

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3042 ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR: MR. IMPASTATO PROVIDED BY: PRESIDENT/ LEGAL

INTRODUCED BY: MR. IMPASTATO SECONDED BY: MR. CANULETTE

ON THE 3RD DAY OF MARCH 2005

ORDINANCE TO AMEND THE ST. TAMMANY PARISH CODE OF ORDINANCES, CHAPTER 1, ARTICLE I, TO HEREINAFTER ESTABLISH ADDITIONAL AUTHORITY OF THE BUREAU OF ADMINISTRATIVE ADJUDICATION AND TO ADDITIONALLY AUTHORIZE THE LEVY OF FINES, THE IMPOSITION OF PENALTIES AND OTHER REMEDIES, AND TO OTHERWISE PROVIDE WITH RESPECT THERETO.

WHEREAS, the Parish of St. Tammany desires to continue to uphold the rules, regulations and requirements of all existing Ordinances enacted by this Parish, and

WHEREAS, in an effort to alleviate the cost of extensive administrative meetings and hearings, to minimize timely and costly court appearances, to more efficiently utilize the time, effort, and expense associated with the enforcement of parish rules, regulations and ordinances, and to otherwise more efficiently and adequately protect the health, welfare and safety of the citizens of St. Tammany Parish; and

WHEREAS, the Bureau of Administrative Adjudication has been duly created.

THE PARISH OF ST. TAMMANY ORDAINS that the St. Tammany Parish Code of Ordinances, Chapter 1, Article I, and any other ordinance which may be in conflict herewith, is hereby amended and reenacted to establish additional powers and duties of the Bureau of Administrative Adjudication, through the Administrative Hearing Officer, as per law, the ordinance enacted hereby, and all other applicable authority, all in accordance with the following:

Sec. I DEFINITIONS

The following definitions shall apply in the interpretation of this Chapter. Whenever applicable, the terms used herein may be used interchangeably. The intent and spirit of these definitions is to include everyone and everything that is related to these Ordinances and the properties so affected:

“Parish” shall mean the Parish of St. Tammany, inclusive of the Office of the Parish President.

“Decision” or “order” shall mean an administrative act of the Administrative Hearing Officer under authority of this Chapter.

“Bureau” shall mean the office that heretofore has been created by Ordinance .

“Director” shall mean the head of a Parish agency or department which enforces any public health, housing, fire code, environmental regulation, historic district ordinance, any matters involving licensing and permit violations, and any other Ordinance violations that has been determined by the St. Tammany Parish Council.

“Immovable property” shall mean any unimproved land, any improved land, and any buildings, structures or other things, of whatever nature or description, which are permanently attached to such land, and anything which is otherwise defined as immovable by law.

“Interested Person” shall mean and be deemed to include any person with an interest in this process.

“Licensee” shall mean and be deemed to include any person to whom a Parish license or permit of any kind has been issued and/or sought by such person

“Movable property” shall mean property that is not defined as immovable, or property that is otherwise defined as movable by law.

“Officer” shall mean the Administrative Hearing Officer.

“Owner” shall mean and be deemed to include any person who possesses an interest in immovable property located in this Parish; such interest may or may not be recorded on the public records.

“Occupant” shall mean and be deemed to include any person who occupying immovable property by permission or accommodation of the owner, former owner, lessor, lessee, tenant or another occupant.

“Parish Attorney” or “Counsel to the Parish President” shall mean that person who serves exclusively as the in-house, executive counsel to the Office of the Parish President.

“Permittee” shall mean and be deemed to include any person who has sought and/or been granted permission to act or take action and which is ordinarily derived from the granting of a permit.

“Person” shall mean and be deemed to include any individual, any legal entity with the power to sue or be sued, and any person or entity with the power to own, alienate and/or encumber immovable property shall be deemed to include any individual, entity or being capable of being sued or capable of bringing suit.

“Property” means movable and immovable property.

“Respondent” or “alleged violator” shall mean any person or entity, including any landowner, occupant, tenant, lessee, lessor, and/or the authorized representative of any such person or entity who had been given a notice of violation under this Chapter.

“Registration” and “License “ is to be used interchangeably.

“Tenant” shall mean and be deemed to include any person who rents, uses, or otherwise occupies a building, structure or property owned or leased by another.

