

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2544

**AN ORDINANCE TO AMEND CHAPTERS 8.20, 8.24, 10.28
AND 10.32 OF THE CITY OF COLUMBIA, ILLINOIS
MUNICIPAL CODE TO ELIMINATE THE PRIOR NOTICE
AND OPPORTUNITY TO ABATE A NUISANCE
REQUIREMENT FOR A NUISANCE ORDINANCE
VIOLATION UNDER THE CURRENT CITY CODE AND TO
CHANGE THE DEFINITION OF ANTIQUE VEHICLE IN
THE CITY'S ABANDONED VEHICLE CODE**

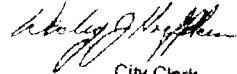
**Adopted by the
City Council
of the
City of Columbia, Illinois
this 16th day of April, 2007**

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of the City of Columbia,
Illinois, this 17th day
of April, 2007.**

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APR 16 2007

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City Clerk

WHEREAS, Chapter 8.24 of the City of Columbia, Illinois (the "City") Municipal Code entitled "Nuisances" requires that the owner, occupant, agent or person in possession or control of a lot, building or premises in or upon which a nuisance may be found, or who may be the owner or cause of any such nuisance must be given a prior notice and five (5) day opportunity to abate the nuisance before that person or party may be charged with a nuisance ordinance violation under said Nuisance Code of the City;

WHEREAS, Sections 8.20.130 through 8.20.150 of Chapter 8.20 (Garbage Collection and Disposal) of Title 8 (Health and Safety) of the Columbia Municipal Code requires that a notice be given by the mayor, the police chief or the mayor's representative and a ten (10) day opportunity be given to the owner or occupant of premises in the city before the nuisance created by the accumulation of garbage, trash or other debris on private property in the city can be abated by the city and the owner or occupant charged with a nuisance ordinance violation under said code;

WHEREAS, Section 10.32.030 (Removal of inoperable motor vehicles) of Chapter 10.32 (INOPERABLE VEHICLES) of Title 10 (VEHICLES AND TRAFFIC) of the Columbia Municipal Code requires a seven (7) day notice to be served on the person or party in lawful possession of an inoperable motor vehicle requiring them to dispose of the inoperable motor vehicle under their control before the city can abate the inoperable motor vehicle nuisance and charge the violator with a city nuisance ordinance violation;

WHEREAS, Section 10.28.010 (Definitions) of Chapter 10.28 (ABANDONED VEHICLES) of Title 10 (VEHICLES AND TRAFFIC) of the Columbia Municipal Code needs to be changed and amended to better define "antique vehicle" to bring the definition of the same into compliance with the state statute definition of "antique vehicle" contained in the Illinois Motor Vehicle Code;

WHEREAS, the City Council of the City has found and determined and does hereby declare that in some instances the notice and opportunity to abate a nuisance before a violator may be charged with a nuisance ordinance violation can cause Code enforcement problems and needless delay and expense and should be eliminated;

WHEREAS, the nuisance law of the State of Illinois does not require prior notice and opportunity to abate a public or private nuisance before a nuisance ordinance violation can be charged and prosecuted.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. Section 8.20.120 (Accumulation prohibited) of Chapter 8.20 (GARBAGE COLLECTION AND DISPOSAL) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code is changed and amended to read as follows:

“8.20.120 Accumulation prohibited.

It shall be unlawful for any person or other entity to permit or maintain garbage, trash, vehicle parts, and/or components or other material or matter of a kind that is noxious, offensive, or unsightly on their premises or private property and the same are hereby declare to be a nuisance.”

Section 3. Sections 8.20.130 (Notice to person), Section 8.20.140 (Service of notice) and Section 8.20.150 (Abatement) of Chapter 8.20 (GARBAGE COLLECTION AND DISPOSAL) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code are hereby repealed and in lieu thereof, Section 8.20.130 to be entitled “Nuisance abatement” is enacted to read as follows:

“Section 8.20.130. Nuisance abatement.

The city, by and through its police department and/or building inspector, is hereby authorized to abate any such nuisance existing in the city, with or without prior notice to the person or entity causing or maintaining the nuisance.

If deemed appropriate by the city's police chief or his designee or the city's building inspector, the city may, but shall not be required to, serve a written notice upon the owner, occupant, agent or person in possession or control of any lot, building or premises or upon which any nuisance may be found in the city, or who may be the owner or cause of any such nuisance, requiring them to abate the same within a specified period of time in such a manner as the designated authority shall prescribe. It shall not be necessary in any case for the designated

authority to specify in the notice the manner in which the nuisance shall be abated, unless he shall deem it advisable to do so."

