

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3053 ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR MR. IMPASTATO PROVIDED BY LEGAL COUNSEL

INTRODUCED BY _____ SECONDED BY _____

ON THE _____ DAY OF _____ 2005

ORDINANCE AMENDING AND REENACTING ST. TAMMANY PARISH CODE OF ORDINANCES, CHAPTER 14, TO ENACT ARTICLE III, IN ORDER TO PROHIBIT BLIGHTED PROPERTY AND DERELICT AND DANGEROUS BUILDINGS OR OTHER STRUCTURES, TO ESTABLISH ENFORCEMENT PROCEDURES AND PENALTIES ASSOCIATED WITH CORRECTING, SECURING, REPAIRING, CONDEMNING, DEMOLISHING, AND/OR REMOVING ANY SUCH BLIGHTED OR DANGEROUS CONDITION, AND TO OTHERWISE PROVIDE WITH RESPECT THERETO.

WHEREAS, the existence of blighted property and dangerous buildings or other structures, as defined herein after, 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 blighted property and dangerous buildings or other structures 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 the Nuisance Ordinance, particularly Chapter 14, is amended and reenacted to enact Article III, prohibiting blighted property, dangerous buildings and other dangerous structures, as defined therein, and to provide as follows:

ARTICLE III

BLIGHTED PROPERTY, DERELICT AND DANGEROUS BUILDINGS
AND OTHER DANGEROUS STRUCTURES PROHIBITED

Sec. 14-021.00 Findings and declarations

In addition to and in accordance with the determination made and the authority granted by La. R.S. 33:4754, to secure and remove any building or other structure which, by reason of its nature or condition, endangers the public welfare or safety, La. R.S. 33:1236(49), relating to the repair and condemnation of buildings, dwellings, and other structures that have become derelict and present a danger to the health and welfare of residents of the parish, and La.R.S. 14:107.3, relating to criminal blighting of property, which means those commercial or residential premises, including lots, which have been declared vacant, uninhabitable, and hazardous by the administrative hearing officer, any such building or other structure which, by reason of its nature or condition, endangers the public welfare or safety, any such buildings, dwellings and other structures that have become derelict and present a danger to the health and welfare of residents of the parish, and any commercial or residential premises, including lots, which have been declared vacant, uninhabitable, and hazardous by the administrative hearing officer are hereby declared to constitute a public nuisance, which is expressly prohibited and which may be abated as such in accordance with the provisions of this part.

For purposes of this ordinance, any property defined as "blighted property," "derelict and dangerous," "otherwise dangerous to human life" or "vacant or not lawfully occupied" shall constitute a public nuisance. Any property that is determined to be a public nuisance, following due notice and a hearing conducted in accordance with the provisions set forth herein, shall be ordered by the hearing

officer to be secured and repaired, or the violation corrected, or, depending upon the circumstances, shall declare the property condemned and order it to be demolished and removed. Additionally, the hearing officer shall have all such other authority as set forth herein after.

Sec. 14-021.01 Standards and Definitions

A. Blighted Property. For the purposes of, and in order to meet the provisions of, R.S. 14:107.3:

(1) "Blighted property" means those commercial or residential premises, including lots, which have been declared vacant, uninhabitable, and hazardous by an administrative hearing officer. Such premises may include premises which, because of their physical condition, are considered hazardous to persons or property, have been declared or certified blighted, and have been declared to be a public nuisance by an administrative hearing officer.

(2) "Housing violations" means only those conditions in privately owned structures which are determined to constitute a threat or danger to the public health, safety, and welfare or to the environment.

(3) "Public nuisance," for purposes of blighted property, means any garage, shed, barn, house, building, or structure, that by reason of the condition in which it is permitted to remain, may endanger the health, life, limb, or property of any person, or cause any hurt, harm, damages, injury, or loss to any person in any one or more of the following conditions:

(a) The property is dilapidated, decayed, unsafe, or unsanitary, is detrimental to health, morals, safety, public welfare, and the well-being of the community, endangers life or property, or is conducive to ill health, delinquency, and crime.

