

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3255 ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR: MR. BINDER PROVIDED BY: LEGAL COUNSEL

INTRODUCED BY: _____ SECONDED BY: _____

ON THE _____ DAY OF _____ 2006.

ORDINANCE TO AMEND THE PARISH CODE OF ORDINANCES TO REPEAL AND REENACT ARTICLE II OF CHAPTER 14, TO PROHIBIT THE ACCUMULATION AND STORAGE OF ONE OR MORE ABANDONED, INOPERATIVE, DISMANTLED OR WRECKED VEHICLES ON PUBLIC OR PRIVATE PROPERTY, TO PROVIDE FOR THE REMOVAL, STORAGE AND DISPOSITION OF SUCH VEHICLES, AND TO PROVIDE FOR NOTICE AND ENFORCEMENT PROCEDURES.

WHEREAS, the prolonged presence of abandoned, inoperative, dismantled or wrecked vehicles on public and/or private property are found to present a significant and immediate threat to public health and safety as well as to the environment, necessitating their expedient removal from public and private property. These threats include posing a safety hazard to children who might use the abandoned, inoperative, dismantled or wrecked vehicles as playgrounds, rusting automobiles representing a health hazard to those who may come into contact with them, and the damage that such vehicles and debris are sure to cause to the underlying property through the leakage of hazardous fluids into the surrounding ground or water. The environmental and health hazards of these vehicles have been noted by the Louisiana Department of Environmental Quality (DEQ). DEQ, *Hurricane Katrina Debris Management Plan* (DEQ 2005). The hazards from automobiles include "gasoline and diesel fuel, refrigerants, lubricating oils, mercury ABS switches, mercury convenience switches, lead acid batteries, brake and transmission fluid, antifreeze, and tires;" and

WHEREAS, the accumulation of abandoned, inoperative, dismantled or wrecked vehicles on public and/or private property are found to create a condition tending to reduce the value of property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare. Therefore, the presence of such abandoned, inoperative, dismantled or wrecked vehicles on public or private property, except as may be expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this part; and

WHEREAS, as a result of the recently adopted state legislation on the subject of the storing or abandoning of junk, wrecked or used automobiles or motor vehicles, or any part or parts thereof, it has been determined that it is necessary to repeal the existing ordinance, Article II of Chapter 14, and to reenact said Article as set forth herein after.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that Article II of Chapter 14 of the St. Tammany Parish Code of Ordinances, a copy of which is attached hereto, is hereby repealed and reenacted to prohibit the accumulation and storage of one or more abandoned, inoperative, dismantled, or wrecked vehicles and to provide as follows:

ARTICLE II
ABANDONED OR INOPERATIVE VEHICLES ON PUBLIC OR PUBLIC PROPERTY

Sec. 14-016.00 Findings, declarations and authority.

The regulations and provisions of this Article shall not preclude, supercede or repeal any enforcement measures taken, or procedures and regulations adopted, in accordance with the authority granted under La.R.S. 32:473.1 and St. Tammany Parish Code of Ordinances, Chapter 13, Division I, Section 13-002.00. The regulations contained within the Sections of this Article shall be considered as additional and/or supplemental regulations to those contained in Chapter 13, Division I, Section 13-002.00

(A) Findings and Declarations: In addition to and in accordance with the determination made and the authority granted to remove abandoned, inoperative, dismantled, or wrecked vehicles as public nuisances, the St. Tammany Parish Council makes the following findings and declarations:

The prolonged presence of abandoned, inoperative, dismantled or wrecked vehicles on public and/or private property are found to present a significant and immediate threat to public health and safety as well as to the environment, necessitating their expedient removal from public and private property. These threats include posing a safety hazard to children who might use the abandoned, inoperative, dismantled or wrecked vehicles as playgrounds, rusting automobiles representing a health hazard to those who may come into contact with them, and the damage that such vehicles and debris are sure to cause to the underlying property through the leakage of hazardous fluids into the surrounding ground or water. The environmental and health hazards of these vehicles have been noted by the Louisiana Department of Environmental Quality (DEQ). DEQ, *Hurricane Katrina Debris Management Plan* (DEQ 2005). The hazards from automobiles include "gasoline and diesel fuel, refrigerants, lubricating oils, mercury ABS switches, mercury convenience switches, lead acid batteries, brake and transmission fluid, antifreeze, and tires."

