



CHAMPAIGN COUNTY BOARD
ENVIRONMENT and LAND USE COMMITTEE (ELUC) ADDENDUM
County of Champaign, Urbana, Illinois
Thursday, November 5, 2015 - 6:30 p.m.

Lyle Shields Meeting Room
Brookens Administrative Center
1776 E. Washington St., Urbana

- IX. Items to Receive & Place on File by ELUC Committee to allow for 30-Day Review Period
 - A. Proposed amendment to the Champaign County Nuisance Ordinance

- X. Other Business
 - A. Closed session, pursuant to 5 ILCS 120/2(c)(11), to discuss litigation pending on behalf of Champaign County, and litigation that is probable or imminent on behalf of Champaign County.

*Champaign County, Illinois
Public Nuisance Ordinance*

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PREAMBLE

ORDINANCE NO. 468

WHEREAS, the Champaign County Board has determined that certain actions or conditions arise from time to time in the unincorporated area of the County which are dangerous to the public health and safety or serve to obstruct public use of public property; and

WHEREAS, the *Illinois Criminal Jurisprudence Act (Health and Safety - Public Nuisance)* ~~740 ILCS 55/224~~ 720 ILCS 5/47-5, and the common law powers of Champaign County confers upon the County the authority to declare what shall be public nuisances and to abate them within the area lying outside the corporate limits of any city, village or incorporated town; and

WHEREAS, 55 ILCS 5/5-1118 grants the County Board the power to provide for the removal of garbage and debris from unincorporated areas of the county if the owner of the property refuses or neglects to remove the garbage and debris, and to collect the reasonable costs of removal from the owner.

WHEREAS, 55 ILCS 5/5-1113 grants the County Board the power to pass all ordinances proper or necessary to carry out its powers, and to set such fines or penalties as may be deemed proper, except as otherwise limited by law

WHEREAS, ~~on November 18, 1980 the Champaign County Board adopted Ordinance No. 135, The Public Land Nuisance Ordinance of Champaign County, Illinois; on August 19, 2010, the Champaign County Board adopted a revised Champaign County Public Nuisance Ordinance, in Champaign County Ordinance No. 468;~~ and

WHEREAS, the Champaign County Board has determined that Ordinance No. ~~135-468~~ is overbroad in certain respects and contains deficiencies that hamper its effective administration and enforcement and so does not appropriately or adequately protect the public health, safety and welfare of the people of Champaign County ~~has certain technical defects:~~

NOW, THEREFORE BE IT ORDAINED by the County Board of the County of Champaign, Illinois that Ordinance No. 468 be amended to read as follows:

- ~~1.~~ That Ordinance No. 135 be repealed in its entirety; and

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~~2. That the following be adopted as the Public Nuisance Ordinance of Champaign County, Illinois:~~

SECTION 1. PURPOSE

This ordinance is intended for, and the terms and provisions herein shall be liberally construed so as to further, the purpose of protecting the public, health, safety and welfare and securing public use of public property and public right-of-way by preventing:

- A. the spread of disease;
- B. the propagation of vermin and disease vectors;
- C. the occurrence of property and casualty losses due to accident, fire, structural failure or release of toxic materials including wastes;
- D. explosion, fire or conflagration;
- E. the partial or complete structural failure of buildings and other structures;
- F. injury or death due to inadequate and unsafe building egress;
- G. injury or death due to asphyxiation caused by the lack of safe and adequate space heating;
- H. sickness, injury or death due to inadequate building maintenance;
- I. the use for illegal purposes of abandoned or unoccupied structures particularly by minors;
- J. continuation or spread of visual blight;
- K. pollution of surface water or ground water;
- L. contamination of drinking water supplies;
- M. sickness, injury or death due to inadequate sanitation;
- N. the occurrence of vehicular accidents on public and private roads;
- O. the destruction or diminution of the peace or repose of residential neighborhoods;
and
- P. interference with the conduct of agriculture throughout the County [Appendix C].
- Q. interference with the operation of any significant drainage facility or any stormwater detention facility.

SECTION 2. DEFINITIONS

2.1 Rules of Construction and Interpretation

- A. Unless otherwise expressly stated, the words defined in Section 2.2 shall, for the purpose of this ordinance, have the meaning therein indicated. Any pertinent word or term not listed but vital to the interpretation of this ordinance, shall have its usual definition.
- B. For the purpose of easy reference, all words or terms which are defined in Section 2.2 are capitalized wherever they occur.
- C. The following rules of construction shall determine interpretation and application of the provisions herein:
 - 1. the present tense includes the future tense.
 - 2. the masculine gender includes the feminine and the neuter.
 - 3. the singular number includes the plural, and vice versa.
 - 4. the word "shall" is always mandatory; the word "may" is always permissive.
- D. This Ordinance is intended to supplement provisions of the Champaign County Zoning Ordinance and shall be construed in a manner consistent with the Zoning Ordinance.

2.2 Terms Defined

ABANDONED SIGN STRUCTURES: A freestanding structure which is not accessory to a lawful use or structure on the same lot and which constitutes a sign or is manifestly designed to support a sign which carries no identifying or advertising message or which identifies or advertises a product, place, activity, person, institution or business which has not been active, in operation or available for a period of 180 consecutive days except for lawful off-premises advertising signs which have been actively offered for sale or rent throughout such 180 day period.

