents.

(H) All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the any applicable provisions of law and other ordinances of the city or which, although made in accordance with such provisions or ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been

accomplished;

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

(J) All abandoned refrigerators or iceboxes or any closed container 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;

(K) Any structure, material or condition which constitutes a fire hazard or will impair extinguishing a fire;

(L) Any nuisance described in the Illinois Compiled Statutes.

#### **SECTION VI: ABATEMENT PROCEDURE.**

(A) *Inspection of premises.* Whenever complaint is made that a public nuisance exists, or has existed, within the city, the Chief of Police, Building Inspector or other city official whom the Mayor shall designate shall forthwith inspect or cause to be inspected the premises and shall make a written report of his finding. Whenever practicable, the inspection officer shall cause photographs to be made of the premises and shall file the same in the office of the City Clerk.

(B) *Summary abatement.*

(1) *Notice to owner.*

(a) If the inspecting office shall determine that a public nuisance exists on private property and that there is great and immediate danger or emergency to public health, safety, peace, morals or decency, the Mayor may direct the Chief of Police or any other police officer employed by the city, to serve a notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance, and to post a copy of the notice 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 24 hours and shall state that unless such nuisance is so abated, the city will cause the same to be abated and will charge all costs of such abatement to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

(b) Except in situations described in the preceding paragraph, the owner, occupant or person causing the nuisance shall be given notice to abate said nuisance within five days.

(2) *Abatement by the city.* If the nuisance is not abated within the time provided, or if the owner, occupant of person causing the nuisance cannot be found, the Chief of Police, the Mayor, or other city official whom the Mayor shall designate, shall cause the abatement or removal of such public nuisance. However, when such person cannot be found or located, notice published once in the Earlville Leader shall be given allowing five days after publication to abate the nuisance.

(C) *Abatement by court action.* 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, he shall file a written report of his findings with the Mayor, who shall cause an action to abate such nuisance to be commenced in the name of the city upon resolution by the City Council declaring a nuisance to exist.

#### **SECTION VII: COST OF ABATEMENT; LIEN.**

In addition to any other penalty imposed for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes. By recording the amount of said costs along with other pertinent information in the Recorder's office of LaSalle County it shall become a lien on the real estate.

#### **SECTION VIII: GROWTH OF CERTAIN WEEDS DEEMED NUISANCE.**

Any leaves such as jimson, burdock, ragweed, thistle, cocklebur or other weeds of a like kind, found growing in any lot or tract of land in the city, are hereby declared to be a nuisance, and it shall be unlawful to permit any such weeds to grow or remain in any place.

#### **SECTION IX: HEIGHT OF WEEDS RESTRICTED.**

It shall be unlawful for anyone to permit weeds, grass, or plants, other than trees, bushes, flowers or other plants traditionally used for ornamentation to grow to a height exceeding eight inches on any private property in the village; any such plants exceeding such heights are hereby declared to be a nuisance.

#### **SECTION X: GROWTH OF CERTAIN BUSHES PROHIBITED.**

It shall be a nuisance and unlawful to plant or permit the growth of bush of the species of Tall, Common, or European

Barberry, further known as Barberis Vulgis, or its horticultural varieties within the city.

**SECTION XI: ABATEMENT OF NUISANCE; NOTICE.**

The Mayor may serve or cause to be served a notice upon the owners or occupants of any premises of which weeds or plants are permitted to grow in violation of the provisions of this ordinance demanding the abatement of the nuisance within ten days.

**SECTION XII: PROCEDURE WHEN PERSON SERVED FAILS TO ACT.**

If the person so served does not abate the nuisance within ten days after such notice, the City may proceed to abate such nuisance, keeping an account of the expense of the abatement, and the owner and occupant of the premises shall be joint and severally liable for such expense.

**SECTION XIII: CREATION OF EXCESSIVE NOISE PROHIBITED.**

No person shall unreasonably disturb the peace and quiet of any other person by creating excessive noise on his or any property. Excessive noise shall include, but not by way of limitation, and, of the following:

(A) Radio, TV, music, loud playing of phonographs, radios, televisions sets, music machines or musical instruments.

(B) The sounding of a 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 use of any horn, whistle or other device operated by engine exhaust.

(C) Yelling, shouting, hooting, whistling or singing on the public streets of the city, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to unreasonably disturb the peace, quiet, comfort, or repose of persons in any office, or in any dwelling, hotel, or other type of residence, or of persons in the vicinity, within the city.

(D) The keeping of any animal or bird shut up or tied in any yard, enclosure, stable, house or other place within the city which, by barking, howling, crying, singing or causing frequent or long continued noise, shall unreasonably disturb the comfort or repose of persons in the vicinity.

(E) 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 of type of engine, motor boat or motor vehicle, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom. The use of

a cutout is prohibited.