“Violation” shall encompass all Ordinances, including but not limited to building codes, zoning, planning, vegetation, housing, blighted properties, dangerous structures and nuisance Ordinances.

“Violator” shall mean a person who has been found liable for a violation or ordered to correct a violation in an order issued under this Chapter.

"He," "him", "her", and "she" shall be deemed to be interchangeable; it is understood that the masculine and feminine of any word is likewise interchangeable.

Sec. II INCLUSION AND ADOPTION OF ALL EXISTING SECTIONS AND SUBSECTIONS OF THE CODE OF ORDINANCES

(A) It is the intention of the Parish to adopt and include, interchangeably, all rules, regulations, fines & penalties of the Code of Ordinances (including but not limited to any amendments thereto and Supplements) to the extent that the Parish has the authority to initiate investigations, investigate, refer matters to additional agencies or departments, and otherwise fully participate in any and all regulatory matters of the Parish, including but not limited to:

- (1) Building Code (Chapter 5, Article I, Section 5-001.00 et seq. and as may be amended, and Article II, Section 5-051.00 et seq. and as may be amended as per law), together with the Supplemental Code, Appendix "D", as amended & revised, January, 2004
- (2) Appendix "B"/Subdivision, Ordinance 499 (and as may be amended as per law)
- (3) Appendix "C"/Zoning/Land Use Ordinance 523 (and as may be amended as per law)
- (4) Blighted Property, Derelict & Dangerous Buildings, (Article III, Section 14-021.00 et seq. and as may be amended)
- (5) Animal Control (including but not limited to Chapter 4, Article III, Section 023.00 et seq., Article IV, Section 070.00 et seq., Article V, Section 120.00 et seq., and as may be amended per law)
- (6) Adjudicated Properties
- (7) Flooding & Fill Ordinance (Article 1, Section 7-001.00 et seq. and as may be amended as per law)
- (8) Litter Abatement (Article 1, Section 15-001.00 et seq. and as may be amended as per law)
- (9) Nuisance (Article 1, Section 14-001.00 et seq. and as may be amended as per law) and (Article II, Section 14-021.11 et seq. and as may be amended as per law)
- (10) Tammany Trace (Article XVI, Section 16-131.00 et seq. and as amended as per law)
- (11) Coastal Use and Management Ordinance Calendar Series 92-1607, and as amended, and including Louisiana Revised Statute 49:214.36 and as amended.
- (12) Entering any Parish Rights of Way, including but not limited to Ordinance 2691, Series 96-2495, and as amended
- (13) Parish Housing Code
- (14) Alcohol (including but not limited to Chapter 3, Article V, Section 101.00 et seq., Article VI, Section 116.00 et seq., Article VII, Section 154.00 et seq., Article VIII, Section 185.00 et seq., Article IX, Section 191.00 et seq. and as amended as per law)
- (15) Such other Ordinances now in effect or that may hereinafter adopted (including but not limited to Article 1, Section 1-001.00 et seq. and as may be amended as per law)

Sec. III REFERRAL FOR DISPOSITION

The Parish enforcement officers are specifically vested with the right to exclusively have the ability to refer matters to the Office of the District Attorney and/or the Administrative Hearing Officer on a case-by-case basis as exclusively determined by the Parish.

Sec. IV CONFLICTS

(1) It is the intention and desire of this Council to supercede and replace all such provisions where there exists any conflict.

(2) Where there exists any conflict, the more restrictive provision shall apply, all at the sole discretion and interpretation of the Hearing Officer.

Sec. V AUTHORITY TO ASSESS AND LEVY

(1) The Officer shall have the authority to assess and levy all civil fines, penalties and costs that now exist in the Code of Ordinances and those that are created hereinafter.

(2) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances, Appendix "B"/Subdivision Ordinance 499 (and as may be amended as per law).

(3) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Appendix "C"/Zoning/Land Use, Ordinance 523 (and as may be amended as per law).

(4) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to Animal Control. Animal Control (including but not limited to Chapter 4, Article III, Section 023.00 et seq., Article IV, Section 070.00 et seq., Article V, Section 120.00 et seq., and as may be amended per law).

(5) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to the Building Code (Chapter 5, Article 1, Section 5-001.00 et seq. and as may be amended, and Article II, Section 5-051.00 et seq. and as may be amended), together with the Supplemental Code, Appendix "D", as amended & revised, January, 2004.

(6) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to Blighted Property, Derelict & Dangerous Buildings, and other Dangerous Structures. (Article III, Section 14-021.00 et seq. and as may be amended).

(7) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to Adjudicated Properties.

(8) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances concerning Flooding & Fill, Article 1, Section 7-001.00 et seq. and as may be amended as per law)

(9) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to the Tammany Trace. Tammany Trace (Article XVI, Section 16-131.00 et seq. and as may be amended as per law).

(10) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to Litter and Litter Abatement. Litter Abatement (Article 1, Section 15-001.00 et seq. and as may be amended as per law).

(11) The Officer shall have the power and authority to take such action and assess such fines or penalties as may be authorized under the Code of Ordinances as to Nuisances and related violations. Nuisances (Article 1, Section 14-001.00 et seq. and as may be amended as per law) and (Article II, Section 14-021.11 et seq. and as may be amended as per law)

(12) Coastal Use and Management Ordinance Calendar Series 92-1607, and as amended, and including Louisiana Revised Statute 49:214.36 and as amended.

(13) Entering any Parish Rights of Way, including but not limited to Ordinance 2691, Series 96-2495, and as amended

(14) Parish Housing Code

(15) Alcohol (including but not limited to Chapter 3, Article V, Section 101.00 et seq., Article VI, Section 116.00 et seq., Article VII, Section 154.00 et seq., Article VIII, Section 185.00 et seq., Article IX, Section 191.00 et seq. and as amended as per law

(16) Such other Ordinances now in effect or that may hereinafter adopted (including but not limited to Article 1, Section 1-001.00 et seq. and as may be amended as per law)

Sec. VI REPAIR, REMEDIATION, RESTORATION AND CORRECTION

Notwithstanding any provision herein to the contrary, the Officer shall have the additional power and authority to order repair, restoration, remediation and/or correction of any violation.

Sec. VII COSTS, FINES AND PENALTIES

(1) The Officer shall have the exclusive authority to assess and levy the following fines, penalties and administrative costs.

(2) Such costs, fines and penalties as may be assessed are separate and distinct from that which may be determined and assessed by any court of competent jurisdiction.

(3) COSTS

(A) The Officer shall assess costs of any proceeding when there is finding of a violation.

(B) Administrative costs are mandatory and may not be waived or reduced by the Officer when determined that the Respondent has violated any section of the Parish Ordinances.

(C) Administrative costs shall not be less than \$100.00 (one hundred dollars), but may include the additional tabulation of reasonable out-of-pocket costs expended by the Parish (i.e. postings or advertisement, postage, photographs, video, related office expenses, subpoena service charges, expert fees, consultant fees, professional service expenses, attorney fees, and such other reasonably related expenses) necessary to prosecute a matter.

(D) Additional administrative costs may be assessed against the Respondant by the Officer to include reimbursement to the Parish for employee time expended to prosecute a matter.

(4) FINES AND PENALTIES

- (a) As to Building Code (Chapter 5, Article 1, Section 5-001.00 et seq. and as may be amended, and Article II, Section 5-051.00 et seq. and as may be amended) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "A," attached hereto and a made a part hereof and as may be amended hereinafter by this Council, together with the Supplemental Code, Appendix "D", as amended & revised, January, 2004.
- (b) As to Blighted Property, Derelict & Dangerous Buildings, (Article III, Section 14-021.00 et seq. and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "B," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.
- (c) As to Animal Control (including but not limited to Chapter 4, Article III, Section 023.00 et seq., Article IV, Section 070.00 et seq., Article V, Section 120.00 et seq., and as may be amended per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "C," attached hereto and a made a part hereof and as may be amended hereinafter.
- (d) As to Appendix "B"/Subdivision Ordinance 499 (and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "D," attached hereto and a made a part hereof and as may be amended hereinafter.
- (e) As to Appendix "C"/Zoning/Land Use Ordinance 523 (and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "E," attached hereto and a made a part hereof and as amended hereinafter.
- (f) As to Adjudicated Property Code violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "F," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.
- (g) As to Flooding & Fill Ordinance Code (Article 1, Section 7-001.00 et seq. and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "G," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.
- (h) As to Litter Prevention & Litter Abatement Code (Article 1, Section 15-001.00 et seq. and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "H," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.

(i) As to Nuisance (Article I, Section 14-001.00 et seq. and as may be amended as per law) and (Article II, Section 14-021.11 et seq. and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "I," attached hereto and a made a part hereof and as may be amended hereinafter.

(j) As to Tammany Trace (Article XVI, Section 16-131.00 et seq. and as may be amended as per law) violations, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "J," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.

(k) As to Coastal Use and Management Ordinance Calendar Series 92-1607, and as amended, and including Louisiana Revised Statute 49:214.36 and as amended, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "K," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.

(l) As to entering any Parish Rights of Way, including but not limited to Ordinance 2691, Series 96-2495, and as amended, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "L," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.

(m) As to the Parish Housing Code, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "M," attached hereto and a made a part hereof and as may be amended hereinafter by this Council

(n) As to Alcohol (including but not limited to Chapter 3, Article V, Section 101.00 et seq., Article VI, Section 116.00 et seq., Article VII, Section 154.00 et seq., Article VIII, Section 185.00 et seq., Article IX, Section 191.00 et seq. and as amended as per law, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "M," attached hereto and a made a part hereof and as may be amended hereinafter by this Council

(o) As to the Parish Housing Code and as amended as per law, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "N," attached hereto and a made a part hereof and as may be amended hereinafter by this

(p) As to any other Parish Ordinance (including but not limited to Article I, Section 1-001.00 et seq. and as may be amended as per law) violations that are otherwise not specifically enumerated herein, the Officer shall be authorized to assess, levy and assign collection of costs, fines and penalties in the amount as more fully set out on Schedule "O," attached hereto and a made a part hereof and as may be amended hereinafter by this Council.

(q) Such other Ordinances now in effect or that may hereinafter adopted (including but not limited to Article 1, Section 1-001.00 et seq. and as amended as per law)

(r) The Officer may assess and levy a daily late fee or charge against a Respondent who fails to timely and properly tender sufficient funds to satisfy any order issued by the Officer. Late fees and charges may be levied at any subsequent hearing after a determination has been made in the event Respondent fails to timely pay.

(s) Unless otherwise precluded by State or Federal law, there shall now be no limit on the aggregate of any assessment, fine or penalty.

(t) The Officer shall have the authority to refer any matter to the Office of the District Attorney for the 22nd Judicial District Court for further handling, the United States Department of Justice, United States Corps of Engineers, State of Louisiana or such other departments or agencies as needed and warranted under the circumstances.

Sec. VIII MOVABLES

Where there exists a violation of any Ordinance and the matter involves a movable susceptible of seizure, the Officer shall have the authority to issue such seizure orders as are necessary to seize and take control of such movable property for safekeeping, retention purposes or disposal, all as permitted in law.

Sec. IX ANIMALS

Where there exists a finding that a Respondent has violated an Ordinance as to any animal, the Officer shall have the authority to detain and refer said animal to the Office of Animal Services for proper disposition, as per law.

Sec. X SEPARATE OFFENSE

(A) It shall be the authority of the Officer to assess and levy a separate fine and/or penalty to any Respondent for each offense committed in violation of Parish Ordinances.

(B) For each day a violation occurs, the same shall constitute a separate offense regardless of whether such violation is of a continuing nature.

(C) Unless otherwise precluded by Local, State or Federal law, there shall now be no limit on the aggregate of any assessment, fine or penalty.

Sec. XI MULTIPLE/ REPEAT OFFENSES

(A) Within one year of a final determination by the Officer that a Respondent has violated an Ordinance that the Respondent is cited for the same or similar violation of the Parish Ordinance, the Officer is authorized to then assess and levy up to and including twice or double the fine and/or penalty.

(B) After the first year, and in the event of repeated violations thereafter, the Officer may assess and levy triple or three times the fine and/or penalty.

(C) In the event that a Respondent violates any Ordinance more than three times within a three-year period, then the Officer, in his discretion, may assess and levy such fines or penalties as may be warranted under the circumstances and allowed as per law.

Sec. XII AUTHORITY TO SUSPEND, REVOKE, RESCIND APPLICATIONS & PERMITS

(A) The Officer shall have the authority to suspend, revoke and/or rescind any Permit issued by the Parish for any reason.

(B) In the case of suspension of a Permit, the Officer shall have the authority to a Respondent to comply with any and all Ordinances so affected.

(C) The Officer shall have the authority to rescind and revoke any application made to the Parish.

Sec. XIII EXEMPTIONS

There is not the intent to create nor are there any known exemptions to these violations, penalties, rules or regulations.

Sec. XIV COMMUNITY SERVICE

Where not precluded at law, the Officer shall have the additional authority and power to order community service, at his discretion, commensurate with the penalties herein.

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

SCHEDULE "A"

Building Code - up to \$500.00 per violation
(Chapter 5, Article 1, Section 5-001.00
et seq. and as may be amended, and
Article II, Section 5-051.00 et seq.
and as may be amended), - up to \$500.00 per day for continuing violations
together with the Supplemental Code,
Appendix "D", as revised, January, 2004

SCHEDULE "B"

Blighted Property, Derelict & - up to \$500.00 per violation
Dangerous Buildings, and other
Dangerous Structures Blighted Housing - up to \$500.00 per day for continuing violations
(Article III, Section 14-021.00 et seq.
and as may be amended)

SCHEDULE "C"

Animal Control (including but not limited - up to \$500.00 per violation
to Chapter 4, Article III, Section 023.00 - up to \$500.00 per day for continuing violations
et seq., Article IV, Section 070.00 et seq.,
Article V, Section 120.00 et seq., and
as may be amended per law) Animal Control

SCHEDULE "D"

Appendix "B"/Subdivision, Ordinance 499
(and as may be amended as per law) - up to \$500.00 per violation
- up to \$500.00 per day for continuing violations

SCHEDULE "E"

Appendix "C"/Zoning/Land Use Ordinance 523
(and as may be amended as per law) - up to \$500.00 per violation
- up to \$500.00 per day for continuing violations

SCHEDULE "F"

Adjudicated Property - up to \$500.00 per violation
- up to \$500.00 per day for continuing violations

SCHEDULE "G"

Flooding & Fill Ordinance - up to \$500.00 per violation
(Article 1, Section 7-001.00 et seq.
and as may be amended as per law) - up to \$500.00 per day for continuing violations

SCHEDULE "H"

Litter Prevention & Abatement - up to \$500.00 per violation
(including Article 1, Section 15-001.00 et seq.
and as may be amended as per law) - up to \$500.00 per day for continuing violations

SCHEDULE "I"

Nuisances, including - up to \$500.00 per violation
Article I, Section 14-001.00 et seq. - up to \$500.00 per day for continuing violations
and as may be amended as per law and
Article II, Section 14-021.11 et seq.
and as may be amended as per law

SCHEDULE "J"

Tammany Trace, including Article XVI,
Section 16-131.00 et seq. - up to \$500.00 per violation
as may be amended as per law - up to \$500.00 per day for continuing violations

SCHEDULE "K"

Coastal Use and Management Ordinance - up to \$500.00 per violation
Calendar Series 92-1607, and as amended,
and including Louisiana Revised - up to \$500.00 per day for continuing violations
Statute 49:214.36 and as amended.

SCHEDULE "L"

Entering any Parish Rights of Way, - up to \$500.00 per violation
including but not limited to Ordinance up to \$500.00 per day for continuing violations
Number 2691, Series 96-2495, and as amended

SCHEDULE "M"

As to Alcohol (including but not limitedp to \$500.00 per violation
to Chapter 3, Article V, Section 101.00 - up to \$500.00 per day for continuing violations
et seq., Article VI, Section 116.00 et seq.,
Article VII, Section 154.00 et seq., Article
VIII, Section 185.00 et seq., Article IX,
Section 191.00 et seq. and as amended as per law

SCHEDULE "N"

Parish Housing Code - up to \$500.00 per violation
- up to \$500.00 per day for continuing violations

SCHEDULE "O"

Such other Ordinances now in effect
or that may hereinafter adopted - up to \$500.00 per violation
(Article 1, Section 1-001.00 et seq.
and as may be amended as per law) - up to \$500.00 per day for continuing violations