SECTION 2.2 TERMS DEFINED - CONTINUED

DANGEROUS STRUCTURE: A building or other structure which meets any of the following descriptions:

TYPE 1: A building or other structure which has been abandoned, vacant or unused for a period of 180 consecutive days and which is open to intrusion; or

TYPE 2: A building or other structure which is subject to imminent danger of structural failure or collapse; or

TYPE 3: A building or other structure which, due to damage or deterioration, creates a hazard of fire, explosion or release of toxic materials; or

TYPE 4: A building or other structure which is damaged or deteriorated or improperly maintained or operated so as not to provide shelter or serve the purpose for which it was constructed in a safe and healthful manner.

TYPE 5: A building or other structure principally intended for human occupancy which is damaged or deteriorated or improperly maintained or operated so as not to provide shelter or serve the purpose for which it was constructed in a safe and healthful manner and which continues to be occupied.

DEBRIS: Junk, litter, construction or demolition waste, ashes or cinders, products or goods damaged so as to have little or no value or similar material.

DOMESTIC ANIMAL: Any animal of any species kept for any purpose, except those kept or raised for the purpose of producing an agricultural product; including but not limited to dogs, cats, primates, and birds.

DWELLING UNIT: One or more rooms constituting all or part of a building or manufactured home which are used exclusively as living quarters for one family.

FARM VEHICLE: Any vehicle manifestly designed and intended as an agricultural implement and not licensable for operation on a public street.

SECTION 2.2 TERMS DEFINED - CONTINUED

FULLY ENCLOSED BUILDING: A building which serves to protect the contents from the elements, completely screen the contents from view and prevent unauthorized entry.

GARBAGE: Trash, refuse, offal, putrescible waste, animal carcasses, or material which is subject to decomposition, decay or biological degradation or which serves to attract or propagate vermin or disease vectors except for properly managed vegetal compost.

INOPERABLE VEHICLE: Any vehicle, **FARM VEHICLE**, or equipment which due to its physical condition is incapable of being used for its intended purpose or of moving under its own power or of being towed in a lawful manner; or any vehicle which cannot be operated in a usual or customary manner due to the lack of a current valid vehicle license or registration.

OWNER OF RECORD: Any **PERSON** or **PERSONS** designated to receive property tax bills for a given premises in the records of the Champaign County Supervisor of Assessments whether or not the actual owner of the real estate comprising the premises.

PERSON: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate or other legal entity or their agent, legal representative or assigns.

RESPONSIBLE PERSON: Any **PERSON** known or suspected of acting or failing to act in a manner proscribed in Section 3.1 including, but not limited to, the owner, **OWNER OF RECORD**, tenant, occupant or **PERSON** in possession of any premises on which a public nuisance exists.

WORKING DAY: Any day on which the Champaign County Department of Planning and Zoning is open for business for a full eight and one-half hours.

SECTION 3. DECLARATION OF PUBLIC NUISANCE

3.1 Public Nuisance Prohibited

- A. The activities or conditions described in Section 3.2 are declared to be public nuisances and are expressly and absolutely prohibited when they exist upon public or private property or public right-of-ways located in the unincorporated areas of Champaign County, Illinois except in those instances where expressly permitted under the provisions of the Champaign County Zoning Ordinance or state law or exempted herein:
- B. The activities and conditions listed in Section 3.3 are declared not to be public nuisances and are exempt from the prohibitions described herein when they meet all conditions, limitations or provisos established therein.
- C. No person shall engage in the activities or create or continue the conditions described in Section 3.2 upon public or private property or public right-of-way.
- D. No person shall allow others to engage in the activities or create or continue the conditions described in Section 3.2 on premises which they own, possess or control.
- E. No person shall allow their personal property to be used for the activities or to create or continue the conditions described in Section 3.2.
- F. No person shall require or allow their agents or employees as part of their employment, to engage in the activities or to create or continue the conditions, described in Section 3.2.

3.2 Activities and Conditions Constituting Public Nuisances

- A. Deposition, accumulation, maintenance or disposal other than in properly permitted and/or licensed facilities of:
 - 1. GARBAGE or DEBRIS;
 - 2. sewage, septage or animal waste; or
 - 3. yardwaste, brush or cut timber.