**SECTION XIV: LITTERING ON PUBLIC OR PRIVATE PROPERTY; COVERING OF MATERIALS SUSCEPTIBLE TO BLOWING.**

No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transportable materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

**SECTION XV: ACCUMULATION OF USED AND WASTE TIRE PROHIBITED.**

No person shall cause or allow the open dumping or burning of any used or waste tire or cause or allow the accumulation of used and waste tires, not altered, converted or covered within the meaning of ILCS Ch. 415, Act. 54. et seq.

**SECTION XVI: DISPOSAL OF TIRES PROHIBITED IN SANITARY LANDFILL.**

No person shall knowingly mix any whole used or waste tire with municipal waste, and no owner or operator of a sanitary landfill shall accept any whole used or waste tire for final disposal, except as provided for by the laws of this state.

**SECTION XVII: ACTION BY CITY.**

Upon finding that an accumulation of used tires creates an immediate danger to health, the city may take any action allowed by law.

**SECTION XVIII: PREVENTIVE OR CORRECTIVE ACTION BY CITY.**

Upon making a finding that an accumulation of used or waste tires creates a hazard posing a threat to public health or the environment, the city may undertake preventive or corrective action. Such preventive or corrective action shall include, but is not limited to, the following:

(A) Treating and handling used or waste tires and other infested materials within the area for control of mosquitoes and other disease vectors.

(B) Relocation of ignition sources and any used or waste tires within the area for control and prevention of fire tires.

(C) Removal of used and waste tire accumulations from the area.

(D) Removal of soil and water contamination related to tire accumulations.

(E) Installation of devices to monitor and control ground water and surface contamination related to tire accumulation.

(F) Such other actions as may be authorized by city ordinance from time to time.

**SECTION XIX: RIGHT OF ENTRY OF PREMISES.**

In accordance with constitutional limitations, the city shall have authority to enter at all reasonable times upon any private or public property for the purpose of taking whatever preventive or corrective action is necessary and appropriate by law for the removal of a threat to public health or the environment relating to used or waste tires.

**SECTION XX: OWNER OR OPERATOR LIABLE FOR COSTS.**

Except as otherwise provided by law, the owner or operator of any accumulation of used or waste tires in regard to which the city has undertaken corrective or preventive action shall be liable for all costs thereof incurred by the city, including reasonable costs of collection and legal fees. The city may in its discretion store, dispose of or convey the tires that are removed from an area at which it has undertaken a corrective or preventive removal action, and may sell or store such tires and other items that are removed from the area. The net proceeds of any sale shall be credited against the liability incurred by the owner or operator for the costs of any preventive or corrective action.

**SECTION XXI: PUNITIVE DAMAGES.**

Any person liable to the city for costs incurred by law in relation to any nuisance prohibited under this Ordinance shall be liable to the city for punitive damages in an amount at least equal to, and not more than two times, the costs incurred by the city if such person failed within 30 days to take preventive or corrective action pursuant to notice issued by the city.

**SECTION XXII: OBLIGATIONS OR LIABILITY OF OTHER RULES AND REGULATIONS.**

Nothing in this ordinance shall affect or modify the obligations or liability of any person under any other rules and regulations of the city, federal law, or state law, for injuries, damages or losses resulting from the circumstances leading to city action.

**SECTION XXIII: PENALTY.**

(A) Any person, firm, or corporation who violates any provision of this ordinance, for which another penalty is not specifically provided, shall, upon conviction, be subject to a fine of not more than \$500.00, and the costs of prosecution including attorneys fees. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

(B) Any person, firm or corporation, violating any provision



of Section VIII through XIV, shall be fined not less than \$75.00 or more than \$200.00, for each offense, and the costs of prosecution including attorneys fees. A separate offense shall be deemed committed on each day during or on which such nuisance shall continue unabated after ten days after receipt of notice.

**SECTION XXIV: SEPARABILITY.**

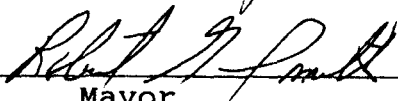
Each section, paragraph, sentence, clause, and provision of this ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decisions shall not affect the remainder of this ordinance.

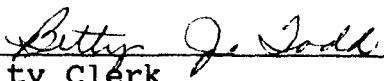
**SECTION XXV: REPEAL OR PRIOR ORDINANCES.**

Any ordinance or part thereof inconsistent with the provisions of this ordinance are hereby repealed.

**SECTION XXVI: EFFECTIVE DATE**

This Ordinance shall be in full force and effect ten days from and after its passage, approval, and publication as provided by law.

PASSED and APPROVED this 8<sup>th</sup> day of January, 1997.  
  
Mayor

ATTEST:  
  
city clerk