(b) The property is a fire hazard.

(c) The conditions present on the property and its surrounding grounds are not reasonably or adequately maintained, thereby causing deterioration and creating a blighting influence or condition on nearby properties and thereby depreciating the value, use, and enjoyment to such an extent that it is harmful to the public health, welfare, morals, safety, and the economic stability of the area, community, or neighborhood in which such public nuisance is located.

B. Derelict and Dangerous. R.S. 33:1236 (49)(a)(i)

(1) The phrase "derelict and present a danger to the health and welfare," as used herein, shall include, but not be limited to, buildings or structures which have any of the following characteristics:

(a) Those which are structurally unsafe, as follows:

- (i). Those which have interior walls or other vertical structural members that list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- (ii). Those which, exclusive of the foundation, show thirty-three (33) percent or more of damage or deterioration of the supporting member or members or fifty (50) percent of damage or deterioration of the non supporting enclosing or outside walls or covering.
- (iii). Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonable safe for the purpose used.
- (iv). As a result of deterioration, inadequate maintenance, damage by fire, wind or other causes so to have become dangerous to life, safety, morals or the general health and welfare of the occupants or people of the parish.

(b) Those which are unhealthful, as follows:

- (i). Those which are so dilapidated, decayed or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those occupying such building.**
- (ii). Reserved**

(c) Those which constitute a fire hazard, as follows:

- (i). Those buildings containing electrical wiring and appliances in dangerous and defective conditions likely to cause fire. Electrical wiring and appliances installed or in use which are not in compliance with the provisions of any ordinance of the parish regarding such wiring or appliances and the installation thereof shall be deemed dangerous and defective.**
- (ii). Those buildings containing gas plumbing or appliances in dangerous or defective condition likely to cause fire. Gas plumbing or appliances installed or in use which are not in compliance with the provisions of any ordinances of this parish regulating such plumbing and appliances and the installation thereof shall be deemed dangerous and defective.**
- (iii). Those buildings which contain combustible or explosive matter or accumulation of rubbish, trash or unnecessary accumulation of waste paper, boxes, shavings or any highly flammable materials especially liable to fire, therein, or in close proximity thereto.**
- (iv). Those buildings containing numerous openings in the walls or other unstopped spaces throughout, attributable to vandalism or general disrepair, which increased the risk of conflagration in the area.**
- (v). Those buildings which are vacant and have windows, doors or other openings which remain unsecured permitting entry by unauthorized persons.**
- (vi). Those buildings which contain other fire hazards in violation of the National Fire Prevention Act, the state fire marshal act, the building code, and provisions of the Code or other ordinances of this parish if the violation is of such a nature that the building constitutes a danger to its occupants and/or others.**

(d) Those which are otherwise dangerous to human life:

- (i). Those, regardless of their structural condition, which have during times that they were not actually occupied by their owners, lessees or other invitees, been left unsecured from unauthorized entry to the extent that they may be entered and utilized by vagrants or other uninvited persons as a place of harborage or may be entered and utilized by children as a play area.**
- (ii). Those which have part thereof which are so attached that they may fall and injure members of the public or property.**

- (iii). Those which are not provided with adequate egress.
- (iv). Those buildings existing in violation of any provisions of this Code, the building code, the fire code, or other ordinances of this parish if the violation is of such a nature that the building constitutes a danger to its occupants and /or others

C. Vacant or Not Lawfully Occupied: "Vacant or not lawfully occupied" building or other structure shall include but not be limited to any premises which is not actually occupied by its owner, lessee, or other invitee, and has been left unsecured or inadequately secured from unauthorized entry to the extent that the premises may be entered and utilized by vagrants or other invited persons as a place of harborage or any premises which by reason of dilapidation, deterioration, state of disrepair, or other such status is otherwise detrimental to or endangers public safety, health or welfare. The property does not have to have been declared blighted.