The accumulation of abandoned, inoperative, dismantled or wrecked vehicles on public and/or private property are also found to create a condition tending to reduce the value of property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety and general welfare.

Further, an abandoned, inoperative, dismantled or wrecked vehicle on public property, particularly on a street, shoulder, sidewalk, neutral ground or right of way constitutes a traffic hazard and imminent threat to public safety.

Therefore, the presence of such abandoned, inoperative, dismantled or wrecked vehicles on public or private property, except as may be expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Article.

(B) Authority: This ordinance is adopted pursuant to the authority set forth in La.R.S. 33:4876, La.R.S. 33:1236, La.R.S. 33:471, et seq., and all other applicable authority authorizing the governing authority of any parish to enact ordinances regulating or prohibiting abandoned motor vehicles on public property, left unattended for more than three (3) days, and regulating or prohibiting the storing or abandoning of junk, wrecked or used automobiles or motor vehicles, or any part or parts thereof, on any vacant lot, or any portion of any occupied lot within the parish, to provide for the removal and disposition thereof, to charge the vehicle owner or the property owner therefor, and to otherwise provide with respect thereto, and to provide enforcement and procedures with respect to damaged and inoperable motor vehicles on occupied private property.

Sec. 14-017.00 Definitions.

As Used in this part:

(a) *Abandoned motor vehicle on public property* means a motor vehicle that is inoperable and is left unattended on public property for more than three (3) days, or is inoperable and left unattended on the shoulder, neutral ground or sidewalk of any public street, road or right of way for more than three (3) days.

(b) *Abandoned junk, wrecked or used automobiles or motor vehicles on private property* means a motor vehicle which is incapable of being lawfully moved upon the highways and streets under its own power, and includes, but is not limited to, wrecked or dismantled vehicles that are situated upon any portion of an unoccupied lot, and, in the case of an occupied lot, means any motor vehicle which is totally inoperable and is so damaged or dismantled as to be a total loss. The term "total loss" shall mean that the cost to repair a damaged or dismantled motor vehicle exceeds the value of such vehicle, as determined by any recognized national appraisal book. Lack of current and/or valid registration, inspection sticker, or license plate alone does not constitute abandoned, inoperative condition.

(c) *Antique vehicle* means any motor vehicle twenty-five (25) years or older, which is operable and substantially in its original condition. These vehicles must be registered as antiques and display antique license plates.

(d) *Damaged and inoperable motor vehicle on private property* means any vehicle that is damaged and totally inoperable or is incapable of being lawfully moved upon the highways and streets under its own power and is located upon occupied private property.

(e) *Enforcing agency* means the chief of police, sheriff, code enforcement office, or director of public works as well as their duly authorized agents.

(f) *Motor Vehicle or vehicle* shall mean every device by which persons or things may be transported upon a public highway or bridge, except devices moved by human power or used exclusively upon stationary rails or tracks, and includes a "motor vehicle", which is commonly referred to as a car, any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, motor home, motorcycle, trailer or semi-trailer propelled or drawn by mechanical power. A trailer or semitrailer shall be a separate vehicle.

(g) *Owner of the motor vehicle* means the last registered owner.

(h) *Owner of the premises* means the owner of the land on which the vehicle is located, as shown on the last equalized assessment roll.

(i) *Secured motor vehicle* means any abandoned junk, wrecked or used automobiles or motor vehicles on private property, or a damaged and inoperable vehicle on occupied private property, which is completely enclosed within a building, garage, or under a carport, or is otherwise covered and placed at the rear of a residence or other primary structure that is located on the property in such a manner that the vehicle is not otherwise visible from the street or other public or private property.

Sec. 14-018.00 Prohibition

(a) It shall constitute a public nuisance, in violation of this ordinance, for an abandoned motor vehicle to remain on public property for more than three (3) days. Such violation shall be a misdemeanor, punishable as set forth herein below.

(b) It shall constitute a public nuisance, in violation of this ordinance, to have one or more abandoned junk, wrecked or used automobiles or motor vehicles on occupied or unoccupied private property, as that phrase is defined in §14:022.00(b), unless such vehicle is a secured motor vehicle, as that term is defined in §14:022.00(i), or is a motor vehicle that is considered to be an exception to this Article. Such violation shall be a misdemeanor, punishable as set forth herein below.

(c) It shall constitute a public nuisance, in violation of this ordinance, to have one or more damaged and inoperable motor vehicles on occupied private property, as that phrase is defined in §14:022.00(d), unless such vehicle is a secured motor vehicle, as that term is defined in §14:022.00(i), or is a motor vehicle that is considered to be an exception to this Article. Such violation shall be a misdemeanor, punishable as set forth herein below.

Sec. 14-019.00 Exceptions.

This part shall not apply to:

(a) A motor vehicle which is completely enclosed within a building, garage, or under a carport, or is otherwise covered and placed at the rear of a residence or other primary structure that is located on the property in such a manner that the vehicle is not otherwise visible from the street or other public or private property;

(d) A statement that the vehicle is in violation of parish ordinance Section 14:023.00(b), an abandoned junk, wrecked or used automobile or motor vehicle on occupied private property, and that the vehicle must be removed or secured, within fifteen (15) days of the date of this notice, or a request for administrative hearing must be requested, in writing, within fifteen (15) days following the date of this notice. The vehicle may be secured, and the nuisance abated, by completely enclosing the vehicle within a building, garage, or under a carport, or by covering the vehicle and placing it at the rear of a residence or other primary structure that is located on the property in such a manner that the vehicle is not otherwise visible from the street or other public or private property. Warning, if the vehicle is not removed or secured, within fifteen (15) days of the date of this notice, or an administrative hearing requested, within fifteen (15) days of the date of this notice, the vehicle will be removed and stored, at the owner's expense, and disposed of in accordance with law.

(3) In the case of a damaged and inoperable motor vehicle on occupied private property, the enforcing agency shall provide written notice to the owner of the premises, by registered or certified mail, return receipt requested, which shall provide the following:

- (a) Description of the motor vehicle: Make, Model, Type, License Number and VIN number, if determinable;
- (b) Location of vehicle, including municipal address where applicable;
- (c) Name of enforcing officer, enforcing agency and telephone number;

(d) A statement that the vehicle is in violation of parish ordinance Section 14:023.00(c), a damaged and inoperable motor vehicle on occupied private property, and that the vehicle must be removed or secured, within fifteen (15) days of the date of this notice, or a request for administrative hearing must be requested, in writing, within fifteen (15) days following the date of this notice. The vehicle may be secured, and the nuisance abated, by completely enclosing the vehicle within a building, garage, or under a carport, or by covering the vehicle and placing it at the rear of a residence or other primary structure that is located on the property in such a manner that the vehicle is not otherwise visible from the street or other public or private property. Warning, if the vehicle is not removed or secured, within fifteen (15) days of the date of this notice, or an administrative hearing requested, within fifteen (15) days of the date of this notice, you will be cited to appear before the Administrative Hearing Officer to respond to this notice of violation. If the Hearing Officer determines that you are in violation of the ordinance, he may order the nuisance abated and the imposition civil penalties and costs, which may be recorded as a lien on your property.

Sec. 14-020.01 Notice presumed from refused certified mail.

For purposes of this Article, when the owner of the premises, or owner of the vehicle, has been served notice by registered or certified mail, return receipt requested, as set forth in Section 14:025.00(2) or (3), and such registered or certified mail is refused, the owner is deemed to have received notice in accordance with the provisions of this Article, and the fifteen (15) day period commences to run on the date of refusal.

Sec. 14-021.00 Investigation and Enforcement

An officer of the enforcing agency is authorized to enter private property, without the consent of the owner of the premises, for the purpose of investigating and/or posting any motor vehicle, when the enforcing officer reasonably believes that there is a violation of this ordinance.

Following the posting of any motor vehicle and/or service of written notice, an officer of the enforcing agency is authorized to enter private property, without the consent of the owner of the premises, for the purpose of removing any motor vehicle that is determined to be in violation of this ordinance and authorized to be removed.

(b) Any motor vehicle in an appropriate storage place or depository maintained at a location where such business is authorized under the comprehensive zoning ordinance and other regulatory ordinances of the city-parish;

(c) Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways;

(d) Any antique vehicle retained by the owner for collection purposes, as defined herein, rather than for salvage or for transportation; and

(e) Any motor vehicle stored as the property of a member of the armed forces the United States who is on active duty assignment.

Sec. 14-020.00 Notice and Procedure for removal.

(1) The following shall be contained within a notice that is posted on any abandoned motor vehicle on public property and abandoned junk, wrecked or used automobiles or motor vehicles on private property:

(a) Description of the motor vehicle: Make, Model, Type, License Number and VIN number, if determinable;

(b) Location of vehicle, including municipal address where applicable;

(c) Date and time of posting;

(d) Name of enforcing officer, enforcing agency and telephone number;

(e) A statement that the identified motor vehicle will be removed from its location because of one of the following conditions:

-In the case of an abandoned motor vehicle on public property: Warning, this vehicle has been posted for being in violation of parish ordinance Section 14:023.00(a), an abandoned motor vehicle on public property, and must be removed, within seventy-two (72) hours following the date and time shown on this notice, or the vehicle will be removed and stored, at the owner's expense, and disposed of in accordance with law.

-In the case of abandoned junk, wrecked or used automobiles or motor vehicles on unoccupied private property: Warning, this vehicle has been posted for being in violation of parish ordinance Section 14:023.00(b), an abandoned junk, wrecked or used automobile or motor vehicle on unoccupied private property, and must be removed, within fifteen (15) days following the date and time shown on this notice, or the vehicle will be removed and stored, at the owner's expense, and disposed of in accordance with law.

(2) In the case of abandoned junk, wrecked or used automobiles or motor vehicles on private property that is occupied, in lieu of posting a notice on the vehicle as provided in part one (1) of this section, the enforcing agency shall provide written notice to the owner of the premises, by registered or certified mail, return receipt requested, which shall provide the following:

(a) Description of the motor vehicle: Make, Model, Type, License Number and VIN number, if determinable;

(b) Location of vehicle, including municipal address where applicable;

(c) Name of enforcing officer, enforcing agency and telephone number;

The removal, storage and disposition of any motor vehicle, which is found to be in violation of this ordinance and subject to removal by the enforcing agency, shall be conducted in accordance with the provisions of this Article.

The Parish may employ its own personnel, equipment and facilities for the removal and/or the storage of any vehicle determined to be in violation of this ordinance or may employ such persons, equipment and facilities for the purpose of removing, storing and disposing of any such vehicles.

Sec. 14-022.00 Penalty for failing or refusing to comply.

The failure or refusal to comply with the provisions of this Article shall constitute a misdemeanor, and the violator shall be subject to the issuance of a misdemeanor summons. The penalty shall be a fine up to five hundred dollars (\$500.00) or thirty (30) days imprisonment or both, such fine and imprisonment for each violation.

In the case of one or more abandoned junk, wrecked or used automobiles or motor vehicles on occupied or unoccupied private property, or in the case of one or more damaged and inoperable motor vehicles on occupied private property, each vehicle found to be in violation of this ordinance shall constitute a separate offense. Each day that the nuisance remains, following expiration of the time to remove or secure the vehicle, or to apply for an administrative hearing, shall constitute a separate offense and a civil penalty of Fifty (\$50.00) Dollars per day shall be imposed.

In all cases where a vehicle has been determined to be in violation of this Article, and the vehicle is removed and stored by the enforcing agency as authorized, the owner shall be responsible for all costs and charges associated with the removal, storage and disposition of such vehicle. If a vehicle is removed and stored by the enforcing agency, and the vehicle is subsequently claimed by the owner or representative, the owner or representative, upon claiming the vehicle, shall be responsible for the payment of all costs and charges associated with the removal, storage and disposition of a said vehicle. The costs and charges associated with the removal and storage of a vehicle shall not exceed the amount of two hundred (\$200.00) dollars, for removal, and thirty (\$30.00) dollars per day storage.