SECTION 3.2 ACTIVITIES AND CONDITIONS CONSTITUTING PUBLIC NUISANCES - CONTINUED

- B. Storage outside of a FULLY ENCLOSED BUILDING of:
 - 1. building materials, recyclable materials, equipment, fire wood (except in reasonable quantities for domestic use on-site) packaging materials and similar items;
 - 2. INOPERABLE VEHICLES and equipment or parts thereof except as provided in Section 3.3.
- C. Open, unfenced excavations more than four feet deep except as customarily attend construction for a period not to exceed 90 days in conformance to the requirements of the Champaign County Zoning Ordinance.
- D. Noise, vibration, glare, heat, odors or fumes, dust or electromagnetic fields in excess of that lawfully permitted and customarily associated with uses permitted in the zoning district by the Champaign County Zoning Ordinance.
- E. Fire, explosion or toxic release hazards in excess of those lawfully permitted and customarily associated with uses permitted in the zoning district by the Champaign County Zoning Ordinance.
- F. Noise discernable by a person of average sensibility within any dwelling or lodging unit between the hours of 10:00 p.m. and 7:00 a.m. when the noise is of an intensity, tone, characteristic, frequency of occurrence or duration as not to be customarily associated with uses permitted in the zoning district in which such dwelling or lodging unit is located including, but not limited to, noise generated by the following activities:
 - 1. construction
 - 2. operation of powered tools or equipment;
 - 3. operation of motor vehicles or related equipment on private property;
 - 4. operation of any bell, siren, whistle, horn or similar device except for noncommercial use of unamplified bells or chimes; or
 - 5. operation of any sound amplification device; or
 - 6. keeping any DOMESTIC ANIMAL.

SECTION 3.2 ACTIVITIES AND CONDITIONS CONSTITUTING PUBLIC NUISANCES - CONTINUED

- G. Noise created at any time by a DOMESTIC ANIMAL within a residential zoning district, if discernable by a person of average sensibility within any dwelling or lodging unit, when a noise is of an intensity, tone, characteristic, frequency of occurrence or duration as not to be customarily associated with uses permitted in the zoning district where such dwelling or lodging unit is located.
- H. Construction, erection or placement of any object, parking of any vehicle, or growth of any plant material so as to violate the visibility requirements of Section 4.3.3E of the Champaign County Zoning Ordinance [Appendix A].
- I. Swimming pools not completely enclosed by a chain link or equivalent fence no less than four feet in height.
- J. DANGEROUS STRUCTURES which may be of any of the following types:
 - 1. TYPE 1, 2, 3, and 4 DANGEROUS STRUCTURES.
 - 2. A building or other structure may be a TYPE 5 DANGEROUS STRUCTURE due to any of the following conditions:
 - a. Modifications and changes to emergency egress that do not meet the relevant requirements of the Illinois State Fire Marshal.
 - b. Failure to comply with the relevant occupancy limits as established by the Illinois State Fire Marshal.
 - c. Major interior or exterior wetness in or on the structure that could lead to structural deterioration if allowed to continue or that results in the growth of unusually large amounts of mold inside a building including building spaces not intended for human occupancy.
 - d. Deterioration on the exterior of the building or structure that inappropriately allows unusual amounts of exterior weather and wetness to enter into the building interior including building spaces not intended for human occupancy.

SECTION 3.2 ACTIVITIES AND CONDITIONS CONSTITUTING PUBLIC NUISANCES - CONTINUED

- e. Inadequate or weakened construction that is evidenced by either structural movement far in excess of generally recognized safe limits or that may be evidenced by severe degradation of structural members.
- f. Unavailability of safe potable water inside each DWELLING UNIT.
- g. Unavailability of a working toilet inside each DWELLING UNIT.
- h. Plumbing that does not meet the relevant requirements of the Illinois State Plumbing Code.
- i. Failure of a required septic system in the absence of a lawfully connected sanitary sewer.
- j. Lack of interior heating due to an inoperable heating system or the failure to maintain necessary gas or electrical service except when the failure to maintain the necessary service is strictly due to the tenant's failure to pay rent or the tenant's failure to pay service bills that are clearly the responsibility of the tenant.
- k. Unavailability of necessary gas or electrical service or power for essential ventilation, heating, or lighting due to either an inadequate gas or electrical service except when the failure to maintain necessary gas or electrical service except when the failure to maintain the necessary service is strictly due to the tenant's failure to pay rent or the tenant's failure to pay service bills that are clearly the responsibility of the tenant.
- l. An inadequate electrical system that results in occupants relying on extension cords to provide power for essential heating, cooking, or lighting or that does not provide adequate and reliable electrical power for such essential needs in a safe manner.
- m. The use of extension cords to provide any power into a DWELLING UNIT from an electrical source which is located outside of that DWELLING UNIT.

SECTION 3.2 ACTIVITIES AND CONDITIONS CONSTITUTING PUBLIC NUISANCES - CONTINUED

- K. Accumulation of stagnant water other than in ponds, lakes, or natural depressions.
- L. ABANDONED SIGN STRUCTURES.
- M. Destruction or obstruction, by act or omission, of the operation of the following, when they are indicated on the approved engineering drawings for any recorded subdivision plat or other approved site plan:
 - (1) any drainage structure or feature that drains an area of more than five acres; or
 - (2) any stormwater detention facility.

3.3 Activities and Conditions Not Constituting Public Nuisances

- A. All lawful agricultural activities, appurtenances and structures except the outdoor storage of INOPERABLE FARM VEHICLES [Appendix C].
- B. Storage outside a FULLY ENCLOSED BUILDING in any zoning district of no more than one INOPERABLE VEHICLE meeting all of the following conditions:
 - 1. the vehicle weighs less than 8,000 lbs. gross vehicle weight;
 - 2. the vehicle is capable of being licensed for operation on a public street;
 - 3. the vehicle is fully intact on the exterior including all wheels, all tires (which must be inflated), all body parts, all windows, all bumpers and grills, all exterior lights;
 - 4. the vehicle is located no less than five feet from any lot line, and is parked on a driveway or is screened from any adjacent lot by a Type C screen pursuant to Section 4.3.3G of the Champaign County Zoning Ordinance [Appendix B]; and
 - 5. no other inoperable vehicle is stored outside on the same lot except FARM VEHICLES.

