

LaMATS Overgrown Lot Abatement Program ORDINANCE #268
REVISED: January 6, 2016

Abatement of excessive weeds, grass and vegetation

(promulgated under the authority of La. R.S. 33:5062 *et seq.*)

Section 1 - 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:

“Interested parties” means those individuals who may have an ownership interest in the property that is alleged to be in violation of this article.

“Maintenance of a nuisance” means to conduct, carry on, keep, or permit to exist on one's premises any prohibited activity or condition, as defined in this article, or any nuisance. The failure to abate a nuisance or prohibited activity or condition shall be considered as maintenance of a nuisance.

“Nuisance” means any activity, condition or use of a premises that is detrimental to, or endangers, public safety, health, or welfare; that produces such material annoyance, inconvenience or discomfort so as to interfere with or disturb another in the peaceful possession of his property, or so as to cause injury to the rights of another or of the public; that is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the vicinity or neighborhood in which such premises is located; that is in violation of any land-use or zoning ordinance or regulation; or any prohibited activity or condition declared to be a nuisance in this article.

“Premises” means any building, structure or property owned or occupied by any proprietary party or representative thereof.

“Prohibited activity or condition” means any activity or condition declared to be a nuisance or otherwise prohibited under state law or parish or municipal ordinance, including, but not limited to, the sections of this article.

“Property” means any lot, tract, parcel of land, or portion of ground or other immovable property, whether occupied or vacant, which is situated within this Town of Jackson. For the purposes of this article, the term shall also include any area abutting such property and adjacent to a public street, including, but not limited to, that portion of property between property lines and streets; the term shall also include the sidewalk that adjoins such land or is a part of such land.

“**Proprietary party**” means an owner, lessee, sublessee, tenant or occupant of any premises.

“**Representative**” means an officer, agent, employee or other representative of a proprietary party.

“**Third-party provider**” means an entity with whom the Town of Jackson enters into a contract for the provision of services to effectuate and enforce this article.

“**Weeds**” means any and all vegetation growth, including grass, which emits unpleasant or obnoxious odors; which may be unsightly; may conceal filth deposits, garbage or trash ; or may serve as a breeding, hiding or resting places for reptiles, rodents, insects or other vermin.

(Code 20____, §_____, **ORDINANCE #268**)

Section 2 - Duty to cut and remove

- (a) All proprietary parties and representatives within the corporate limits of this Town of Jackson shall cut, destroy, and remove weeds, grass or other deleterious, unhealthy growths, lying or located in or upon their respective properties, lots, premises, places or areas within the this Town of Jackson’s municipal limits; and shall further maintain any such property, place, premises, or area in a manner that is free from weeds, grass or other deleterious, unhealthy growth or other obnoxious matter growing, lying or located in or upon same. Failure to do so constitutes a violation of this article. If a corporation or other juridical entity is found to be the proprietary party over any property that is in violation of the provisions of this article, the officers of that corporation or other juridical entity shall be deemed, jointly and individually, to be in violation thereof.
- (b) All proprietary parties, representatives, and persons owning or occupying property located within the municipal limits of this Town of Jackson shall mow and maintain that portion of their property adjacent to, or subject to, any public right-of-way or servitude, with the exception of any portion or property that may lie within an open ditch that forms part of a municipal or parish drainage system. Failure to do so constitutes a violation of this article.
- (c) It shall be unlawful for any proprietary party or representative to maintain, permit or allow the growth of grass or weeds in excess of 12 inches high on any property or premises within 150 feet of an existing building; or to permit or allow the growth of any other deleterious or unhealthful vegetation on any property or premises. The existence of the prohibited conditions referenced in this section is hereby declared to be a nuisance

(Code 20____, §_____, **ORDINANCE #268**)

Section 3 - Maintenance of a nuisance prohibited

Maintenance of a nuisance or other prohibited activity or condition on any property by a proprietary party, representative, or any person acting in concert with them, is hereby prohibited and declared to be unlawful.

