

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3130 ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR: THOMAS-BINDER PROVIDED BY: LEGAL COUNSEL

INTRODUCED BY: MR. BINDER SECONDED BY: MR. THOMAS

ON THE 7TH DAY OF JULY 2005.

ORDINANCE AMENDING AND REENACTING ST. TAMMANY PARISH CODE OF ORDINANCES, CHAPTER 14, ARTICLE I, TO AMEND PARAGRAPH B OF SECTION 14-002.00, ENACT PARAGRAPH R OF SECTION 14-002.00, AMEND SECTION 14-009.00, IN ORDER TO PROHIBIT OTHER DISCARDED OR ABANDONED ITEMS, TO PROHIBIT THE PLACING, THROWING, SWEEPING, DEPOSITING OR BLOWING OF GRASS CLIPPINGS AND THE TRIMMINGS OR CLIPPINGS FROM HEDGES, SHRUBS, AND/OR OTHER LANDSCAPING PLANTS OR TREES ONTO A ROADWAY DRAINAGE DITCH, AND OTHERWISE PROVIDE WITH RESPECT THERETO.

WHEREAS, the accumulation of rubbish, trash, refuse, junk, discarded or abandoned major appliances, such as refrigerators, freezers, ranges, or other machinery, metal, tin, and/or other discarded or abandoned materials, metals, lumber or other things, on any vacant lot, or on any portion of any occupied lot, neutral grounds, street, sidewalk, drainage way or any public or private right of way, and the depositing of grass clippings, pine needles, pine cones, shrubs, brush, cut timber, the trimmings or clippings from hedges, shrubs, and/or other landscaping plants or trees, or any other yard debris onto a public road or into any natural or manmade drainage channel, canal, easement, or roadside ditch are found to create a condition that may endanger the health, life, limb or the property of others, and the general welfare of the community, such conditions and actions are therefore declared to be public nuisances which are to be abated as such in accordance with the provisions of this part.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that Chapter 14, Article I is hereby amended and reenacted to amend Paragraph B of Section 14-002, to enact Paragraph R of Section 14-002.00, to amend Section 14-009.00 and to otherwise provide as follows

ARTICLE I
IN GENERAL

SEC. 14-001.00 Purpose and Definition

The purpose of these Articles is to define and prohibit conduct that constitutes a "nuisance." Conduct that is defined as a nuisance is expressly prohibited and shall constitute a misdemeanor punishable according to the penalties and provisions set forth in Section 14-009.00, which shall apply to all nuisances, unless a separate penalty is otherwise provided. In this regard, conduct that is a "nuisance" is hereby defined as any unlawful act or omission, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (A) Injures or endangers the health, safety or well-being of others; or
- (B) Essentially interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (C) Injures, damages, threatens to damage or tends to depreciate the value of any public or private property; or
- (D) Essentially interferes with the right of privacy within ones home or unreasonably interferes with the use of ones residential property, including sounds and noises as enumerated in Section 14-002.00(e); or
- (E) Actually causes, or imminently threatens to cause, material and substantial disruption within the community or is an invasion of the rights of others, including sounds and noises as enumerated in Section 14-002.00(f).

SEC. 14-002.00 Illustrative Enumeration

The following acts and/or omissions and the maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, these enumerations shall not be deemed nor construed to be conclusive, limiting or restrictive:

(A) Noxious weeds and other rank vegetation.

(B) Accumulation of rubbish, trash, refuse, junk, discarded or abandoned major appliances, such as refrigerators, freezers, ranges, or other machinery, metal, tin and/or other discarded or and other abandoned materials, metals, lumber or other things, on any vacant lot, or any portion of any occupied lot, neutral ground, street, sidewalk, drainage way or any public or private right of way.

(C) Any condition which provides harborage for rats, mice, snakes and other vermin.

(D) Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

(E) All noises and sounds, including animal noises, that are unreasonably loud and intrusive, raucous, jarring or disturbing and which essentially interfere with the right of privacy within ones home or unreasonably interfere with the use of ones residential property, which is defined to include single-family, duplex or multifamily dwellings, nursing homes, outpatient surgical facilities and similar facilities.

(F) All noises or sounds that are unreasonably loud and intrusive, raucous, jarring or disturbing and which actually cause, or imminently threaten to cause, material and substantial disruption of the activities of such places as schools, courts, churches or businesses.

(G) All obnoxious and/or dangerous odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.

(H) The carcasses of animals or fowl not disposed of within a reasonable time after death.

(I) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.

(J) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.

(K) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.

(L) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(M) Contractor's rubble, defined for the purposes hereof as the residue from construction, building demolition or razing of parts or the whole of structures and the residue of "do it yourself" repairs or other like operations including excavation.

(N) Building debris which is defined for the purposes hereof as plaster, roofing, concrete, brickbats, sand, discarded electrical wiring, lumber, pipes and fixtures resulting from construction repair, renovation or remodeling of any building, structure or appurtenance thereto.

(O) Camps, buildings and structures determined to be unsafe or dangerous by the St. Tammany Parish Chief Building Official.

