

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 7139

ORDINANCE COUNCIL SERIES NO. 12-_____

COUNCIL SPONSOR BINDER/COOPER

PROVIDED BY: CIVIL DIVISION/
ENVIRONMENTAL SERVICES

INTRODUCED BY: _____

SECONDED BY: _____

ON THE 3RD DAY OF NOVEMBER, 2022

ORDINANCE TO AMEND ST. TAMMANY PARISH
CODE OF ORDINANCES, SEC. 28-29 THROUGH 28-42,
TO INCLUDE OF THE BUREAU OF
ADMINISTRATIVE ADJUDICATION (BAA) TO HEAR
CERTAIN LITTER OFFENSES, AND TO REFLECT THE
NEW NAME OF THE CITY COURT OF EAST ST.
TAMMANY.

WHEREAS, Parish ordinances set forth methods for the prevention of littering, enforcement of litter violations, and the collection of fees and costs.

WHEREAS, in order to enable additional enforcement of litter violations through the Parish's Litter Enforcement Officer and the Bureau of Administrative Adjudication, amendments to the Code of Ordinances are necessary.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that the St. Tammany Parish Code of Ordinances, Sec. 28-29, Sec. 28-33, Sec. 28-34, Sec. 28-35, Sec. 28-36, and Sec. 28-42, be amended to enable additional enforcement of litter violations through the Parish's Litter Enforcement Officer and the Bureau of Administrative Adjudication, and to properly reflect the name of the City Court of East St. Tammany, as set forth below:

ARTICLE II. LITTER PREVENTION

Sec. 28-29. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Court means any justice of the peace court in the parish and/or any division of the 22nd Judicial District Court for the parish and/or ~~Slidell City~~ the Court of East St. Tammany and/or the Bureau of Administrative Adjudication (BAA).

Litter means all waste material, except as provided and defined in R.S. 30:2173(2), including, but not limited to, disposable packages, containers, sand, gravel, rubbish, cans, bottles, refuse, garbage, trash, debris, dead animals, furniture or appliances, automotive parts, including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment and building materials, or discarded materials of any kind and description. The term "litter" shall not include agricultural products that are being transported from the harvest or collection site to a processing or market site, if reasonable measures are taken to prevent the agricultural product from leaving the transporting vehicles. The term "litter" also shall not include recyclable cardboard being transported in compressed bundles to processing facilities. The term "agricultural product," as used in this definition, means all crops, livestock, poultry and forestry; and all aquacultural, floricultural, horticultural, silvicultural and viticultural products. Whenever the term "parish" is used in this article concerning the commission of act in violation of the provisions of this article or a litter abatement ordinance of the parish, then the term shall be construed to mean the jurisdictional area where the offense was committed, including, but not limited to, the jurisdictional boundaries of the parish and all its waterways.

Public or private property means the right-of-way of any road or highway, levee, any body of water or watercourse or the shores or beaches thereof, any park, playground, building, refuge or conservation or recreation area, and residential or farm properties, timberlands or forests.

(Code 1998, § 15-001.00; Ord. No. 01-0284, 3-1-2001; Ord. No. 04-0916, 6-3-2004)

Sec. 28-30. Purpose and scope.

It is the purpose of this article and it is hereby declared to be the policy of the parish to implement a comprehensive plan to regulate litter and to eliminate litter as much as possible in a manner that will:

- (1) Protect the public health, safety and welfare;
- (2) Prevent land, water and air pollution;
- (3) Prevent the spread of disease and the creation of nuisances;
- (4) Conserve natural resources; and
- (5) Enhance the beauty and quality of the environment.

(Code 1998, § 15-001.01; Ord. No. 01-0284, 3-1-2001)

Sec. 28-31. Litter abatement officer.

(a) The litter abatement officer shall have the right to administer and enforce the provisions of this article. The litter abatement officer's rights and duties shall include, but shall not be limited to, those described in this section.