In lieu of, or in addition to, the issuance of a misdemeanor summons, the failure or refusal to comply with the provisions of this chapter may be enforced by imposition of civil penalties, through the Bureau of Administrative Adjudication, and/or by civil action in District Court.

Sec. 14-023.00 Notice of Removal, Storage, Disposition and Associated Costs.

Whenever any motor vehicle is found to be in violation of this ordinance, and the requirements to remove the motor vehicle have been satisfied, the vehicle may be removed from public or private property, in accordance with the following:

The motor vehicle shall be removed to, and stored at, a parish designated storage area, pending notice in accordance with the following:

(1) **Notice:** Within seventy-two(72) hours of removal, the owner of the vehicle, or the owner of the private property from which the vehicle was removed, shall be provided with *notice of the removal and the intended disposition* of the vehicle in the following manner:

- (a) By registered or certified mail, return receipt requested, addressed to the last registered owner of the vehicle, or to the owner of the private property as shown on the last equalized assessment roll.
- (b) The notice shall inform the owner of the specific location where the vehicle is being stored and shall provide a telephone number that the owner may call for more information and assistance.

- (c) The notice shall include a copy of any posting notice that was placed on the vehicle.
- (d) The notice shall inform the owner of the vehicle that unless the vehicle is claimed in person, by the owner or representative of the owner (the insurer, lien holder, mortgage holder, or agent with written authority of the owner), within three (3) months of the mailing of the notice, the vehicle shall be considered abandoned and, therefore, public property to be disposed of in accordance with the provisions set forth in subparagraph three (3) below.
- (e) The notice shall inform the owner of the costs and charges that must be paid upon claiming the vehicle.
- (f) For purposes of this Article, when the owner of the premises, or owner of the vehicle, has been sent notice by registered or certified mail, return receipt requested, and such certified mail is refused, the owner is deemed to have received notice in accordance with this provision, as of the date of the refusal.

(2) Disposition Following Second Notice: At the expiration of the three (3) month period in which to claim the vehicle that was removed and stored, any vehicle that has not been claimed by the owner, within three (3) months of the notice of removal and intended disposition, shall be deemed to be an abandoned vehicle and the enforcing agency may thereafter dispose of the vehicle in the following manner:

- (a) In the case of any vehicle that was removed from public or private property and stored, as set forth herein above, and the owner has not claimed the vehicle within the three (3) month period allowed following notice of the removal and the intended disposition, the owner shall be sent a second notice, by registered or certified mail, return receipt requested, which shall be sent to the owner at his last known address. The notice shall inform the owner that the vehicle shall be sold to the highest bidder unless said owner, on or before the date of sale, claims the vehicle and pays the costs and charges imposed, which amount shall be set forth in the notice. The costs and charges shall not exceed the amount of two hundred (\$200.00), for towing/removal, and thirty (\$30.00) dollars per day storage. In any case where the owner or his representative does not claim the vehicle and pay the costs and charges, within the time allowed, the enforcing agency may proceed to dispose of the vehicle in accordance with the provisions hereof.
- (b) Before the sale of any such vehicles, the enforcing agency shall have them appraised by a competent appraiser and shall publish a notice of the proposed sale of said vehicle or vehicles in the official journal of the parish not less than three times within a ten-day period prior to the date of said sale. The published notice shall contain a complete list of the vehicles to be sold, the date and place of said sale, and notification that said vehicles will be sold either individually or in globo to the highest bidder therefor, all in the discretion of the parish authority.
- (c) All funds received from the sale of a motor vehicle under the provisions hereof shall be set aside and placed in a separate account established therefor by the parish. If, within one year following the date of the sale, the owner or lien holders of any of said vehicles shall present sufficient proof of his ownership or lien, the said owner or lien holder shall be entitled to the amount received for his individual vehicle less the costs and expenses of the sale, as well as all charges and costs due and owing for removal and storage of said vehicle. Any funds not claimed within one year following the date of sale shall be deposited to the general fund of the municipality or parish.

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed. The provisions of Section 13-002.00 of Chapter 13, Division I shall continue in force.

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.