(Code 20____, §_____, **ORDINANCE #268**)

Section 4 - Violations and penalties

- (a) Any person violating any provision of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in accordance with Chapter 7, Section 7.6 of the Town of Jackson Criminal Code. First offence shall be punishable by a fine not exceeding one hundred dollars, imprisonment for not more than thirty days, or both. Continuous and multiple offenses may be fined not more than five hundred dollars and not more than thirty days in jail or both.
- (b) In addition to the penalties provided in subsection (a) of this section, any proprietary party, representative, or person acting in concert with them, who maintains a nuisance, prohibited activity or condition, may be enjoined as provided by law, including, but not limited to, the issuance of injunctive relief or order of abatement as provided for in this article.
- (c) The following persons shall have standing to petition for the issuance of an injunction or order of abatement pursuant to this article:
 - (1) The Town of Jackson, any officer thereof, or a duly authorized representative thereof;
 - (2) An adjacent or neighboring property owner who is damaged by a violation of this article; or
 - (3) Any residents of the election precinct wherein the violation exists.

(Code 20____, §_____, **ORDINANCE #268**)

Section 5 - Injunctive relief and Order of Abatement

- (a) Application for injunctive relief or judicial order of abatement afforded by this article shall be by petition to the mayor's court, a parish court of competent jurisdiction, or a

state judicial district court of competent jurisdiction and venue.

- (b) A violation of the provisions of an injunction or judicial order of abatement issued in accordance with the provisions of this article shall constitute contempt of court. A person who is found guilty of such contempt by the issuing court shall be punished by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment for a period of not less than 24 hours nor more than 30 days, or both. Upon conviction for a second or subsequent violation of the injunction or judicial order of abatement, the violator shall be punished by both fine and imprisonment as listed above, but without benefit of probation or suspension of sentence.

(Code 20____, §_____, **ORDINANCE #268**)

Section 6 - Notice of violation

- (a) Following an inspection and verification of a violation of this article, the Town of Jackson, through its legal and/or administrative departments, shall notify the owner of the premises in violation in accordance with subsection (b).
- (b) Notification shall be by first class U.S. mail to the owner of the property in violation as listed in the most recent property tax assessment rolls for the Town of Jackson, and shall contain the following:
 - (1) A description of the property, by physical address, legal description, or other means sufficient to identify the location of the property;
 - (2) The nature of the violation with citation to the appropriate section of this article; and
 - (3) The penalties, fees, enforcement and abatement proceedings for which the owner may become liable if the nuisance, prohibited activity, or condition is not voluntarily abated in accordance with the article.
- (c) If the violation is not remedied after notification under subsection (a) of this section, and after the delays set forth in this article, all interested parties shall be notified by certified mail in accordance with the agreement for the administration of notification and enforcement with the third-party provider.

(Code 20____, §_____, **ORDINANCE #268**)

Section 7 - Abatement

- (a) Upon notification of violation, as provided in Section 6 or this article, the proprietary

party or representative shall abate the nuisance and/or prohibited activity or condition by removing the offending vegetation or taking the appropriate corrective action within five (5) days, or by reaching a mutually-acceptable agreement with the Town of Jackson for the scheduled abatement of the property within five (5) days.

- (b) If a violation of the provisions of this article is not abated in accordance with subsection (a) of this section, the building official of the Town of Jackson is hereby authorized to commence the appropriate proceedings to cut, destroy, and remove all deleterious grass, weeds, and other vegetation. The Town of Jackson is expressly authorized to enter into agreements with third party providers to accomplish abatement and remediation under this Article. There shall be an assessment against the property for the cutting, destruction and removal for all fees and costs, including interest, as referenced under subsection (d).
- (c) The Town of Jackson is hereby authorized to perform additional work to abate the nuisance at the subject property upon the execution and filing of an affidavit pursuant to La. R.S. 33:5062. For each remediation effort by the Town of Jackson, there shall be an assessment against the property in accordance with subsection (d) of this section.
- (d) All fees and costs associated with the remediation and abatement measures taken, per occurrence, by the Town of Jackson pursuant to this Article, shall be a charge, cost, or expense of the property and all interested parties. This charge includes, but is not limited to, any actual costs incurred by the Town of Jackson, any administrative fees incurred by any third party contractor, and any administrative fees due to the Town of Jackson under third party contract, and also expressly includes interest on all sums due from incurrence until payment.

(Code 20____, §_____, **ORDINANCE #268**)

Section 8 - Billing; payment

At the completion of any work performed pursuant to this article and pursuant to any agreement with a third-party provider of said services, interested parties shall be sent a bill by certified mail, return receipt requested, by personal or domiciliary service, itemizing all costs of the work in accordance with this article, and providing thirty (30) days from receipt thereof to render payment to the Town of Jackson.

(Code 20____, §_____, **ORDINANCE #268**)

Section 9 - Collection

In addition to the imposition of liens in accordance with this article, the Town of Jackson

either directly or through a third-party provider, may attempt to collect the total amount due from any interested party for work completed pursuant to this article, if the total amount due is not timely remitted accordingly. The fees attendant to any such collection attempts shall be added to the amount due for the performance of services under this article.

Section 10 - Authority to impose lien

In addition to the other provisions of this article and any other attempt to collect the amount owed pursuant to this article, the Town of Jackson is also authorized to have recorded in the mortgage office of the parish in which the property is situated a sworn statement showing the cost and expenses incurred for the work, which shall include the date and a description of the property on which the work was performed. The recordation of such sworn statement shall constitute a lien and privilege on the property and shall remain in full force and effect for the amount due in principal and interest, plus costs for filing the lien, and costs of court, if any, for collection until final payment has been made.

(Code 20____, §_____, **ORDINANCE #268**)

Section 11 - Adding costs and fees to ad valorem tax bill

If payment is neither received in response to a collection attempt, nor within the deadlines set forth in the notifications to interested parties, the Town of Jackson shall add the total amount due - for work performed, costs and fees - to the next annual *ad valorem* tax bill for the premises or property involved.

(Code 20____, §_____, **ORDINANCE #268**)

Section 12 – Statutory Imposition Payment Plan (SIPP)

Upon the request of the interested party, the Town of Jackson may agree to accept less than the full amount due pursuant to this part if all *ad valorem* taxes associated with the property at issue have been satisfied. In that event, the Town of Jackson shall enter into any agreement with the interested party for the repayment of the total amount due under this part based on individual needs and circumstances. The municipal tax collector or finance director shall propose the terms of the SIPP agreement, which must be approved by the Mayor to become effective.

Section 13 - Administrative Determinations of Blight or Abandonment

- (a) In addition to the remedies already provided herein, the Town of Jackson may utilize the administrative adjudication hearing procedures set forth in below, in accordance with La. R.S. 13:2575, to seek a determination that the vacant residential or commercial property at issue is “blighted,” as defined by R.S. 33:1374(B)(1) on January 1, 2013, or “abandoned,” as defined by R.S. 33:4720.59(D)(2) on January 1, 2013.

- (b) (1) Appointment of Hearing Officer
 - (aa) Administrative adjudication proceedings under this article shall be conducted before hearing officers who have been licensed to practice law in Louisiana for at least two years.
 - (bb) Hearing officers shall be appointed by the mayor, and shall serve at the pleasure of the mayor.
 - (cc) Hearing officers shall be sworn before the municipal attorney to uphold the Constitution, the laws and constitution of the State of Louisiana, and the Charter and ordinances of the Town of Jackson, and to abide by the provisions of the Louisiana Code of Governmental Ethics and the Town of Jackson Code of Ethics.
- (2) Hearing officers who have been appointed and sworn in accordance with this Ordinance have the authority to hear and decide any and all Code and ordinance violations.
- (3) The hearing officer shall have the power to:
 - (aa) administer oaths and affirmations;
 - (bb) issue orders compelling the attendance of witnesses, respondents, alleged violators, and violators and the production of documents;
 - (cc) determine whether or not an alleged violator is liable or guilty of code violations;
 - (dd) levy fees, costs, and penalties;
 - (ee) order violators to correct violations within a stipulated time;
 - (ff) take any and/or all necessary and lawful measures to effect corrections of the violation if the violator fails to do so within the time allocated by the hearing officer; and
 - (gg) record orders, judgments, notices of judgments, or liens in the mortgage office.
- (4) Procedure for Hearing
 - (aa) Whenever the Town of Jackson determines that a violation of a code or ordinance exists, a notice of violation(s) shall be provided to all interested

parties by certified mail at least thirty (30) days in advance of the administrative hearing.

- (bb) A notice of violation(s) shall:
 - (i) be in writing;
 - (ii) provide the municipal address of the cited property;
 - (iii) provide the date of the inspection;
 - (iv) provide notice of alleged violation(s) at the cited property;
 - (v) provide the mailing address and telephone number of the enforcement agency;
 - (vi) provide the time, date and location of the administrative hearing whereby the alleged violation shall be adjudicated;
 - (vii) provide notice that the failure to appear at the hearing shall be considered an admission of liability for the charged violation(s);
 - (viii) provide the risk of fees, penalties, costs, and liens that may be imposed for continued violation(s); and
 - (ix) provide the risk of remedial measures that may be ordered by a hearing officer to correct or abate violation(s).

- (cc) The date of the postmark shall be deemed to be the date of delivery. Any notification so sent and returned by the U.S. Post Office shall be considered as having fulfilled the notification requirement. Proof of notification and attempts at service shall be entered in the record for each case prior to the hearing.

- (dd) In addition to the service provided in Section, a copy of the notice of violation(s) shall be affixed in a prominent location on the property upon which violation(s) are alleged or, if safe access to the property is not reasonably practicable, on some prominent fixture on the adjacent public right-of-way as near as possible to the property at least five (5) days in advance of the date of the hearing. It shall be unlawful for any person other than an agent of the city to remove a notice posted on the public right-of-way prior to the commencement of the hearing.

- (ee) Any person charged with violation(s) herein may present any relevant evidence and testimony at such hearing and may be represented. An alleged violator's physical presence shall not be required at the hearing if documentary evidence, duly verified by such person, is submitted to the hearing officer via the agency of the Town of Jackson having a responsibility for the enforcement the code violation(s), prior to the date of the hearing. Nothing contained herein shall be construed to limit the authority or the ability of a hearing officer to determine an alleged violator's liability or guilt based solely upon submitted documentary

evidence.

- (ff) Any order compelling the attendance of witnesses or the production of documents may be enforced by the municipal court or by any other court of competent jurisdiction.
- (gg) Any administrative adjudication hearing held under the provisions of this Ordinance shall be conducted in accordance with the rules of evidence of the Administrative Procedure Act, R.S. 49:950 *et seq.* Testimony of any person shall be taken under oath and shall be recorded.
- (hh) The hearing officer shall issue a final order, judgment, or notice of judgment within 30 days of the hearing, excluding legal holidays. The hearing officer shall simultaneously send a copy of the final order, judgment, or notice of judgment to all interested parties by certified U.S. mail. The order, judgment, or notice of judgment shall:
 - (i) be signed by the hearing officer;
 - (ii) state whether or not the alleged violator is liable or guilty of each violation and any specific determinations thereto;
 - (iii) provide the amount of fees, costs, and penalties assessed for each violation;
 - (iv) provide the defects to be corrected and the extent by which each violation shall be corrected, repaired, and/or abated;
 - (v) provide the reasonable period of time by which each violation shall be corrected, repaired and/or abated;
 - (vi) notify the violator(s)' of their right to appeal; and
 - (vii) notify the violator that the city may act to abate violation(s) if the violator fails to act in accordance with the order, judgment, or notice of judgment, where applicable.
- (ii) The city may enforce any order assessing fees, costs, and penalties, and/or stipulating a required correction, repair, or abatement measure.

(5) Penalties

- (aa) The penalty for each violation shall not exceed the maximum that may be imposed by municipal court as provided in R.S. 13:2500.
- (bb) Each day that violation(s) continues after due notice has been served shall be deemed a separate offense.
- (cc) A schedule of penalties may be established by ordinance providing penalty amounts, consistent with subpart (aa), for specific Code violation(s).

(6) Costs

- (aa) Costs and expenses that may be recovered and enforced against a violator under this Section include, but are not limited to:
 - (i) the Town of Jackson's direct cost for abatement;
 - (ii) costs of salary and all applicable overhead of municipal staff and contract personnel involved in the investigation, enforcement, and/or remediation or abatement of a violation;
 - (iii) attorney's fees if and when applicable;
 - (iv) hearing and/or court costs including but not limited to hearing officer and witness fees;
 - (v) costs of engineering and other technical services and studies as may be required; and
 - (vi) any other fee, cost, or expense reasonably and rationally related to the city's enforcement action(s) to bring violation(s) into compliance or to abate and/or correct a violation of local, state or federal law.

- (bb) At any point in the enforcement process after the time for voluntary compliance has expired, or following the conclusion of the enforcement/abatement action(s), the Town of Jackson may notify the violator of the proposed full cost recovery against the real property that was the subject of enforcement/abatement action. The notice may be issued as a statement of costs, which shall provide a cost schedule and contain a provision for appealing to an administrative hearing officer the accuracy and reasonableness of the costs, within 30 days from the date of mailing. After compliance has been obtained and prior to the closure of the case, a final statement of costs may be calculated and sent to the violator.

- (cc) If payment is not received within 30 days of the mailing of the notice or statement of costs, or following any appeal hearing upholding all or part of the costs, the Town of Jackson may issue a demand for payment. A demand for payment shall be mailed to a violator and provide notice that, if payment is not received by the date indicated in the demand, the Town of Jackson may lien the property that was subject to the enforcement/abatement action for all applicable costs.

(7) Liens

- (aa) The Town of Jackson shall have a lien and privilege against the immovable property in, on, or upon which violation(s) occurred. The lien

and privilege shall secure all fines, fees, costs, and penalties that are assessed by the Town of Jackson and described in the order, judgment, or notice of judgment and the notice or statement of costs. The recordation of the order, judgment, or notice of judgment and the notice or statement of costs in the mortgage office of the parish shall constitute a lien and privilege against the land upon which violation(s) exists. Any lien and privilege recorded against an immovable property under this Ordinance shall be included in the next annual *ad valorem* tax bill.

- (bb) Upon recordation of the order, judgment, notice of judgment, or lien, the Town of Jackson may:
 - (i) apply to the clerk of district court for issuance of a writ in accordance with Code of Civil Procedure Article 2253, under the authority of La. R.S. 13:2575 and 13:2576, upon describing with particularity the immovable property and the manner in which the writ is to be enforced; or
 - (ii) institute a suit against the owner of record in any court of competent jurisdiction to enforce the order, judgment, notice of judgment, or lien.
- (cc) In order for the lien and privilege to arise, the order, judgment, notice of judgment or lien shall be final and not subject to appeal when recorded in the mortgage office.
- (dd) Any monies collected pursuant to this chapter shall first satisfy all outstanding municipal liens recorded against an immovable property and only when all outstanding municipal liens are satisfied in full shall monies be applied towards an immovable property's ad valorem taxes.

(8) Enforcement of Liens-Additional Requirements

- (aa) Upon the Town of Jackson instituting legal proceedings to obtain a writ to cause the seizure and sale of a property with outstanding liens, pursuant to this Ordinance, the property shall also be unoccupied.
- (bb) Unoccupied properties that maintain a valid homestead per article VII, sections 18(G)(5) and 20(A)(10) of the Constitution of Louisiana, shall be exempt from this section upon presentation of a signed affidavit from the assessor or his designee, attesting that the owner is approved for an extension of the special assessment level. This affidavit shall be renewed annually. The owner shall also submit, along with the aforementioned affidavit, a copy of their annual affidavit of intent to return and reoccupy the homestead that is filed with the assessor as required by article VII,

section 20(A)(10) of the Louisiana Constitution. This provision shall expire on December 31, 2018.

- (cc) Any person with a legally protected interest in a property must be provided notice that is reasonably calculated to apprise them of the seizure and upcoming sale of the property.

(9) Appeal

Any person determined by the hearing officer to be guilty of a Code violation may appeal the determination to the civil district court for the Parish of /East Feliciana, 20th Judicial District Court. Such appeal shall be instituted by filing, within 30 calendar days of the mailing of the hearing officer's Order, a petition with the clerk of the civil district court along with payment of such costs as may be required by the clerk of court. After filing a petition for appeal, the clerk of court shall schedule a hearing and notify all parties of the date, time, and place of such hearing. Service of notice of appeal under this subsection shall not stay the enforcement and collection of the judgment unless the person who files the appeal furnishes security prior to filing notice of appeal with the Town of Jackson's department of finance in the amount fixed by the hearing officer sufficient to assure satisfaction of the finding of the hearing officer relative to the fine(s), fee(s), penalty/penalties, cost(s) of the hearing, and cost(s), if any, of correcting the violation(s).

(10) Remedies Not Exclusive

The regulations, procedures, and remedies established by this Section of the Ordinance are nonexclusive and may be pursued independently of each other and in addition to other remedies provided by law.

(11) Record-keeping

- (a) At its commencement by notice of violation, every adjudication proceeding shall be assigned a docket number and a style in the form of "Town of Jackson versus" followed by the name of the alleged violator. The records pertaining to each proceeding shall be maintained as a separate file in a manner similar to the fashion in which the clerks of court maintain the records of civil cases.
- (b) Each agency charged with the enforcement of an Ordinance within the scope of this article shall, with the advice of the Town of Jackson Legal Department, maintain a log or index of all adjudication proceedings which shall set forth information, including but not limited to the following:

- (i) the style and docket number of the case and the date it was commenced;
- (ii) alleged Code violation(s);
- (iii) date of the alleged violation(s);
- (iv) address or other description of the property upon which the alleged violation(s) exist or have occurred;
- (v) date(s) of any hearings, trials or continuances and the dates of their commencement and/or termination and, if the case is terminated, of its final disposition;
- (vi) statement(s) as to the dates of any hearing and of any final order in the case and as to whether and when any lien was filed; and
- (vii) statement(s) as to the date of filing and disposition of any appeal.

(12) Transfer of ownership

It is a violation for any property owner(s) to transfer a property that receives a notice of violation without notifying the enforcement agency of the city that sent said notice of violation. Anyone found in violation of this section shall be fined \$500.00.

(Code 20 ____, § _____, **ORDINANCE #268**)

Section 14 - Repeal

All ordinances and parts of ordinances in conflict herewith shall be and the same are hereby repealed.

All ordinances not in conflict herewith and not affected by the supplement and/or amendment hereinabove set forth are hereby maintained in full force and effect as if re-enacted herein.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceedings pending at the time of the repeal, for an offense committed under the ordinance repealed.

(Code 20 ____, § _____, **ORDINANCE #268**)

Section 15 - Severability

It is hereby declared to be the intention of the Town of Jackson and Board of Trustees that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by any court of competent jurisdiction, such unconstitutionality shall not affect

any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the Town of Jackson and Board of Trustees without the incorporation in this ordinance of any such unconstitutional phrases, clauses, sentence, paragraph or section. If the provisions of this ordinance, or the application thereof to any person, fact, situation or circumstance are held invalid, the remainder of this ordinance and the application of such provisions to the other persons, facts, situations or circumstances, shall not be affected thereby.

This ordinance shall be in effect as stated herein after its final passage approval, and publication as provided by law.

This ordinance having been submitted to a vote after a public hearing on August 14, 2017 moved by Jim Parker and seconded by Rafe Stewart, the vote thereon was as follows:

YEAS: Jim Parker, Rafe Stewart, Buddy Foreman, Don Havard and Mike Harrell

NAYS: -0-

ABSENT: -0-

The Ordinance was declared adopted on this, the 14th day of August 2017 at the regular meeting of the Town of Jackson Board of Trustees held at the Town Hall Building in Jackson, Louisiana on August 14, 2017.

/s/

Holli E. Gilmore
Town of Jackson Town Clerk

/s/

Charles E. Coleman, Mayor
Town of Jackson

(Code 20____, §_____, **ORDINANCE #268**)