(P) The placing of fill material comprised in whole or in part of asphaltic and/or asbestos roofing shingles on any lot, place or area situated on Lake Pontchartrain or any waterway which has a current flow and is designated as a river or bayou on any official map of the State of Louisiana or any other body of water, depression or bed, whether or not there is a current flow present or water present within its bank, when such stream is identifiable on any official map of the State of Louisiana and the directional course of said stream indicates a discharge of water into Lake Pontchartrain, to deposit or place, or to permit the deposition or placement on such lot, place or area, or upon any river bank or seashore lot, place or area, any fill material comprised, either entirely or partly, of asphaltic and/or asbestos roofing shingles.

(Q) Tree cuttings and other associated debris in public or private drainage ways, drainage servitudes, ditches or natural or man-made canals.

(R) The placing, throwing, sweeping, depositing or blowing of grass clippings, pine needles, pine cones, shrubs, brush, cut timber, the trimmings or clippings from hedges, shrubs, and/or other landscaping plants or trees, or any other yard debris, onto a public road or into any natural or manmade drainage channel, canal, easement, or roadside ditch. Any individual and/or company that is engaged in the business or regular activity that is commonly referred to as a landscape maintenance or grass cutting business shall be responsible to collect and properly dispose of all clippings, trimmings and/or other yard debris, rather than causing it, or allowing it to become, deposited on the roadway or into the drainage channel, canal, easement or roadside ditch.

SEC. 14-003.00 Fires for Yard Debris

(A) The burning of leaves and yard debris, such as pine needles, pine cones, shrubs, brush and cut timber shall not be a violation of this Chapter, provided that:

- (1) The fire area shall not be greater than eight (8) feet in diameter;
- (2) The height of burning materials shall not be greater than four (4) feet;
- (3) Burning shall only occur between sunrise and one hour before sunset;
- (4) The fire site shall not be unattended;
- (5) A functional water hose shall be located next to the fire site;
- (6) The fire site shall be located at least 10 feet from the nearest property line;
- (7) There shall be no more than one (1) fire site per homesite or parcel of land;
- (8) The fire site shall be located at least fifty (50) feet from any structure, if nearer than fifty (50) feet from a structure a container must be used;
- (9) The fire shall not emit dense smoke, noxious fumes, gas, soot or cinders in unreasonable quantities so as to violate Section 14-001.00 above.

A violation of any of the above restrictions may result in the fire site being considered a nuisance under this chapter.

(B) The above restrictions shall not apply in the event that the controlled fire or open burning of leaves and yard debris, as stated herein, is located a distance of one thousand (1000') feet or more from the nearest dwelling.

(C) The provisions of this section are not intended nor shall they lessen the responsibility of all persons to abide by other ordinances of this Parish, and laws of this State governing the matters herein addressed.

SEC. 14-004.00 Notice to Abate

Whenever a nuisance is found to exist within the Parish, the sheriff, enforcement officers of the Parish Department of Planning and Permits, the parish health officer and the Chief of the applicable Fire Protection District, or any of their duly designated representatives, shall have the authority to give written notice to abate the nuisance to the owner or occupant of the property upon which such nuisance exists or upon the person causing or maintaining the nuisance. Where the nature and circumstances of a particular nuisance violation warrants immediate enforcement, the sheriff's office may arrest or issue a misdemeanor summons in lieu of the notice to abate. In addition, an enforcing official shall have the authority to summarily abate any nuisance which, by its nature, creates an immediate hazard to life and/or property.

SEC. 14-005.00 Contents of Notice

The notice to abate a nuisance issued under the provisions of this Article shall contain:

- (A) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (B) The location of the nuisance, if the same is stationary.
- (C) A description of what constitutes the nuisance.
- (D) A statement of acts necessary to abate the nuisance.
- (E) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Parish will abate such nuisance and assess the cost thereof against such person.

SEC. 14-006.00 Service of Notice

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

SEC. 14-007.00 Abatement by Parish

Upon the failure of the person upon whom notice to abate a nuisance is served pursuant to the provisions of this Article to abate the same, the enforcement officer or other duly designated officer of the Parish shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

SEC. 14-008.00 Costs of Parish Declared Lien

Any and all costs incurred by the Parish in the abatement of a nuisance under the provisions of this Article shall constitute a lien against the property upon which such nuisance existed, which lien shall be filed, proven and collected as provided for by law. Such lien shall be notice to all persons from the time of its recording, and shall bear interest at the legal rate thereafter until satisfied.

SEC. 14-009.00 Penalties

Any person who shall violate any of the provisions of this chapter, or who shall violate or fail to comply with any order made hereunder, within the time fixed therein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine of not less than ONE HUNDRED (\$100.00) DOLLARS nor more than FIVE HUNDRED (\$500.00) DOLLARS, or by imprisonment for not less more than thirty (30) days ~~nor more than ninety (90) days~~, or both such fines and imprisonment. Unless specifically provided otherwise, each day that any violation of this chapter shall continue shall constitute a separate offense. The imposition of a penalty for any violation shall not excuse the violation nor shall the violation be permitted to continue. All such persons shall be required to correct

or remedy such violations or defects within a reasonable time, and when not otherwise specified, the application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

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 Ordinances are hereby declared to be severable.

DATE OF ENACTMENT: 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:

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE _____ DAY OF _____, 2005 AND BECOMES ORDINANCE COUNCIL SERIES NO. 05-.

STEVE STEFANCIK, COUNCIL CHAIRMAN

ATTEST:

DIANE HUESCHEN, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published introduction: _____, 2005

Published adoption: _____, 2005

Delivered to Parish President : _____, 2005 at _____

Returned to Council Clerk: _____, 2005 at _____