**SECTION 3.3 ACTIVITIES AND CONDITIONS NOT CONSTITUTING PUBLIC NUISANCES -
Continued**

- C. Storage outside a FULLY ENCLOSED BUILDING in a non-residential zoning district of no more than one INOPERABLE VEHICLE subject to the following conditions:
 - 1. the vehicle is fully intact on the exterior including all wheels or tracks, all tires (which must be inflated), all body parts including cab and all doors and windows;
 - 2. the vehicle is screened from view from any adjacent lot not zoned for business or industrial use or public street by a Type D screen pursuant to Section 4.3.3G of the Champaign County Zoning Ordinance [Appendix B]; and
 - 3. no other inoperable vehicle is stored outside on the same lot except FARM VEHICLES.

- D. Storage outside a FULLY ENCLOSED BUILDING in a non-residential zoning district of an INOPERABLE VEHICLE awaiting repair on the premises of a lawful, permitted repair business or rural home occupation for a period not to exceed 30 days, or on the premises of a salvage or wrecking yard subject to all applicable provisions of the Champaign County Zoning Ordinance.

- E. Storage outside a FULLY ENCLOSED BUILDING of no more than six INOPERABLE FARM VEHICLES or pieces of farm equipment but no more than two of a specified type or function provided such vehicles or pieces of equipment are located no less than 100 feet from any lot line or are fully screened from any adjacent lot or public street by a Type D screen pursuant to Section 4.3.3G of the Champaign County Zoning Ordinance [Appendix B].

SECTION 4. ADMINISTRATION AND ENFORCEMENT

4.1 County Officials - Powers and Duties

- A. Administration and Enforcement of this ordinance shall be vested in the duly appointed Zoning Administrator of Champaign County and in the Champaign County Sheriff to whom are delegated, to the extent permitted by law and consistent with the provisions of this Ordinance, all powers of the Champaign County Board required to effectively administer and enforce this ordinance including but not limited to the following:
1. render interpretations of this ordinance;
 2. receive and investigate ~~complaints reports~~ alleging violations of this ordinance;
 3. conduct such inspections of property as are necessary to determine whether any ~~complaint report~~ or allegation substantiates a finding of a violation;
 4. seek search warrants if necessary in order to conduct such inspections;
 5. determine whether or not any ~~complaint report~~ or allegation substantiates a finding of violation or whether such violation constitutes a *de minimis* violation not requiring further action;
 6. ~~issue notices file Complaints~~ of violation to any and all POTENTIALLY RESPONSIBLE PERSONS for such violations;
 7. issue stop work or stop action orders to prevent the creation, enlargement or continuation of a public nuisance;
 8. ~~request that the State's Attorney's Office file a quasi-criminal or other complaint or take other action to enforce this ordinance;~~
 9. request the assistance of any other County Official in the enforcement of this ordinance;
 10. refer ~~complaints reports~~ to and otherwise cooperate with other local, state or federal agencies potentially having jurisdiction with respect to any ~~complaint or allegation report~~ of violation;
 11. enter into agreements with any RESPONSIBLE PERSON for abatement of the public nuisance;
 12. propose amendments to this ordinance as may be required from time to time; or
 13. delegate any or all of his or her powers or duties to designated subordinates.

SECTION 4.1 COUNTY OFFICIALS - POWERS AND DUTIES - CONTINUED

B. The Zoning Administrator shall take or cause to be taken all lawful actions which in his or her judgment are necessary to effectively administer and enforce this ordinance and shall have the following duties:

1. render interpretations of this ordinance when so requested;
2. receive and investigate complaints alleging violation of this ordinance;
3. issue notices of violation when upon investigation complaints are substantiated except in the case of *de minimis* violations;
4. maintain permanent records of the adoption, amendment, administration and enforcement of this ordinance in accordance with the *Illinois Public Records Act* (50 ILCS 205/1 *et. seq.*);
5. release any records created under this ordinance to the public in accord with the *Illinois Freedom of Information Act* (5 ILCS 140/1 *et. seq.*) and the policies and procedures established by the County Board;
6. assist the Environment and Land Use Committee of the County Board in any and all proceedings regarding the adoption, amendment, administration or enforcement of this ordinance;
7. Assist the State's Attorney, Sheriff, or other County officials in investigations, prosecutions or other actions taken to enforce this ordinance; and
8. make such periodic reports to the Environment and Land Use Committee of the County Board with respect to administration and enforcement of this ordinance as the Committee may request.