D. Secured: For the purposes of this Section, the term "secured" shall mean the closing of the building or structure by means of placing or attaching boards or other materials over doors, windows, and other means of entrance in order to prohibit persons from entering the building or structure and in order to maintain it in its present condition without further damage to such building or structure or danger to the public welfare and safety.

(1) A building that is boarded up, fenced or otherwise secured in any manner may, nevertheless, be deemed to be a dangerous building under the foregoing criteria if:

- (a). The building constitutes a danger to the public even though secured from entry; or
- (b). It is found that the means utilized to secure the building are not adequate to prevent unauthorized entry of the building.

Sec. 14-021.02. Hearing; notice and placarding of building or structure

Hearings before the administrative hearing officer shall be conducted in accordance with the provisions set forth in Chapter 1, Article 1, Sec. 1-012.12 Hearing Practice and Procedures.

- (a) If a building or structure, has, upon inspection, been found to be in violation of the provisions set forth herein above, the building shall be posted with a violation notice in accordance with Ch. 1, Art. 1 § 1-012.12(b) and written notice of the hearing shall be made in accordance with the provisions Ch. 1, Art. 1 § 1-012.12 of this Code.
- (b) After completion of the presentation of testimony by all parties appearing at the scheduled hearing, the hearing officer shall make written findings of fact as to whether or not the building or structure constitutes "blighted property," "derelict and dangerous," "otherwise dangerous" or "vacant or not lawfully occupied" according to the definitions and standards set forth in Sec. 14-021.01 *herein above*.

If the hearing officer finds that the building or structure is in violation of the standards and definitions set forth in Sec. 14-021.01 *herein above*, the hearing officer shall issue an order directing the owner, occupant and all other persons having an interest in said building as shown by the mortgage and conveyance records of the parish where the land is located:

- (1) That the building shall be vacated if same is occupied and the hearing officer finds that the building is in such condition as to make it dangerous to the health, safety or welfare of its occupants;

- (2) That the building shall be either repaired or demolished and removed (at the owner's option), if it can reasonably be brought into compliance by repair;
- (3) That the building be demolished and removed if it cannot reasonably be repaired; and
- (4) If the building is unoccupied and the condition of the building is such that it may be brought into compliance by securing it from unauthorized entry, then the order may provide that it be secured and be kept secured and may include or adopt written specifications that must be complied with in securing the building and the order may provide that the building be demolished and removed if it is not secured in compliance therewith.

If the hearing officer finds that the building or structure is in violation of the standards and definitions set forth in Sec. 14-021.01 *herein above*, the hearing officer shall order that the parish place a notice or notices in a conspicuous place on such building; such notice to read as follows:

This building has been found to be a dangerous building. Occupancy of this building is prohibited by law as such occupancy is dangerous to the health, safety and welfare of its occupants. This notice is posted (here the notice shall set forth the date and hour such notice is posted). All persons must vacate this building not later than forty-eight (48) hours after the time of posting and shall not re-enter the same until the parish finds that the building has been repaired so as to be in compliance with the ordinances of the Parish of St. Tammany with the requisite permits and inspections. This notice shall remain on this building until it is repaired or demolished.

If the hearing officer finds that the building is in such condition that repairs are allowed, the hearing officer shall order that the parish post a notice or notices in conspicuous place on such building, such notice(s) to read as follows:

This building has been found to be a dangerous building by the Parish of St. Tammany. No person shall enter this building except persons authorized by the owner who enter solely for the purpose of correcting the hazardous conditions therein with the requisite permits and inspections of St. Tammany Parish. This notice shall remain on this building until it is repaired or demolished.

The persons having an interest in the property shall be given a reasonable period of time in which to comply with the hearing officer's order, such period not to exceed thirty (30) days, unless, in the judgment and discretion of the hearing officer, it is determined that a greater period of time is necessary. The order shall state the date by which the action ordered must be completed, and state that the Parish agency or department having enforcement responsibility shall cause the building to be vacated, repaired and/or demolished if the persons having an interest in the property do not comply with the order. The order of the hearing officer shall be served on all persons having an interest in the property as provided in Ch. 1, Art. 1 § 1-012.12(i) of this Code.

A copy of the order of the hearing officer shall also be filed in the mortgage and conveyance records of the parish in which the land lies.

- (c) If the persons having an interest in the property fail to comply with the order of the hearing officer within the time specified in the order for compliance, the Parish agency or department having enforcement responsibility shall cause such building to be vacated, repaired and/or demolished pursuant to the order of the hearing officer.

- (d) In any instance in which an order had been issued that a building be brought into compliance by securing the building and the owner complies with the order by securing the building, the hearing officer's case file shall, nevertheless, remain active for a period of three (3) years from the date of signature of the order. The Parish agency or department having enforcement responsibility may request that the hearing officer reconvene the hearing if he receives evidence that the building has not remained secured and is in contravention of this Article. Upon notice to the owner, lien holders, occupants and other persons having an interest in the property, the hearing officer shall reconvene the hearing. If the hearing officer finds that the building remains a dangerous building notwithstanding the owner's efforts to secure it, he may issue a revised order that the building be demolished.

Sec. 14-022.00 Emergencies

- (a) In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless the building is immediately repaired, vacated, demolished or secured, the Parish agency or department having enforcement responsibility shall report such facts to the director of the department of inspection and code enforcement. If the director finds that there is in fact an immediate danger to the health, life or safety of any person unless the building is immediately repaired, vacated, demolished or secured, he shall cause the immediate repair, vacation, demolition or securing of such building, without any requirement for notice to the owner or interested parties in advance.
- (b) Whenever the director causes a building to be repaired, vacated, demolished or secured pursuant to this section, he shall cause a notice, as described in Ch. 1, Art. 1 § 1-012.12(b), to be posted on the building.

Further, whenever the director causes a building to be repaired, vacated, demolished or secured pursuant to this section, he shall also cause notice to be given to the owners and lien holders of the building, all persons having possession of any portion thereof, and all other persons who may have an interest in the building that a hearing will be held concerning the orders issued in connection therewith. The notice shall set forth the specific conditions which render the building an immediate danger, within the standards set forth herein above, the date, time and place of such hearing, that all persons having an interest in the building may appear in person and/or be represented by an attorney, and may present testimony and may cross-examine all witnesses. The notice shall comply with the provisions set out in Ch. 1, Art. 1 § 1-012.12 of this Code, however, the hearing shall be held as soon as it is reasonably possible, but in no case later than ten (10) days after the director of the Parish agency or department having enforcement responsibility has caused the building to be repaired, vacated, demolished or secured, unless all persons having either an ownership interest or a possessory interest in the building request a continuance of the hearing. At such a hearing, the burden shall be upon the parish to show that there was an immediate danger to health, life or safety necessitating immediate action, and whether the building constitutes a dangerous building within the provisions of this article at the time of the hearing. After completion of the presentation of the testimony by all parties appearing, the hearing officer shall make written findings of fact as to whether or not the building was an immediate danger to health, life or safety necessitating the action taken by the director of the department of inspection and code enforcement, and whether the building was a dangerous building within the provisions of this article. If the hearing officer finds that there was an immediate danger to public health, life or safety that required the action that was taken, all administrative expenses and any cost of repair or demolition shall be calculated and assessed to the owners of the building, and shall constitute a lien and privilege on the land on which the building stands or stood, which shall bear legal interest at the rate provided by law. If the hearing officer finds that

the building, at the time of the hearing, constitutes a dangerous building within the provisions of this article, he shall issue an order for its abatement as set out in Sec. 14-021.02 *above*. The provisions of Sec. 14-021.02, above, and Ch. 1, Art. 1 § 1-012.12 shall be applicable to any such order.