Section 4. Section 8.20.160 (Lien), Section 8.20.170 (Payment) and Section 8.20.180 (Foreclosure of lien) of Chapter 8.20 (GARBAGE COLLECTION AND DISPOSAL) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code are hereby renumbered as Sections 8.20.140 (Lien), Section 8.20.150 (Payment) and Section 8.20.160 (Foreclosure of lien), respectively.

Section 5. Section 8.20.190 (Penalty) of Chapter 8.20 (GARBAGE COLLECTION AND DISPOSAL) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code is hereby renumbered Section 8.20.170 (Penalty) and changed to read as follows:

"8.20.170 Penalty.

Any person found guilty of violating the provisions of this chapter shall, in addition to the penalties provided, upon conviction be fined not less than seventy five dollars (\$75.00) and not more than seven hundred and fifty dollars (\$750.00), and each day upon which a violation occurs or continues shall be deemed a separate offense."

Section 6. Section 8.24.040 (Notice to abate) of Chapter 8.24 (NUISANCES) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code is hereby retitled "Nuisance abatement" and is hereby changed and amended to read as follows:

"Section 8.24.040 Nuisance abatement.

It shall be unlawful for any person or other entity to permit or maintain the existence of any nuisance on any property located in the city that is under that person's or entity's control.

The city, by and through its police department and/or its building inspector, is hereby authorized to abate any such nuisance existing in the city, with or without prior notice to the person or entity causing or maintaining the nuisance.

If deemed appropriate by the city's police chief or his designee, or the city's building inspector, the city may, but shall not be required to, serve a written notice upon the owner, occupant, agent or person in possession or control of any lot, building or premises or upon which any nuisance may be found in the city, or who may be the owner or cause of any such nuisance, requiring them to abate the same within a specified period of time in such a manner as the designated authority shall prescribe. It shall not be necessary in any case for the designated

authority to specify in the notice the manner in which any nuisance shall be abated, unless he shall deem it advisable to do so."

Section 7. Section 8.24.050 (Failure to comply with notice) of Chapter 8.24 (NUISANCES) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code is hereby retitled "Nuisance offense" and is hereby changed and amended to read as follows:

"Section 8.24.050 Nuisance offense.

Any person or other entity which creates, maintains or allows the creation and/or maintenance of a nuisance in the city shall be guilty of a misdemeanor offense."

Section 8. Section 8.24.060 (Abatement) of Chapter 8.24 (NUISANCES) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code is hereby changed and amended to read as follows:

"Section 8.24.060 Abatement.

It shall be the duty of the city police department and or the city's building inspector to cause a nuisance in the city to be abated, with or without prior notice to the person or entity causing or maintaining the nuisance. The expense of such abatement shall be paid by the person or entity who shall have created or suffered such nuisance to exist or to be maintained, in addition to any penalty or fine.

With regard to vehicles, boats or trailers parked in violation of Section 8.24.010(25), the city police may have the same removed from the premises where the parking violation is occurring and may store same at the city's impoundment facility or the city public safety complex, charge a reasonable fee for the storage, and all costs of the removal and storage shall be paid by the owner of the vehicle, boat or trailer involved or such other person as shall have created or suffered such violation to exist if the same be other than the owner."

Section 9. Section 8.24.070 (Violation – Penalty) of Chapter 8.24 (NUISANCES) of Title 8 (HEALTH AND SAFETY) of the City of Columbia, Illinois Municipal Code is hereby changed and amended to read as follows:

"Section 8.24.070 Violation--Penalty.

If an person or entity creates or maintains a nuisance in the city and is found guilty of violating any section of this chapter, that person or entity shall be punished by assessment of a fine of not less than seventy-five dollars (\$75.00) and not more than seven hundred fifty dollars (\$750.00)

for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

With regard to a violation of on premises parking under Section 8.24.010(25), a separate offense shall be deemed committed on each day during or on which a parking violation occurs or continues for each vehicle, watercraft or trailer that is illegally parked."

Section 10. The definition of "Antique Vehicle" contained in Section 10.28.010 (Definitions) of Chapter 10.28 (ABANDONED VEHICLES) of Title 10 (VEHICLES AND TRAFFIC) is hereby changed and amended to read as follows:

"Antique vehicle" means a motor vehicle that is more than 25 years of age or a bona fide replica thereof and which is driven on the city streets or highways only going to and returning from an antique show or exhibition, or for servicing or demonstration, or a fire-fighting vehicle more than 20 years old which is not used as fire-fighting equipment but is used only for the purposes of exhibition or demonstration."

Section 11. Section 10.32.030 (Removal of inoperable motor vehicles) of Chapter 10.32 (INOPERABLE VEHICLES) of Title 10 (VEHICLES AND TRAFFIC) of the Columbia Municipal Code is changed and amended to read as follows:

"Section 10.32.030 Removal of inoperable motor vehicles.

The city's police department is authorized to abate an inoperable motor vehicle nuisance existing in the city, with or without prior written notice to the person or entity causing or maintaining that nuisance.

If deemed appropriate by the city's police chief or his designee, the city may, but shall not be required to determine the registered owner and/or party in lawful possession of the inoperable motor vehicle and serve a written notice on that party requiring them to abate said nuisance and to remove and dispose of the inoperable motor vehicle within a specified period of time and in such manner as the designated authority shall require. It shall not be necessary for the designated authority to specify in the notice the manner in which the inoperable motor vehicle shall be disposed of, unless the designated authority deems it advisable to do so.

The police department is authorized to remove and impound the inoperable motor vehicle as in cases involving removal and impoundment of abandoned motor vehicles under the provisions of chapter 10.28 of the city's municipal code, with or without prior written notice to the registered owner or party in lawful possession of the inoperable motor vehicle. The inoperable motor vehicle may be stored by the police department at the city's impoundment facility

or at the city's safety complex. The registered owner or such other person or party as shall have created or suffered such nuisance to exist or be maintained shall be charged a reasonable fee for the storage, and all costs of the removal and storage."

Section 12. Section 10.32.040 (Penalties) of Chapter 10.32 (INOPERABLE MOTOR VEHICLES) of Title 10 (VEHICLES AND TRAFFIC) of the Columbia Municipal Code is changed and amended to read as follows:

"Section 10.32.040 Penalties.

"Any person or party in violation of the provisions of this chapter shall be subject to paying a fine of not less than seventy five dollars (\$75.00) nor more than seven hundred and fifty dollars (\$750.00) for each offense, and each day a violation occurs or continues shall be deemed a separate offense."

Section 13. All ordinances or resolutions or parts or ordinances or resolutions in conflict herewith, to the extent of such conflict, are hereby changed and amended to read in compliance with the provisions and requirements contained in this ordinance; and to the extent a conflicting ordinance or resolution cannot be changed or amended to read in compliance herewith, the conflicting provisions thereof are hereby repealed.

Section 14. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Alderman Huch moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

YEAS: Aldermen Conrad, Ebersohl, Agne, Niemietz, Unnerstall, Huch and Mayor

Hutchinson.

NAYS: None.

ABSENT: Aldermen Koesterer and Row.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 16th day of April, 2007.


KEVIN B. HUTCHINSON, Mayor

ATTEST:


WESLEY J. HOEFFKEN, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF PUBLICATION

I, Wesley J. Hoeffken, certify that I am the duly elected and acting Municipal Clerk of the City of Columbia, Illinois.

I further certify that on the 16th day of April, 2007, the Corporate Authorities of the City of Columbia, Illinois passed and approved Ordinance No. 2544, entitled:

"AN ORDINANCE TO AMEND CHAPTERS 8.20, 8.24, 10.28 AND 10.32 OF THE CITY OF COLUMBIA, ILLINOIS MUNICIPAL CODE TO ELIMINATE THE PRIOR NOTICE AND OPPORTUNITY TO ABATE A NUISANCE REQUIREMENT FOR A NUISANCE ORDINANCE VIOLATION UNDER THE CURRENT CITY CODE AND TO CHANGE THE DEFINITION OF ANTIQUE VEHICLE IN THE CITY'S ABANDONED VEHICLE CODE"

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2544, including the ordinance and a cover sheet thereof, was prepared and a copy of such ordinance will be posted in the Columbia City Hall, commencing on the 17th day of April, 2007 and continuing for at least ten (10) days thereafter. Copies of such ordinance were also available for public inspection upon request at the office of the City Clerk.

DATED at Columbia, Illinois this 16th day of April, 2007.

~~WESLEY J. HOEFFKEN~~ City Clerk

(SEAL)