(b) The litter abatement officer shall have the right to inspect private property to determine if the property owner is in compliance with the provisions of this article. Routine inspections of public and private property in the parish shall be made by the litter abatement officer in such frequency to ensure consistent compliance with the provisions of this article. A property owner shall allow free access to the litter abatement officer; provided that the entrance and activity is undertaken after reasonable notice and during normal business hours, and after notifying the property owner of presence on the property for the purpose of making such inspections as may be necessary to determine compliance with the requirements of this article, or any other applicable statute, or for the purpose of making written and documented notice of any violation, or recommendations for their correction and the date by which corrections shall be accomplished.

(c) The litter abatement officer shall have the right to investigate complaints of violations of this article. The litter abatement officer shall assist the district attorney's office and/or the administrative hearing officer.

(d) The litter abatement officer's interpretation of the rules, regulations, ordinances, or code of the parish shall not supersede any actions that may be taken by code enforcement of the parish planning office, constables, justices of the peace, and the district attorney's office of this parish and the administrative hearing officer.

(e) After any curative measure mentioned herein is not adequately resolved, the litter abatement officer shall have the right to refer or recommend to the parish district attorney's office and/or the parish administrative hearing officer, that legal proceedings be initiated against a property owner who is in violation of the provisions of this article or any litter abatement ordinance of the parish.

(f) The litter abatement officer shall have the right to enforce the provisions of this article or any litter abatement ordinance of the parish, by citing the offender via a citation, summons or other means provided by law.

Sec. 28-32. Responsibility.

(a) The owner, his agent and occupant of any property shall maintain the premises in a sanitary and litter-free condition.

(b) No person shall place, deposit or allow to be placed or deposited on his premises or any other premises to include any public street, road or alley any refuse or other objectionable waste, except in a manner described in this article.

(c) The owner, his agent and occupant of any premises, and other persons having responsibilities as described herein, shall be responsible for the proper storage, collection, transportation and final disposal of all refuse originating on the premises, by a method or methods described in this article.

(Code 1998, § 15-001.02; Ord. No. 01-0284, 3-1-2001)

Sec. 28-33. Intentional littering prohibited; criminal penalties; civil penalties.

(a) No person shall intentionally dispose or permit the disposal of litter upon any public place in the parish, upon private property in the parish not owned by him, upon property located in rural areas in the parish not owned by him, or in or on the waters of the parish, whether from a vehicle or otherwise, including, but not limited to, any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley, except when such property is designated by the parish, or by any of its agencies or political subdivisions, for the disposal of such litter and such person is authorized to use such property for such purpose.

(b) If the litter is disposed from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined in R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

(c) When litter disposed in violation of this section is discovered to contain any article, including, but not limited to, letters, bills, publications or other writings that display the name of a person or any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this section.

- (1) The person shall be cited for the offense by means of a citation, summons or other means provided by law. If the violation is to be heard in the 22nd Judicial District Court, the Justices of the Peace Courts or the City Court for East St. Tammany, the following penalties shall apply:
- (2) Whoever violates the provisions of this section shall, upon first conviction, be fined \$250.00 and sentenced to serve eight hours of community service in a litter abatement work program as approved by the court.
 - a. Upon second conviction, an offender shall be fined \$500.00 and sentenced to serve 16 hours of community service in a litter abatement work program as approved by the court.
 - b. Upon third or subsequent conviction, an offender shall be fined \$1,250.00, have his motor vehicle driver's license suspended for one year, be imprisoned for not more than 30 days, and be sentenced to serve 80 hours of community service in a litter abatement work program as approved by the court, or all or any combination of the aforementioned penalties provided by this subsection.
 - c. The judge may require an individual convicted of a violation of this section to remove litter from parish highways, public rights-of-way, public playgrounds, public parks or other appropriate locations for any prescribed period of time in lieu of the penalties prescribed in this section.

(d) If the violation is to be heard by the Bureau of Administrative Adjudication, the civil penalties shall be those provided for in Chapter 2, Article XIV, Sec. 2-551 and 2-559, Schedule "H."

~~(de)~~ A person may be found guilty and fined under this section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.

~~(ef)~~ For the purposes of this section, each occurrence shall constitute a separate violation.

~~(fg)~~ In addition to penalties otherwise provided, a person convicted under this section shall:

- (1) Repair or restore property damaged by or pay damages for any damage arising out of the violation of this section.
- (2) Pay all reasonable investigative expenses and costs to investigative agency or agencies.
- (3) Pay all other reasonably related costs and expenses of any nature whatsoever incurred by the parish, including, but not limited to, administrative expenses, attorney fees, and all costs.

(Code 1998, § 15-001.03; Ord. No. 01-0284, 3-1-2001; Ord. No. 08-1763, 3-6-2008)

Sec. 28-34. Gross littering prohibited; criminal penalties; civil penalties.

(a) No person shall intentionally dispose or permit the disposal of any household or office furniture or appliances, automotive parts, including, but not limited to, tires and engines, trailers, boats and boating accessories, tools and equipment, building materials and bags or boxes of household or office garbage or refuse upon any public place in the parish, upon private property in the parish not owned by him, upon property located in rural areas in the parish not owned by him, or in or on the waters of the parish, whether from a vehicle or otherwise, including, but not limited to, any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley except when such property is designated by the parish, or by any of its agencies or political subdivisions, for the disposal of such litter and such person is authorized to use such property for such purpose.

(b) If the litter herein as defined is disposed of from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined by R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

(c) When litter disposed in violation of this article is discovered to contain any article, including, but not limited to, letters, bills, publications or other writings that display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this section.

(d) The person shall be cited for the offense by means of a citation, summons or other means provided by law. If the violation is to be heard in the 22nd Judicial District Court, the Justices of the Peace Courts or the City Court for East St. Tammany, the following penalties shall apply:

- (1) Whoever violates the provisions of this section shall, upon first conviction, be fined not less than \$500.00 nor more than \$1,000.00 and sentenced to serve eight hours of community service in a litter abatement work program as approved by the court.
- (2) Upon second conviction an offender shall be fined not less than \$1,000.00 nor more than \$2,500.00 and sentenced to serve 24 hours of community service in a litter abatement work program as approved by the court.
- (3) Upon third or subsequent conviction, an offender shall be fined not less than \$1,500.00 nor more than \$5,000.00 have his motor vehicle driver's license suspended for one year, be imprisoned for not more than 30 days, or sentenced to serve not less than 48 and not more than 100 hours in a litter abatement work program as approved by the court, or all or any combination of the aforementioned penalties.

(e) If the violation is to be heard by the Bureau of Administrative Adjudication, the civil penalties shall be those provided for in Chapter 2, Article XIV, Sec. 2-551 and 2-559, Schedule "H."

(e~~f~~) The court may require an individual convicted of a violation of this section to remove litter from state highways, public rights-of-way, public playgrounds, public parks, or other appropriate locations for any prescribed period of time in lieu of the penalties prescribed in this section.

(f~~g~~) A person may be found guilty and fined under this section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.

(g~~h~~) For the purposes of this section, each occurrence shall constitute a separate violation.

(h~~i~~) In addition to penalties otherwise provided, a person convicted under this section shall:

- (1) Repair or restore property damaged by or pay damages for any damage arising out of the violation of this section.
- (2) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.
- (3) Pay all other reasonably related costs and expenses of any nature whatsoever incurred by the parish, including, but not limited to, administrative expenses, attorney fees, and all costs.

(Code 1998, § 15-001.04; Ord. No. 01-0284, 3-1-2001)

Sec. 28-35. Commercial littering prohibited; civil penalties; special court costs.

(a) No person shall dispose or permit the disposal of litter resulting from industrial, commercial, mining or agricultural operations in which the person has a financial interest upon any public place in the parish, upon private property in this parish not owned by him, upon property located in rural areas in this parish not owned by him, or in or on the waters of this parish whether from a vehicle or otherwise, including, but not limited to, any public highway public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley; except, when such property is designated by the parish or by any of its agencies or political subdivisions for the disposal of such items and such person is authorized to use such property for such purpose.

(b) No person shall operate any truck or other vehicle in such a manner or condition that litter resulting from industrial, commercial, mining or agricultural operations in which the person is involved can blow or fall out of such vehicle or that mud from its tires can fall upon the roadway.

(c) If the litter is disposed of from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or school bus, all as defined by R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be a permissive rebuttable presumption that the possessor committed the act of disposing.

(d) When litter disposed in violation of this section is discovered to contain any article, including, but not limited to, letters, bills, publications or other writings that display the name of a person or in any other manner indicates that the article belongs, or belonged, to such person, there shall be a permissive rebuttable presumption that such person has violated this section.

(e) A person shall be jointly and severally liable for the actions of its agents, officers and directors for any violation of this section by any agent, officer or director in the course and scope of his employment or duties.

(f) The person shall be cited for the offense by means of a citation, summons or other means provided by law.

(g) Any person found liable under the provisions of this section shall:

(1) Pay a civil penalty of ~~\$100.00~~ 200.00.

(2) Repair or restore property damaged by or pay damages for any damaging arising out of the violation of this section.

(3) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.

(4) Pay for the cleanup of the litter unlawfully discarded by the defendant.

(h) Any person found liable under the provisions of this section by any division of the 22nd Judicial District Court, the Justice of the Peace Courts, or the City Court of East St. Tammany, shall pay special court costs of \$50.00 in lieu of other costs of court that shall be disbursed as follows:

(1) Twenty dollars shall be paid to the judicial expense fund for that judicial district, or to the justice of the peace or the city court, as the case may be.

(2) Twenty dollars shall be paid to the office of the district attorney, or to the constable or to the municipal prosecuting attorney, as the case may be.

(3) Ten dollars shall be paid to the clerk of the district court, or to the justice of the peace or the city court, as the case may be.

(i) Any person found liable under the provisions of this section by the Bureau of Administrative Adjudication shall pay the administrative costs contemplated by Chapter 2, Article XIV, Sec. 2-551(c) as assessed by the Hearing Officer. All costs assessed by the Hearing Officer shall be paid to the Parish's General fund, pursuant to Sec. 2-562(j).

(j) A person may be held liable and fined under this section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.

(k) For the purposes of this section, each occurrence shall constitute a separate violation.

(Code 1998, § 15-001.05; Ord. No. 01-0284, 3-1-2001)

Sec. 28-36. Littering prohibited; civil penalties; special court costs.

- (a) No person shall dispose or permit the disposal of litter upon any public place in this parish, upon private property in this parish not owned by him, upon property located in rural areas in this state not owned by him, or in or on the waters of this state whether from a vehicle or otherwise, including, but not limited to, any public highway public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley.
- (b) No person shall operate a motor vehicle on any highway or a boat on any waters in such a manner or condition that the contents can blow or fall out of such vehicle or boat.
- (c) No person shall dispose of litter in such a manner that the litter may be carried away or deposited by the elements upon any parts of said public or private property or waters.
- (d) If the litter disposed of is from a motor vehicle, boat or conveyance, except a bus or large passenger vehicle or a school bus, all as defined by R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be a permissive rebuttable presumption that the possessor committed or permitted the act of disposing.
- (e) When litter disposed in violation of this section is discovered to contain any article, including, but not limited to, letters, bills, publications or other writings that display the name of a person or in any other manner indicates that the article belongs, or belonged, to such person, there shall be a permissive rebuttable presumption that such person has violated this section.
- (f) The person shall be cited for the offense by means of a citation, summons or other means provided by law.
- (g) Persons found liable under the provisions of this section shall be assessed the following penalties:
- (1) For a first violation, such person shall be either fined \$75.00 or be given the option to perform eight hours of community service in a litter abatement work program in lieu of the assessed fine.
 - (2) For a second violation and each subsequent violation, such person shall either be fined \$500.00 or be given the option to perform 16 hours of community service in a litter abatement work program in lieu of the assessed fine.
- (h) Persons found liable under the provisions of this section by any division of the 22nd Judicial District Court, the Justice of the Peace Courts, or the City Court of East St. Tammany shall pay special court costs of \$100.00 in lieu of other costs of court and the special court costs shall be disbursed as follows:
- (1) Twenty dollars shall be paid to the judicial expense fund for that judicial district, or to the justice of the peace or the city court, as the case may be.
 - (2) Twenty dollars shall be paid to the office of the district attorney, or to the constable or to the municipal prosecuting attorney, as the case may be.
 - (3) Ten dollars shall be paid to the clerk of the district court, or to the justice of the peace or the city court, as the case may be.
 - (4) Twenty-five dollars shall be paid to the state treasury for credit to the Keep Louisiana Beautiful Fund.
 - (5) Twenty-five dollars shall be paid to the law enforcement agency that issued the citation.
- (i) Any person found liable under the provisions of this section by the Bureau of Administrative Adjudication shall pay the administrative costs contemplated by Chapter 2, Article XIV, Sec. 2-551(c) as assessed by the Hearing Officer. All costs assessed by the Hearing Officer shall be paid to the Parish's General fund, pursuant to Sec. 2-562(j).
- (j) A person may be held liable and fined under this section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.
- (jk) For the purposes of this section, each occurrence shall constitute a separate violation.

Sec. 28-42. Bottles/glass containers prohibited.

- (a) *Prohibited.* It shall be unlawful for any person to dump, throw or have in his possession any bottle, container or other item made of glass while on the premises of any public park, beach, playground, campground or other recreational facility in the unincorporated areas of this parish.
- (b) *Enforcement.* Enforcement of this section is authorized, directed and empowered to the sheriff's department, state police, justices of the peace and duly authorized parish violation officials.
- (c) *Violation.* Any violation of this section shall constitute a misdemeanor punishable as contained in section 1-9, and may be tried in the 22nd Judicial District Court or any appropriate justice of the peace court in the parish in accordance with Acts 250 and 296 of the 1989 Legislature, or by the Bureau of Administrative Adjudication.
- (d) *Fines.* Any fines collected by the justice of the peace courts for violations hereof shall be paid to the parish pursuant to R.S. 25:1101 et seq., and the parish shall reimburse said courts pursuant to R.S. 13:2589(B).
- (e) *Fines.* Any fines collected by the Bureau of Administrative Adjudication for violations hereof, and not allocated herein, shall be paid to the general fund pursuant to section 2-562(j).

(Code 1998, § 15-001.12; Ord. No. 92-1622, 7-16-1992)

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

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

EFFECTIVE DATE: This Ordinance shall be effective upon adoption and signature of the Council Chairman and Parish President

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 _____, 2022; AND BECOMES
ORDINANCE COUNCIL SERIES NO _____.

JERRY BINDER , COUNCIL CHAIRMAN

ATTEST:

KATRINA L. BUCKLEY, COUNCIL CLERK

MICHAEL B. COOPER, PARISH PRESIDENT

Published Introduction: _____,

2022 Published Adoption: _____ , _____

2022

Delivered to Parish President: _____, 2022 at _____

Returned to Council Clerk: _____, 2022 at _____

Ordinance Administrative Comment

ORDINANCE TO AMEND PORTIONS OF ORDINANCE SECS. 28-29 THROUGH 28-95 OF THE CODE OF ORDINANCES OF THE PARISH OF ST. TAMMANY, WHICH ESTABLISHED LITTER PREVENTION FOR THE PARISH.

The Administration is seeking to utilize the Bureau of Administrative Adjudication (BAA) to provide an additional enforcement method for litter violations, and it is necessary to make certain modifications to the Litter Prevention ordinance to accomplish this.