Sec. 14-023.00 Civil Penalty

For any violation of the provisions of this Article, a civil penalty of not less than \$100.00 per day and no more than \$500.00 per day shall be imposed by order of the Hearing Officer. Each day that the violation exists shall constitute a separate violation. In addition to the imposition of the aforesaid penalty, the Hearing Officer shall order the violator to pay all costs and fees incurred by the parish for securing, demolition or removal, or both, of such structures, and for maintenance of property in a sanitary condition.

Sec. 14-023.01 Liens

Liens for removal and securing dangerous structures; maintenance of property; interest; assistance of national guard.

A. (1) Upon failure of the property owner to pay any fine levied by the hearing officer, or any costs incurred by the parish for securing, or demolition or removal, or both, of such structures, and for maintenance of property in a sanitary condition, the hearing officer or finance director of the parish may file a certified copy of the order levying a fine or fines or a copy of an invoice reflecting the amount of such costs and fees with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the parish against the property.

(2) Any fine, costs and interest on costs incurred by the parish shall be paid prior to cancellation of the lien. The rate of interest shall not exceed the rate of legal interest, as provided in Civil Code Article 2924, and shall be computed from the date of recordation of the lien until paid or enforced.

(3) The lien obtained by the parish shall not only include the costs provided for in Subsection A of this Section but shall include all attorneys' fees and all costs incurred in the locating of the owner, notification of the owner, and the enforcement and collection of the amount secured by the lien.

(4) In accordance with R.S. 33:4754, the parish's privilege and lien shall prime all other liens or privileges against the property filed after the notice to the owner is filed with the recorder of mortgages pursuant to this Section, regardless of the date on which the parish's lien and privilege is perfected, except that parish's lien and privilege will not prime other tax liens against the property.

B. (1)(a) After the parish has levied such fine or fines or incurred such costs as constitute the lien and privilege on the property, the director of finance or equivalent officer may add said amounts to the next ad valorem tax bill of the owner, and said amount shall be subject to the same interest and penalties as delinquent ad valorem taxes.

(2) If within six months after the filing of the lien provided for in this Section, the property owner fails to pay such lien and any interest thereon, the director of finance or equivalent officer of the parish may offer for sale and subsequently sell or otherwise convey such property. The procedure for notice, advertisement, and sale of the property shall be governed by the law applicable to the sale of real property for delinquent municipal or parish taxes except that the property owner's right of redemption shall be limited to six months from the time the property is sold. Redemption by the original owner shall require reimbursement of any expenses incurred by the purchaser in the purchase and renovation of the property in addition to payment of liens placed on the property pursuant to this Section, interest thereon, and any amounts required by law applicable to the redemption of property sold for delinquent taxes.

(3) Alternatively, the privilege and lien may be enforced in the district court pursuant to the Code of Civil Procedure, and may be enforced either against the subject property or against the owner personally by ordinary process and subsequent seizure and sale or garnishment of other movable or immovable property of the owner pursuant to the Code of Civil Procedure.

(4) The amount of any parish lien operating against the property and any interest accruing thereon may be canceled in whole or in part by the governing authority of the parish in order to facilitate the sale or disposition of the property for the unpaid lien.

(5) The provisions of this Section shall not apply to any building or appurtenances on agricultural land when such land is used for agricultural purposes.

C. (1) The governing authority of the parish may request and the adjutant general may assign subject to the approval of the governor, national guard personnel and equipment to assist in the removal and demolition of condemned buildings, structures, or public nuisances. The provisions of this Subsection shall be applicable when the budget for the demolition and removal of condemned structures has been expended by the governing authority of the parish. However, the request must be accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the parish.

(2) In the event all procedural protections and substantive restraints have been adhered to by the parish, the parish and its personnel and the national guard and its personnel shall not be liable to the owner of the building, structure, or public nuisance for any damages sustained resulting from the demolition of the building, structure, or public nuisance.

Sec. 14-024.00 Appeals

A. Any person or persons jointly or severally aggrieved by any decision of the St. Tammany Parish Hearing Officer shall have a right to appeal the decision in accordance with the provisions set forth in Chapter 1, Article 1, Section 1-012.18.

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: