

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3256

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, CHAPTER 14, NUISANCES, ENACTING SECTIONS 14-025.00 THROUGH SECTION 14-025.05 OF ARTICLE II, TO ESTABLISH PROCEDURES FOR THE REMOVAL AND DISPOSITION OF DAMAGED AND UNATTENDED VEHICLES AND BOATS FROM PUBLIC AND PRIVATE PROPERTY, FOLLOWING A NATURAL DISASTER DECLARED TO BE AN EMERGENCY.

WHEREAS, following a natural disaster, such as a hurricane, a tornado or catastrophic flood event, declared to be an emergency, the prolonged presence of damaged and unattended vehicles and boats 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 damaged and unattended vehicles or boats as playgrounds, rusting automobiles representing a health hazard to those who may come into contact with them as they repopulate the devastated areas, and the damage that such debris is 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 hazards from boats include "gasoline and diesel fuel, refrigerants, lubricating oils, mercury bilge switches, propane tanks, large appliances, lead acid batteries, transmission fluid and electronics, such as, radar sets, radios, GPS units, and depth finders;" and

WHEREAS, it is also of paramount importance to the public health and welfare to return the devastated areas to a state of normalcy in as expedient a manner as possible. The prolonged presence of damaged and unattended vehicles and boats on public and/or private property will significantly interfere with, impede and/or otherwise unduly hamper recovery efforts in the affected areas. The accumulation of damaged and unattended vehicles and boats 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 damaged and unattended vehicles and boats 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.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that the Nuisance Ordinance, Chapter 14, is hereby amended and reenacted to enact Article III, prohibiting the prolonged presence and/or the accumulation of damaged and unattended vehicles and boats on public and/or private property, following a natural disaster, such as a hurricane, a tornado or catastrophic flood event, which has been declared to be a public emergency by executive order of the state and/or local authority, and to provide as follows:

ARTICLE II

ABANDONED OR INOPERATIVE AUTOMOBILES, BOATS AND OTHER VEHICLES ON PUBLIC OR PRIVATE PROPERTY

Sec. 14-025.00 Following A Natural Disaster Declared An Emergency - Authority, Findings, Declarations and Purpose.

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 and Article II, Chapter 14, Sections 14-021.00 through 14-028.00, particularly as those Sections relate to a motor vehicle

that is inoperable and is left unattended on public property for more than three (3) days, which vehicle may present a traffic hazard. The regulations contained within the Sections of this Article, which apply in the case of a declared emergency, shall be considered as additional and/or supplemental regulations to those contained in Chapter 13, Division I, Section 13-002.00 and in Article II, Chapter 14, Sections 14-021.00 through 14-028.00.

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

(1) Following a natural disaster, which has been declared to be a public emergency by executive order of the state and/or local authority, such as a hurricane, a tornado or catastrophic flood event, the prolonged presence of damaged and unattended vehicles and boats 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 damaged and unattended vehicles and boats as playgrounds, rusting automobiles representing a health hazard to those who may come into contact with them as they repopulate the devastated areas, and the damage that such debris is 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 hazards from boats include "gasoline and diesel fuel, refrigerants, lubricating oils, mercury bilge switches, propane tanks, large appliances, lead acid batteries, transmission fluid and electronics, such as, radar sets, radios, GPS units, and depth finders."

(2) The accumulation of damaged and unattended vehicles and boats 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. It is of paramount importance to the public health and welfare to return the devastated areas to a state of normalcy in as expedient a manner as possible. Without prompt action, there is a real danger that recovery of the affected area(s) will never occur. The prolonged presence of damaged and unattended vehicles and boats on public and/or private property will significantly interfere with, impede and/or otherwise unduly hamper recovery efforts in the affected areas. Therefore, the presence of such damaged and unattended vehicles and boats 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.

(3) Considering the exigent circumstances in cases of such declared emergencies, and the relocation of the victims of such natural disasters, giving notice to every property owner whose property has been impacted by such natural disasters is impractical because, in many instances, the ownership of the vehicles or boats and the whereabouts of the owners of the property upon which such vehicle or boat may be situated cannot readily and/or reasonable be determined in a timely manner, in order to provide prior notice of the violation and removal of such vehicles and boats.

(B) Authority: This ordinance is adopted pursuant to the authority to preserve the public peace, property, health, welfare, and/or safety of the residents of St. Tammany Parish and the authority set forth in La. Const. Art. VI, Section 6, La.R.S. 33:4876, La.R.S. 33:1236 and La.R.S. 33:474, et seq.

(C) Purpose: The purpose of this Ordinance is to protect, preserve and promote the "Public Interest," as defined herein after, following a natural disaster, such as a hurricane, a tornado or catastrophic flood event, which has been declared to be a public emergency by executive order of the state and/or local authority. "Public Interest" is defined as being necessary to:

- (1) eliminate immediate threats to life, public health, and safety; or
- (2) eliminate immediate threats of significant damage to improved property; or
- (3) ensure economic recovery of the affected community to the benefit of the community at large.

Sec. 14-025.01 Definitions.

As Used in this part:

(a) *Damaged and unattended vehicle on public property* means any vehicle which is incapable of being lawfully moved upon the highways and streets under its own power and is located on a public street, sidewalk, neutral ground or right of way at least ten (10) days following the declaration of an emergency, and, thereafter, seventy-two (72) hours after posting of notice on the vehicle. Damaged and unattended vehicle includes, but is not limited to, wrecked or dismantled vehicles, vehicles that are inoperable due to flooding, and vehicles that are inoperable due to physical damage to the vehicle. Lack of current and/or valid registration, inspection sticker, or license plate alone does not constitute a damaged and unattended vehicle.

(b) *Damaged and unattended boat on public property* means any boat, whether the boat is on a trailer or not, which has sustained obvious damage to its structure, hull or power plant and is located on a public street, sidewalk, neutral ground or right of way at least ten (10) days following the declaration of an emergency, and, thereafter, seventy-two (72) hours after posting notice on the boat.

(c) *Damaged and unattended vehicle on private property* means any vehicle, following the declaration of an emergency, which is incapable of being lawfully moved upon the highways and streets under its own power and has remained at the same location upon private property for a period of at least thirty (30) days following the declaration of emergency, and, thereafter, at least fifteen (15) days following the posting of notice on said vehicle. Damaged and unattended vehicle includes, but is not limited to, wrecked or dismantled vehicles, vehicles that are inoperable due to flooding, and vehicles that are inoperable due to physical damage to the vehicle. Lack of current and/or valid registration, inspection sticker, or license plate alone does not constitute a damaged and unattended vehicle.

(d) *Damaged and unattended boat on private property* means any boat, whether the boat is on a trailer or not, which has sustained obvious damage to its structure, hull or power plant and, following the declaration of an emergency, has remained at the same location upon the private property for a period of at least thirty (30) days following the declaration of emergency, and, thereafter, at least fifteen (15) days following the posting of notice on the boat.

(e) *Declaration of emergency* means, in the event of a natural disaster, an Executive Order or Proclamation issued by the Governor of the State of Louisiana and/or Executive Order or Proclamation issued by the St. Tammany Parish President.

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

(g) *Natural Disaster* includes a hurricane, a tornado, catastrophic flood event, or other catastrophic event, which has been declared to be a public emergency by executive order or proclamation of the state and/or local authority.

(h) *Owner of the premises or private property* means the owner of the occupied or unoccupied land on which the damaged and unattended vehicle or boat is located, as shown on the last equalized assessment roll.

(i) *Owner of the damaged and unattended vehicle or boat* means the last registered owner.

Sec. 14-025.02 Prohibition

It is a violation of this ordinance for any owner of a damaged and unattended vehicle or boat, or the owner of the premises, to allow such damaged and unattended vehicle or boat to remain upon private property or public property, as the case may be, in the event of a natural disaster, following the declaration of emergency and the posting of the required notice upon said damaged and unattended vehicle or boat.

Any damaged and unattended vehicle or boat that remains on public property, ten (10) days after the declaration of emergency, and after seventy-two (72) hours from the time of posting notice on said vehicle or boat, may be removed by the enforcing agency and placed at a designated staging or storage area.

Any damaged and unattended vehicle or boat that remains at the same location upon the private property for a period of at least thirty (30) days following the declaration of an emergency, and is not secured by the owner, in the manner set forth below, within fifteen (15) days following the posting of notice on the vehicle or boat, may be removed by the enforcing agency, at the expiration of the fifteen (15) day period following the posting of notice, and placed at a designated staging or storage area.

Within fifteen (15) days of the posting of notice on a damaged and unattended vehicle or boat on private property, the owner of the property must secure the vehicle or boat by completely enclosing it within a building, garage, or under a carport, or by covering it 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 or boat is not otherwise visible from the street or other public or private property. If vacant property, the vehicle or boat must be removed therefrom.

Sec. 14-025.03 Notice and Procedure for removal.