C. The Champaign County Sheriff may act to enforce any provision of this ordinance when, due to the nature of a public nuisance or its time of occurrence, such action is deemed warranted by the Sheriff to achieve the purpose of the ordinance or, in lieu of acting directly, may refer any ~~complaint report~~ to the Zoning Administrator. To effect the purposes of this ordinance the Sheriff shall be delegated all necessary powers including but not limited to power to:

1. receive and investigate ~~complaints reports~~ alleging violations of this ordinance;
2. conduct such inspections of property as are necessary to determine whether any ~~complaint report~~ or allegation substantiates a finding of a violation;
3. seek search warrants if necessary in order to conduct such inspections;

SECTION 4.1 COUNTY OFFICIALS - POWERS AND DUTIES - CONTINUED

4. determine whether or not ~~any complaint or allegation substantiates~~there is a factual basis for any report-a finding of violation or whether such violation constitutes a *de minimis* violation not requiring further action;
5. issue notices of violation to any and all POTENTIALLY RESPONSIBLE PERSONS for such violations;
6. issue stop work or stop action orders to prevent the creation, enlargement or continuation of a public nuisance;
7. request that the State's Attorney's Office file a quasi-criminal or other complaint or take other action to enforce this ordinance;
8. request the assistance of any other County Official in the enforcement of this ordinance;
9. refer complaints to and otherwise cooperate with the other local, state or federal agencies potentially having jurisdiction with respect to any complaint or allegation of violation;
10. propose amendments to this ordinance as may be required from time to time; or
11. delegate any or all of his or her powers or duties to designated subordinates as authorized by law.

4.2 Complaints-Reports and Inspections

- A. Any person may file a complaint-report with the Zoning Administrator or Sheriff alleging violations of this ordinance, orally, in writing or by other means. The Zoning Administrator shall investigate all complaints-report except repeat complaints-reports of *de minimis* violations.
- B. When in the opinion of the Zoning Administrator or Sheriff the cooperation of the complainant is necessary to effectively investigate or prosecute a violation and such cooperation is not forthcoming no action need be taken on the complaint-report, the provisions of Section 4.2A notwithstanding.
- C. ~~Complainants-Those making reports~~ shall not be required to reveal their identity, place of residence or employment or any other personal or identifying information except as may be required pursuant to Section 4.2B.

SECTION 4.2 COMPLAINTS AND INSPECTIONS - CONTINUED

- D. No County employee shall reveal the identity of a complainant, without his or her consent, to persons not directly involved in administering or enforcing this ordinance except as required by law.
- E. All complaints received by the Zoning Administrator or Sheriff shall be logged with respect to the date received, location of the premises complained of and the nature of the alleged violation.
- F. The Zoning Administrator or Sheriff shall inspect the premises which are the subject of any complaint within a reasonable period of time provided that such inspections or investigations can be conducted safely and effectively.
- G. The Zoning Administrator or Sheriff shall make a record of the conditions found by all inspections that substantiate a violation including identification of any violations of this ordinance and subsequent actions taken with respect to the violation.
- H. The Zoning Administrator or Sheriff may conduct additional inspections as deemed necessary to verify the continued existence or abatement of the public nuisance.

4.3 Notice Complaint

- A. Upon determining that a public nuisance exists the Zoning Administrator or Sheriff's Office shall serve ~~notice-a Complaint in the form set forth in Appendix D~~ upon the OWNER OF RECORD of the premises where the public nuisance exists and any other potentially RESPONSIBLE PERSONS pursuant to Section 3.1 who have been identified. Notice need ~~not only~~ be provided to ~~all the-~~ RESPONSIBLE PERSONS whom the Zoning Administrator determines have the ability to remedy the public nuisance.
- B. When a ~~second-written notice Complaint~~ is ~~provided to~~ served upon a RESPONSIBLE PERSON other than the OWNER OF RECORD, a copy of such notice shall be mailed to the OWNER OF RECORD within two WORKING DAYS.
- C. Notice may be made ~~by mail,~~ personal service by the Zoning Administrator, or the Zoning Enforcement Officer; or by issuing summons under Supreme Court Rule

Comment [JF1]: Notice by mail is authorized for Municipal ordinance violations, but not for County ordinance violations. See 65 ILCS 5/1-2-9.1; Supreme Court Rule 573.

A Notice to Appear under 725 ILCS 5/107-12 authorizes notices to appear by peace officers for petty offenses, not ordinance violations.

If the County establishes an administrative process for hearing nuisance ordinance violations, then the violation can be served personally or by first class mail, or (if the owner cannot be ascertained or if service cannot be made by mail), by posting the notice on the property not less than 20 days prior to hearing. See 55 ILCS 5/5-41020(c). However, for the reasons stated below, I do not believe the current administrative process for hearing nuisance ordinance violations is viable.

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~~101; or by posting on the premises where the public nuisance is located or by issuance of a Notice to Appear meeting the requirements of 725 ILCS 5/107-12. Any notice may be preceded by an oral or written warning. If notice is made by issuance of a Notice to Appear the County-~~

~~SECTION 4.3 NOTICE CONTINUED~~

~~official issuing such notice shall indicate on it whether the RESPONSIBLE PERSON to whom the Notice to Appear is issued may pay the minimum fine set forth in Section 6.3 as settlement of such violation subject to the State's Attorney's approval.~~

~~D. The notice of violation shall specifically describe the public nuisance or nuisances and shall direct the OWNER OF RECORD and other RESPONSIBLE PERSONS, if any, to abate or remove such public nuisance or nuisances within a reasonable period. Such period shall extend not less than 15 days after the date of service or posting the notice except in the instance of an ongoing activity in which case the Zoning Administrator or Sheriff may order an immediate stop to the activity or in the case of imminent peril to the public health or safety in which case immediate abatement may be ordered.~~

~~E. The Zoning Administrator may serve additional notices subsequent to the original notice or serve notice to other RESPONSIBLE PERSONS or rescind notices served on any or all RESPONSIBLE PERSONS.~~

~~D. The Complaint may be amended at any time, provided that no default judgment shall be entered on an amended complaint without notice to the defendant.~~

~~E. Nothing in this Section shall be construed to prevent the Zoning Administrator or Sheriff from immediately entering the land and abating the nuisance, pursuant to 55 ILCS 5/5-1118; their common law authority; or any other power they may have at law.~~

4.4 Abatement of Nuisances

~~A. If a public nuisance has not been abated within the period specified in the first notice of violation, the Zoning Administrator or Sheriff may issue additional notices or refer the violation to the Champaign County State's Attorney and request that the State's Attorney file a quasi-criminal or other complaint, or request an injunction or take other action to enforce this ordinance.~~

~~B. Moving or relocating any activity or material from the location or premises~~

Comment [JF2]: Reflects Supreme Court Rule 572(e)

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identified in a notice of violation to another location or premises in unincorporated Champaign County where the activity or material constitutes a public nuisance shall be deemed a failure to abate the original cited nuisance and a continuation of the original cited nuisance.

EB. The Zoning Administrator may enter into agreement with a RESPONSIBLE PERSON or PERSONS providing for abatement of a public nuisance over a specified period of time provided that any agreement extending for a period exceeding 30 days shall be executed in writing. No agreement shall extend for a period exceeding 180 days.

~~SECTION 4.4—ABATEMENT OF NUISANCES—CONTINUED~~

~~C.D.~~ The County may act to abate a public nuisance involving GARBAGE or DEBRIS ~~upon expiration of the period specified in the notice of violation. The county,~~ pursuant to the *Illinois Counties Code* (55 ILCS 5/5-1118), ~~and~~ may provide for the removal of the GARBAGE or DEBRIS if the owner of the property on which the nuisance is located has failed to abate the public nuisance. ~~The Pursuant to 55 ILCS 5/5-1118, the~~ County shall first give the owner or owners 15 days notice before the action is taken. ~~The County~~ may collect the reasonable costs of removal from the owner which costs shall be a lien upon the property.

~~4.5—Stay of Proceedings~~

~~An appeal if filed shall stay all proceedings to enforce the action appealed unless the Zoning Administrator certifies to the Environment and Land Use Committee after the appeal has been filed that by reason of facts stated in the certificate a stay could cause imminent peril to the public health or safety in which case proceedings shall not be stayed except by an order of the Environment and Land Use Committee.~~

SECTION 5. APPEALS

5.1 Filing Appeals

- A. ~~Any person aggrieved by any decision, or action taken by the Zoning Administrator pursuant to this Ordinance may appeal such decision or action to the Environment and Land Use Committee of the Champaign County Board.~~
- B. ~~Appeals shall be filed with the Zoning Administrator within 15 days of notice of the action appealed.~~
- C. ~~The appeal shall be submitted on forms supplied by the Zoning Administrator and shall contain the following information:~~
- ~~1. the name, address and telephone number of the appellant;~~
 - ~~2. the date of the decision, notice or action appealed;~~
 - ~~3. the nature of the decision or action appealed from; and~~
 - ~~4. the reason the decision or action should be reversed or modified.~~

5.2 Appeal Hearings

- A. ~~The Zoning Administrator shall notify the Chair of the Environment and Land Use Committee within five working days that an appeal has been filed. The Chair of the Environment and Land Use Committee shall schedule an appeal hearing before the Committee within 60 days.~~
- B. ~~At least five WORKING DAYS prior to the hearing the Zoning Administrator shall provide written notice of the date, time, and place of the hearing to the appellant, OWNER OF RECORD of the premises involved; and the complainant, if known. If notice is mailed delivery shall be presumed to have occurred on the second day after mailing.~~
- C. ~~The Zoning Administrator shall transmit to the Environment and Land Use Committee all documents and other information constituting the record upon which the action appealed from was taken except for the identity of the complainant, if known.~~

Comment [JF3]: There is a statutory process for administrative review of ordinance violations, but:

(A) I am concerned that this will slow down nuisance case appeals; and

(B) This ordinance does not track the statutory process.

--The County would have to establish a code hearing unit within planning and zoning or as a "separate independent agency" within county government. See 55 ILCS 5/5-41010. ELUC does not fall within either definition.

--The case for the county at an administrative appeal cannot be presented by an employee of the code hearing unit. See 55 ILCS 5/5-41030. Even if we could designate ELUC as our "Code Hearing Unit", then the case for the County cannot be presented by an employee of the County Board. This would include any county employee outside of the control of an elected office or an independent board. Planning and Zoning staff could not present the case. It would have to be presented by the State's Attorney's Office.

~~SECTION 5.2 APPEAL HEARINGS—CONTINUED~~

~~D.—~~ Appeal hearings shall be informal and the Committee shall not be bound by the rules of evidence. All testimony shall be given under oath and all parties shall be given the opportunity to question others. A permanent record shall be made and kept on file by the Zoning Administrator. The appellant may attend personally or by agent or with the assistance of counsel. The Zoning Administrator shall be given an opportunity to respond.

~~E.—~~ The Committee shall decide the appeal on the date the hearing is closed or at its next regularly scheduled meeting. The Committee may continue the hearing to a date certain so as to ensure the fundamental fairness of the proceeding.

5.3—Decisions on Appeals

~~A.—~~ The Environment and Land Use Committee may, so long as such action is in conformity with the terms of this Ordinance, reverse, modify, or affirm, wholly or in part, the decision, or other action of the Zoning Administrator from which the appeal is taken and may make such order, decision or determination as it deems ought to be made.

~~B.—~~ The concurring vote of three fourths of the members of the Environment and Land Use Committee shall be necessary to reverse or modify any decision or other action of the Zoning Administrator.

~~C.—~~ If the Committee shall find against a RESPONSIBLE PERSON appellant, the Zoning Administrator shall establish a reasonable period of time as provided in Section 4.3C, for the appellant to abate the public nuisance before further proceedings are instituted.

~~D.—~~ The decision of the Committee shall be put in writing and a copy shall be mailed to the appellant and any other parties to the hearing within five WORKING DAYS of the decision.

SECTION 56. VIOLATIONS AND PENALTIES

6.1 Violations

- A. Any PERSON who acts in a manner proscribed in Section 3.1 shall be guilty of a violation of the ordinance and, upon conviction shall be subject to the penalties set forth herein.
- B. Each day a public nuisance exists or is allowed to exist after the violation is first discovered shall be deemed a separate offense subject to penalties under this ordinance.

~~6.2 Settlement of Violations~~

~~6.2.1 Settlement Without Court Appearance~~

- ~~A. A PERSON accused of a violation of this ordinance may be permitted, at the discretion of the State's Attorney, to pay the minimum fine set forth in Section 6.3 as settlement of such violation if payment is made in the manner provided in Section 6.2.2.~~
- ~~B. If the PERSON has not ceased the activity nor corrected the condition constituting the violation, or if the fine is not received within the time specified in Section 6.2.2 a complaint may be filed in which case any payment shall be returned or applied to any fine and/or court costs imposed by the Court. If the complained of activity or condition has not been corrected a separate complaint may be filed naming the OWNER OF RECORD in addition to any other RESPONSIBLE PERSON.~~
- ~~C. In the case of a Notice to Appear which has been issued to a PERSON other than the OWNER OF RECORD, settlement by payment of the minimum fine has been accepted, the minimum fine has been received as provided in Section 6.2.2 and the activity or condition complained of has been corrected no separate complaint shall be filed against the OWNER OF RECORD and the OWNER OF RECORD shall be so notified.~~

6.2.2 — Payment of Minimum Fines

~~Payments in settlement of violations shall be made by cash, certified check, money order or cashier's check made payable to the Champaign County Collector and shall be delivered to the office of the Zoning Administrator by mail or other means in such a manner that the payment is received by 4:30 p.m. prevailing time of the first WORKING DAY following a period of fourteen days from the date of issuance of the Notice to Appear.~~

6.5.32 Minimum Fine for Certain Violations

The ~~minimum~~ fine for a violation as specified in Section ~~56.1~~ shall be a fine of not less than \$100 nor more than \$500 for a first conviction and not less than \$200 nor more than \$500 for any subsequent conviction.

6.4 — Other Penalties

~~In the case of any PERSON who fails to settle a violation as provided in Section 6.2.1 or in other cases at the discretion of the State's Attorney, a complaint may be filed in the Circuit Court and the violation shall not be settled by payment of a minimum fine regardless of whether the complained of activity or conditions shall be corrected. In such case the penalty for each separate offense shall be a fine of not less than \$100 nor more than \$500 for a first conviction and not less than \$200 nor more than \$500 for any subsequent conviction.~~

6.55.3 Injunctions and Judgements for Abatement by County

In addition to any fines the County may also seek an injunction against any RESPONSIBLE PERSON requiring compliance with this Ordinance or petition a court for an appropriate order authorizing the County to enter upon the property and abate the cited public nuisance. If the County shall abate the public nuisance in such a manner the County may obtain a judgement for the reasonable costs of abatement. Such judgement shall become a lien upon the real estate where the public nuisance is located when a memorandum of judgement is filed in the recorder of deeds office pursuant to Article XII of the *Illinois Code of Civil Procedure* (735 ILCS 5/12-101 *et. seq.*)

5.46-6 Remedies Cumulative

Nothing in this Ordinance shall be construed so as to limit or detract from the provisions of 740 ILCS 5/0.01 *et. seq.*, *Civil Liabilities*, nor be construed so as to legalize conditions which are violations of any other County Ordinance or which are nuisances at common law or to preclude any remedies available at common law or in equity.

SECTION ~~67~~. SEVERABILITY, PUBLICATION AND EFFECTIVE DATE

~~76~~.1 Severability

Should any part of this Ordinance be declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions of this Ordinance.

~~67~~.2 Publication

Within 15 days of the adoption of this Ordinance this County Clerk shall cause notice to be published in a newspaper of general circulation within the County that the Ordinance has been adopted including the effective date of the ordinance and the availability of copies in the office of the Zoning Administrator.

~~67~~.3 Effective Date

This Ordinance shall be in full force and effect ten days after the date of the publication.

PRESENTED, ADOPTED, APPROVED and RECORDED this ~~24th~~ day of ~~May~~, A.D. ~~1994~~2015

(signed)

Chairman, Champaign County Board
Champaign County, Illinois

ATTEST: (signed)

County Clerk and *ex-officio*
Clerk of the County Board

***APPENDIX A – EXCERPT of CHAMPAIGN COUNTY ZONING ORDINANCE
REGARDING VISIBILITY***

Section 4.3.3.F Visibility

APPENDIX B - CHAMPAIGN COUNTY ZONING ORDINANCE

Section 4.3.3G Screen

Champaign County, Illinois
Public Nuisance Ordinance

***APPENDIX C - A RESOLUTION PERTAINING TO THE RIGHT TO FARM
IN CHAMPAIGN COUNTY***

Champaign County, Illinois
Public Nuisance Ordinance

**APPENDIX C - A RESOLUTION PERTAINING TO THE RIGHT TO FARM IN CHAMPAIGN COUNTY
- CONTINUED**

~~APPENDIX D -- AMENDMENTS~~

~~1. Ordinance No. 533, May 20, 1997.~~

- ~~-Section 1. Add paragraph M.~~
- ~~-Section 3. Add paragraph 3.2L.~~

~~2. Ordinance No. 550, December 16, 1997~~

- ~~-Section 2 Amend Section 2.2 to add DOMESTIC ANIMAL definition.~~
- ~~-Section 3 Amend Section 3.2F.~~
- ~~-Section 3 Add paragraph 3.2G, renumber remaining paragraphs.~~
- ~~-Section 4 Amend title of Section 4.1.~~
- ~~-Section 4 Amend introductory paragraph of Section 4.1A.~~
- ~~-Section 4 Add paragraph 4.1C.~~
- ~~-Section 4 Amend Section 4.2 to add new paragraph B, and amend new paragraphs A, C, E, F, G and H.~~
- ~~-Section 4 Amend Section 4.3.~~
- ~~-Section 4 Amend Section 4.4A.~~
- ~~-Section 6 Amend Section 6.~~

~~3. Ordinance No. 651, adopted May 21, 2002~~

~~Section 2 Amend Section 2.2 to amend DANGEROUS STRUCTURES definition.~~

~~4. Ordinance No. 868, adopted August 19, 2010~~

- ~~Section 1 Add paragraphs F, G, H, and M, relettering as required.~~
- ~~Section 2 Amend Section 2.2 to amend DANGEROUS STRUCTURE definition.~~
- ~~Section 3 Amend Section 3.2 to amend paragraph J to add subparagraphs 1 and 2 (a through m.).~~

APPENDIX D

Complaint

Champaign County does hereby charge _____ with violating the Champaign County Public Nuisance Ordinance, and in support of said Complaint states as follows:

1. Champaign County, the prosecuting entity, files this action pursuant to Champaign County Ordinance No. _____, the Champaign County Public Nuisance Ordinance (“Nuisance Ordinance”).
2. Pursuant to Supreme Court Rule 572(a) and Section 4.1.A of the Nuisance Ordinance, the undersigned is authorized as a code enforcement officer to file this Complaint on behalf of Champaign County.
3. This Complaint is filed against _____, with a last known address of _____.
4. Defendant violated Section _____ of the Nuisance Ordinance, in that from _____ to _____, Defendant allowed the following conditions to occur at property located at _____.
5. Each day of the violation set forth in Paragraph 4 constitutes a separate offense, each subject to a fine of \$100.00 to \$500.00.
6. Defendant is required to appear on _____, 20____, at _____ am/pm, in Courtroom _____, of the Champaign County Courthouse, 101 East Main Street, Urbana, Illinois 61801.
7. A default judgment may be entered against Defendant in the amount of \$500.00 per day of violation in the event Defendant fails to appear in court or answer the charge on this date, for a total amount of \$ _____.
8. Defendant may avoid the above hearing by immediately abating the nuisance described in

Champaign County, Illinois
Public Nuisance Ordinance

Paragraph 4; paying a fine of \$100.00; and authorizing entry onto the land to confirm the abatement, at least 7 days prior to the hearing date in Paragraph 6.

9. Defendant may demand a jury trial by filing a jury demand and paying a jury demand fee when entering his appearance, plea, answer, or other responsive pleading.

So signed:

Enforcement Officer

STATE OF ILLINOIS _____)
_____) ss
CHAMPAIGN COUNTY, ILLINOIS _____)

I, _____, being first duly sworn deposes and states that he or she has read the foregoing Complaint by him or her subscribed and that the facts and information set forth therein are true to the best of his or her knowledge and belief.

Signed and Sworn to Before Me,
This _____ day of _____, 20_____

Notary Public

Comment [JF4]: Under Supreme Court Rule 574, the manner and time limit for settlement must be set forth in the charging document.