The following shall be contained within the notice that must be posted on *any* damaged and unattended vehicle or boat:

- (a) Description of vehicle or boat: Make, Model, Type, License Number or Boat Registration Number, and VIN number;
- (b) Location of vehicle or boat, 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 vehicle or boat will be removed from its location because of one of the following conditions:

-Vehicle or boat was damaged and left unattended on public property for more than ten (10) days following the declaration of an emergency. Vehicle or boat must be removed within seventy-two (72) hours following the posting of this notice.

-Vehicle or boat was damaged and left unattended at the same location upon the private property (located at) for a period of at least thirty (30) days following the declaration of an emergency. Vehicle or boat must be removed from this site, within fifteen (15) days following the posting of this notice, or must be secured in one of the following ways:

- (i) Vehicle or boat must be 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. If vacant property, the vehicle or boat must be removed from the property.

Sec. 14-025.04 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 posting any damaged and unattended vehicle or boat, when the enforcing officer reasonably believes there is a violation of this ordinance.

Following the posting of any damaged and unattended vehicle or boat, 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 damaged and unattended vehicle or boat that is determined to be in violation of this ordinance.

The removal and storage of a damaged and unattended vehicle or boat shall be conducted in accordance with the provisions of Section 14:055.00.

The Parish may employ its own personnel, equipment and facilities for the removal and/or storage of any damaged and unattended vehicles and boats or may employ persons, equipment and facilities for the purpose of removing, preserving, storing, and disposing of any damaged and unattended vehicles and boats.

Sec. 14-025.05 Notice of Removal, Storage and Disposition

Whenever any damaged and unattended vehicle or boat is found to be in violation of this ordinance and is to be removed from public or private property, the following shall be required of the enforcing agency:

The vehicle or boat shall be removed to, and stored at, the designated staging or storage area, pending notice in accordance with the following:

(1) **Notice:** Within forty-eight (48) hours of removal, the owner of the vehicle or boat, or the owner of the private property from which the vehicle or boat was removed, shall be provided with *notice of the removal and the intended disposition* of the vehicle or boat in the following manner:

- (a) By registered or certified mail, return receipt requested, addressed to the last registered owner of the vehicle or boat 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 or boat 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 the posting notice that was placed on the vehicle or boat.
- (d) The notice shall inform the owner of the vehicle or boat that unless the vehicle or boat 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 or boat shall be considered abandoned and, therefore, public property to be disposed of in accordance with the provisions set forth herein.
- (e) For purposes of this Article, when the owner of the premises, or owner of the vehicle or boat, has been sent notice by certified mail, as set forth in this Section, and such certified mail is refused, the owner is deemed to have received notice in accordance with the provisions hereof.

(2) **Disposition Following Second Notice:** At the expiration of the three (3) month period in which to claim the vehicle or boat that was removed and stored, any damaged and unattended vehicle or boat 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 or boat and the enforcing agency may thereafter dispose of the vehicle in the following manner as provided;

(a) In the case of any damaged and unattended vehicle or boat that was removed from public or private property and stored following posting of notice on the vehicle or boat, as set forth herein above, and the owner has not claimed the vehicle or boat within the three (3) month period allowed, 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 or boat shall be sold to the highest bidder unless said owner, on or before the date of sale, claims the vehicle or boat and pays the costs and charges imposed, which amount shall be set forth in the notice. The costs and charges shall not to exceed the amount of two hundred (\$200.00), for towing/removal, and thirty (\$30.00) dollars per day storage.

(b) Before the sale of any such vehicles or boats, the enforcing agency shall have them appraised by a competent appraiser and shall publish a notice of the proposed sale of said vehicles or boats 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 and/or boats to be sold, the date and place of said sale, and notification that said vehicles or boats 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 lienholders of any of said vehicles or boats shall present sufficient proof of his ownership or lien, the said owner or lienholder 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.

(d) In any case where the Parish receives, or is going to receive, reimbursement from any state or federal agency for the costs of removal and storage, the owner or lien holder of the vehicle or boat who claims the vehicle or boat, prior to sale, shall be entitled to a credit towards the costs of removal and storage, up to the full amount of reimbursement received by the Parish. In the second notice provided for above, the owner shall be informed of any credit that he is or may be entitled to receive.

(e) In any case where the owner or his representative does not claim the vehicle or boat within the time allowed, the enforcing agency may proceed to dispose of the vehicle or boat in accordance with the provisions of hereof. In the event that the vehicle or boat is sold, and the parish receives reimbursement for all or part of the costs associated with the removal, storage and sale, all excess amounts above the reimbursement received by the parish shall be remitted to the owner or lienholder, upon application of the owner or lien holder, within one (1) year of the date of sale. Any funds not claimed within one (1) year of the date of sale shall be deposited to the general fund of the parish.

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: