

ORDINANCE NO. JO-025-2021

**A JOINT ORDINANCE OF THE LAFAYETTE CITY COUNCIL AND THE
LAFAYETTE PARISH COUNCIL REPEALING AND RE-ENACTING CHAPTER 34,
ARTICLE II OF THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT
CODE OF ORDINANCES**

BE IT ORDAINED by the Lafayette City Council and the Lafayette Parish Council, that:

WHEREAS, on December 16, 2020, by Joint Ordinance No. JO-111-2020, the Lafayette City Council and the Lafayette Parish Council adopted Chapter 89 of the Lafayette City-Parish Consolidated Government Code of Ordinances (“LCG Code of Ordinances”), referred to as the “Lafayette Development Code” (“LDC”); and

WHEREAS, among other things, the LDC created and established an Administrative Adjudication Bureau (“AAB”) for the purpose of adjudicating enforcement actions related to violations of Chapter 89; and

WHEREAS, the Lafayette City Council and the Lafayette Parish Council desire to expand the role of the AAB to adjudicate enforcement actions related to violations of Chapter 34, Article II of the LCG Code of Ordinances; and

WHEREAS, the Lafayette City Council and Lafayette Parish Council desire to repeal and re-enact Chapter 34, Article II of the LCG Code of Ordinances to further refine the regulations contained therein, the same being necessary to further the health, safety and welfare of the citizens of the City of Lafayette and unincorporated Parish of Lafayette.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council and Lafayette Parish Council, that:

SECTION 1: All of the aforescribed “Whereas” clauses are adopted as part of this joint ordinance.

SECTION 2: Chapter 34, Article II of the LCG Code of Ordinances is hereby repealed and re-enacted as follows:

ARTICLE II. – NUISANCES

DIVISION 1. - GENERALLY

Sec. 34-31. - 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:

Abandoned vehicle means any motor vehicle, as defined in this section, or other similar mechanism, device or means of conveyance that is inoperable and is left unattended on public property for more than three days, or that has remained illegally on public property for a period of more than three (3) days, or that has remained on private property without the consent of the owner or person in control of the property for more than three (3) days.

Agricultural activities mean all activities undertaken in the production of crops, livestock, poultry, and forestry; and all aquacultural, floricultural, horticultural, silvicultural, and viticultural operations.

Agricultural products mean all crops, livestock, poultry, and forestry; and all aquacultural, floricultural, horticultural, silvicultural, and viticultural products.

Authority means the agency and/or department, including any authorized employee or agent thereof, charged with enforcing this article on behalf of the City of Lafayette, the Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government.

Boat means any watercraft, vessel, barge, or other vehicle operating in the waters of the parish, including all commercial and recreational watercraft.

Cigar butt means any unburned portion of a cigar, including any filter or tip attached thereto.

Cigarette butt means any unburned portion of a cigarette, including any filter or tip attached thereto.

Court approved community service litter abatement program shall mean a community service litter abatement program that has been approved by the court having jurisdiction over the violation being prosecuted.

Dispose shall mean, in any way whatsoever, to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Junked item means any:

- (1) Junked vehicle.
- (2) Unused major electrical appliance and/or parts thereof, including but not limited to washing machines, clothes dryers, refrigerators, and freezers.
- (3) Machinery and/or equipment or parts thereof other than a junked vehicle and unused major electrical appliances which, by reason of deterioration through rusting, rotting, or otherwise, have become inoperable and/or unusable for the purpose for which they were intended.
- (4) Construction debris.
- (5) Waste paper, boxes and crates and/or parts thereof.

Junked vehicle means any motor vehicle, as defined in this section, or other similar mechanism, device, or means of conveyance, and any camper or trailer which is not self-propelled, which has remained situated on any real property for a period in excess of 30 days, and which, without repair, exhibits one (1) or more of the following conditions:

- (1) Absence of one (1) or more component parts of the vehicle (for purposes of this section, component parts of a vehicle shall include, without limitation fenders, panels, doors, door handles, steering wheel, seats, dashboard, bumpers, headlights, front and/or rear windshield or glass, hood, trunk door, trunk top, trunk handle, tailpipe, tires, wheels, grille, roof or tailgate);
- (2) Has become the habitat of rats, mice, opossums, raccoons, or snakes, or any other rodents, vermin, or insects;
- (3) The operation of the vehicle, or similar mechanism, device, or means of conveyance would, in the opinion of LCG/Authority, constitutes a threat to the public health and safety in any way because of its deteriorated, damaged, defective, or obsolete condition; or
- (4) The vehicle, or similar mechanism, device, or means of conveyance lacks one or more characteristics which would prevent the issuance of a valid vehicle inspection tag.

Law enforcement officer means a duly commissioned officer having law enforcement powers and authorities.

Litter shall mean all waste material, except as provided and defined in La. R.S. 30:2173(2), abandoned on the property of another, whether or not it is reusable, functional or operable, including but not limited to any portion of a tobacco product, cigar butts, cigarette butts, disposable packages, containers, rubbish, cans, bottles, refuse, garbage, trash, debris, paper products, glass, metal, packing materials, plastic products, synthetic ropes, fishing nets, garbage bags, dunnage, dead animals, shopping carts, furniture or appliances, automotive parts, including but not limited to, tires, batteries and engines, trailers, boats, and boating accessories, tools and equipment, and building materials, roofing nails or waste or discarded materials of any kind and description. While being used for or distributed in accordance with their intended uses, litter shall not include political pamphlets, handbills, religious tracts and newspapers, and other similar printed materials, the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of Louisiana. 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. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. "Agricultural product" as used in this definition means all crops, livestock, poultry, and forestry, and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Motor vehicle means any vehicle or similar mechanism, device, or means of conveyance which is self-propelled and designed to travel along the ground, on the water, in the air, and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers, airplanes and boats. The term motor vehicle shall not include, and specifically excludes, non-motorized bicycles, scooters and the like, and any farm implement.

Nuisance means the maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions; provided, however, this enumeration shall not be deemed or construed to be exclusive, limiting or restrictive, nor shall it include dense smoke, noxious fumes, gas, soot, cinders, or accumulation of stagnant waters which occur as a result of agricultural activities:

- (1) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (2) The pollution of any public well or cistern, stream, lake, canal, roadside ditch or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (3) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (4) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

Owner means that person whom which is reflected/listed in any public record as the owner of the property in question.

Parish means that area within the corporate limits of the Lafayette City-Parish Consolidated Government.

Private property means any property which is privately owned and which is not public property.

Policing authority means the police department; sheriff or such other authority as is vested with police authority for the City of Lafayette, the Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government.

Public property means:

- (1) Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular traffic.
- (2) Any other publicly owned property or facility, including the waters of the parish and state.

Unlicensed means any motor vehicle which is not displaying a valid current license plate or a current vehicle safety inspection sticker as required by the laws of the State of Louisiana.

Sec. 34-32. - Territorial applicability.

The provisions of this article apply in both the unincorporated areas of the parish and the city.

Sec. 34-33. - Purpose and intent.

The Lafayette City Council and the Lafayette Parish Council believe that a reasonable exercise of the police power of the LCG should address issues of public safety, protection of economic values to properties and, in general, the maintenance of public peace and good order, safety, health, moral or general welfare. The Lafayette City Council and the Lafayette Parish Council believe that an ordinance is necessary to establish revised regulations concerning nuisances, junked items and enclosures in order to promote the public interest in these areas and to impose reasonable and nondiscriminatory regulations concerning these subject matters. This article is intended to be a reasonable regulation of nuisances, junked items and enclosures which regulations will effectuate the public safety and protection of economic values to properties.

Secs. 34-34—34-50. - Reserved.

DIVISION 2. - PROPERTY SCREENING

Sec. 34-51. - Reserved.

Sec. 34-52. - Variances.

For properties located in the City of Lafayette, any variance or exception to any provision of this division must be approved by the vote of the Lafayette City Council. For properties located in the unincorporated areas of the Parish of Lafayette, any variance or exception to any provision of this division must be approved by the vote of the Lafayette Parish Council.

Sec. 34-53. - Required screening.

No person shall store or offer for sale, commercially and/or for profit, any recyclable items, paper, iron and steel junk, rags or wreckage of motor-driven vehicles or automobiles or trucks, including parts and accessories thereof, and no person shall wreck or dismantle such items for commercial and/or for profit purposes on any open lot or parcel of ground that is not properly enclosed on all boundary lines, except where prohibited by law or regulation, which enclosure shall be by a substantial fence not less than seven feet or more than ten feet high and properly screening the enclosed area from public view. In such instances where a law or regulation prohibits the complete enclosure on all boundary lines, there shall be substantial compliance by making as much enclosure as possible of the lot or parcel of ground, except as prohibited by any law or regulation. Any decision as to whether or not the enclosure substantially complies shall be made by the director of the public works department and/or his designee. The fence shall be uniform in color and in height with all material, including posts and fencing, being of uniform height, color and construction. Such fence shall be wind resistant and able to withstand 100 mile per hour winds, constructed of a solid rigid material and completely nontransparent and of uniform color. The uniform color shall be any shade of beige, brown, black, dark green or gray. The color shall be approved by the director of the public works department or his designee prior to installation of the enclosures. Such areas or parcels of land, or premises, shall be enclosed with solid, nontransparent wall or fence. The fence or wall shall not contain any poster or advertising of any kind excepting one sign of the owner, lessee, operator or licensee of the premises on each street frontage not exceeding 100 square feet in size. The seven-foot minimum height requirement for fences shall not apply to those storage facilities which are in compliance with section 98-131 or any successor provisions in the Lafayette City-Parish Consolidated Government Code.

Secs. 34-54—34-75. - Reserved.

DIVISION 3. - JUNKED VEHICLES OR ABANDONED VEHICLES

Sec. 34-76. - Declaration of public nuisance; prohibition.

The presence of any junked vehicle or abandoned vehicle within the City of Lafayette and the unincorporated areas of the Parish of Lafayette shall be deemed and is hereby declared a public nuisance. It shall be unlawful for any person to cause or maintain such a public nuisance by abandoning, wrecking, dismantling, partially dismantling, rendering inoperable, or discarding any vehicle on the real property of another or on public property, or to suffer, permit, or allow any junked vehicle and/or abandoned vehicle to be parked, left, or maintained on his own real property, provided that this section shall not apply to:

- (1) Any junked vehicle in an appropriate business, storage place, or depository, maintained at a location where such business, storage place, or depository is authorized by and is in compliance with the Lafayette Development Code (Chapter 89 of this title) and other regulatory ordinances of LCG.
- (2) Any vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

Sec. 34-77. - Custody of Abandoned Vehicles; Seizure, Sale, and Disposal of Junked Vehicle and/or Abandoned Vehicle.

(a) LCG, through its authorized representative, may take into custody any abandoned vehicle found on public or private property. LCG may employ its own personnel, equipment, and/or facilities, and/or may employ such other persons, equipment and/or facilities for the purpose of removing, preserving, and storing abandoned vehicles as it may determine necessary.

(b) LCG, through its duly authorized representative, may seize, sell, dispose of or otherwise hold any junked vehicle and/or abandoned vehicle which is found to be in violation of this division pursuant to any final order, judgment, or notice of judgment issued by a Hearing Officer as a result of enforcement proceedings conducted under Division 6 of this Article. At any time prior to the sale or disposition, the owner thereof shall be entitled to regain possession upon the furnishing of proof of satisfaction of all conditions and/or obligations imposed in any final order, judgment, or notice of judgment issued by a Hearing Officer as a result of enforcement proceedings conducted under Division 6 of this Article.

(c) Any junked vehicle and/or abandoned vehicle subject to seizure, removal, sale, and/or disposal under subsection (b) of this section shall be considered public property and may be disposed of by LCG or its authorized representative. LCG or its authorized representative is hereby authorized to dispose of any such vehicle by any of the following means, to-wit:

- (1) By causing the vehicle to be delivered to a salvage or scrap facility and surrendered as scrap to any such facility willing to accept same;
- (2) By contracting with one or more towing companies to provide that the towing company or companies shall remove the vehicle upon request of LCG in return for being allowed to retain the value received from the sale of such vehicle; or
- (3) Otherwise dispose of the vehicle using the most cost effective means possible, including payment of reasonable fees to any third party willing to accept the vehicle where no person is willing to purchase the vehicle or accept the same as scrap or salvage.

Secs. 34-78—34-90. - Reserved.

DIVISION 4. - OTHER NUISANCES

Sec. 34-91. - Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance or junked items other than motor vehicles as defined in section 34-31.

Secs. 34-92—34-94. - Reserved.

Sec. 34-95. - Responsibility for violations by corporations.

For the purpose of enforcing the provisions of this division, a corporation shall be deemed to be represented by its president, or in the president's absence, by its vice-president, or in the absence of both, by the officer or individual in charge of the affairs of the corporation. Any such representative shall be held responsible and punished for any violation by the corporation of the provisions of this division.

Sec. 34-96. - Responsibility for violations by firms.

Each of the owners or partners of a partnership, limited liability company, joint venture or association shall be held individually responsible and punishable for any violation by the entity of the provisions of this division.

Sec. 34-97. - Reserved.

Sec. 34-98. - City-parish consolidated government immune from liability, additional penalty for stagnant waters.

- (a) If the city-parish consolidated government undertakes to abate the accumulation of stagnant waters due to the nonperformance of the owner of the private property, the city-parish consolidated government and its officers, agents, employees, contractors or other representatives shall be immune from any and all liability for all actions taken in an effort the remediate the violation.
- (b) In addition to the costs and expenses outlined in section 34-204, in cases where the city-parish consolidated government undertakes to abate the accumulation of stagnant waters, an additional penalty of \$125.00 shall be assessed against the owner of the private property.

Secs. 34-99—34-199. - Reserved.

DIVISION 5. - LITTER ABATEMENT

Sec. 34-200. - Simple littering prohibited; civil penalties; disbursement of costs.

- (a) No person shall dispose or permit the disposal of litter upon any public property or private property located within the areas of the parish, or in or on the waters of the parish, whether from a motor vehicle or otherwise, including, but not limited to any public rights-of-way, public park, campground, forest land, recreational area, trailer park, street, the premises of any public, local, state or federal agency or political subdivision, 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. The term "permit" as used in this section is synonymous with the inference referenced in subsections (d) and (d)(1) herein. For purposes of this division, "motor vehicle:" shall have the meaning ascribed to it in La. R.S. 32:1.
- (b) No person shall operate a boat or motor vehicle on any public or private property 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.
- (d) If the litter disposed of is from a motor vehicle, except a bus or large passenger vehicle or a school bus, all as defined by La. R.S. 32:1, there shall be an inference that the driver of the motor vehicle disposed of the litter

unless the driver can prove that another person disposed of the litter in accordance with the following:

- (1) Except as provided in subsection (d)(2) of this section, when the identity of the driver of the motor vehicle is not known, there shall be an inference that the owner of the motor vehicle was the driver of the motor vehicle and the owner shall be solely liable for litter fines, fees and costs for the disposal of litter from the motor vehicle, unless the owner can prove that the motor vehicle was operated by another person at the time of the violation or that another person disposed of the litter.
- (2) An owner of a motor vehicle who is engaged in the business of renting or leasing motor vehicles under written rental or leasing agreements (lessor) shall not be liable for litter fines, fees or costs pursuant to subsection (d)(1) of this section if, within 30 days after receiving the citation, the owner provides, in affidavit form, the true name, address, and driver's license number with the state of issuance of the lessee at the time of the offense described in the citation, or provides a true copy of the lease or rental agreement to the law enforcement agency issuing the citation.
- (3) If the lessor complies with the above provision of subsection (d)(2) of this section, the lessee shall be cited for the litter violation.
- (4) A lessor who fails to comply with the provisions of subsection (d)(2) of this section shall be treated as any other owner and shall be solely liable for litter fines, fees and costs for the disposal of litter from the motor vehicle.
- (5) If an owner of a motor vehicle receives a citation during the period where the motor vehicle was reported to the police department as having been stolen, such citation shall be dismissed by the prosecutor.
- (6) An owner or driver who pays litter fines, fees or costs pursuant to subsection (d) of this section shall have the right to recover same from the person who committed the act of littering by filing a civil suit outside the regulations contained in this division.
- (e) When litter disposed in violation of this section is discovered to contain any article or articles, 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.
- (f) Whoever violates the provisions of this section shall be cited by means of a citation, summons, or other means provided by law and shall be subject to the following fines, fees and costs:
 - (1) For a first violation, the offender shall be assessed a \$75.00 fine or shall be given the opportunity to perform up to eight (8) hours of community service in a court-approved litter abatement work program in lieu of the \$75.00 fine. The offender shall also be assessed a \$15.00 administrative fee if the offender chooses to mail in the assessed fine. The offender shall also have the option of requesting a hearing and paying special court costs under subsection (g)(3) of this section.
 - (2) For a second and each subsequent violation, the offender shall be assessed a \$500.00 fine or shall be given the opportunity to perform up to 16 hours of community service in a court-approved litter abatement work program in lieu of the \$500.00 fine. For a second and each subsequent violation, it shall be mandatory that the alleged offender appear in the court exercising jurisdiction; there shall be no option of mailing in the assessed fine.
 - (3) For each violation, if a hearing is requested or required, the offender shall pay special court costs of \$100.00 which shall be disbursed and payable as set forth in section 34-205 of the Code. Court costs shall be paid whether the offender is assessed a fine or performs community service.
- (g) A person may be found 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 exercising jurisdiction establishes that the defendant has committed the offense.

- (h) For the purposes of this section, each occurrence involving a distinct and identifiable item of litter shall constitute a separate violation.
- (i) In addition to penalties otherwise provided, a person held liable 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.
- (j) *Exception.* Notwithstanding any provision to the contrary, this section shall not apply to any activity by persons owning or operating duly licensed commercial vehicles engaged in the collection and transportation of solid waste, construction, or demolition debris or wood waste, in the course of servicing scheduled pickup routes or on route to an authorized pickup station, transfer station, or disposal facility. To qualify for the exemption provided for in this subsection, the commercial vehicle shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the waste, prevents waste from falling or blowing from the vehicle, and ensures that leachate from the waste is not discharged from the vehicle during transportation.

Sec. 34-200.1. - Commercial littering prohibited; civil penalties; indemnification: 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 property or private property located within the parish, or in or on the waters of the parish, whether from a motor vehicle or otherwise, including, but not limited to any public rights-of-way, public park, campground, forest land, recreational area, trailer park, street, the premises of any public, local, state or federal agency or political subdivision, 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. The term "permit" as used in this section is synonymous with the inference referenced in subsection (c) herein. For purposes of this division, "motor vehicle" shall have the meaning ascribed to it in La. R.S. 32:1.
- (b) No person shall operate any truck or other vehicle on any public street or highway located within the parish 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)
 - (1) If the litter 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 La. 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.
 - (2) When litter disposed in violation of this section is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings, which display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be a permissive rebuttable presumption that such person has violated this section.
- (d) 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.
- (e) The person shall be cited for the offense by means of a citation, summons, or other means provided by law.

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

- (1) Pay a civil penalty of \$100.00. The offending person may mail in the fine for the first violation if such person so chooses. The offending person shall also be assessed a \$15.00 administrative fee if the offending person chooses to mail in the assessed fine for the first violation. For a second and each subsequent violation, it shall be mandatory that the alleged offending person appear in the court exercising jurisdiction; there shall be no option of mailing in the assessed fine.
 - (2) Repair or restore property damaged by or pay damages for any damage 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.
- (g) Any person found liable under the provisions of this section shall pay special court costs of \$50.00 in lieu of other costs of court which shall be disbursed and payable as set forth in section 34-205 of the Code.
- (h) 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.
- (i) For the purposes of this section each occurrence shall constitute a separate violation.

Sec. 34-201. - Community service litter abatement work program and indemnification.

- (a) A "Court approved community service litter abatement program" currently exists in Lafayette Parish, through the city-parish consolidated government.
- (b) Any person who participates in the city-parish consolidated government community service litter abatement work program shall have no cause of action for damages against the city-parish consolidated government or the entity conducting the program or supervising his participation therein, nor against any employee or agent of the city-parish consolidated government or such entity, for any injury or loss suffered by him during or arising out of his participation in the program, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the city-parish consolidated government or entity or its employee or agent. Neither the city-parish consolidated government nor the entity shall be liable for any injury caused by the individual participating in the program unless the gross negligence or intentional act of the city-parish consolidated government or the entity or their employee or agent was a substantial factor in causing the injury. No provision hereof shall negate the requirement to provide an offender with necessary medical treatment as statutorily required.

Sec. 34-202. - Legal enforcement; penalties; payment by mail.

- (a) Alleged first time offenders may plead guilty and pay the applicable fine and associated fee by mail; however, if the offender fails to pay the fine and associated fee by mail in advance of adjudication and fails to appear at the time and date indicated on the citation for the litter violation hearing, the court exercising jurisdiction may impose an additional fine or penalty in an amount not to exceed the amount of the fine or penalty for the original violation.
- (b) Whenever an alleged offender fails to pay the applicable fine and associated fee or fails to appear before the judicial officer at the place and time specified in a citation or summons, the judicial officer of the court exercising jurisdiction shall immediately notify the alleged offender by certified mail that:
 - (1) The judicial officer has taken judicial notice of his failure to appear at the hearing on the date and time listed on the citation or summons and

has found him in contempt of court and his failure to appear shall subject him to additional penalties, fines or time in jail.

- (2) The failure to pay all outstanding fines and fees within 15 days from receipt of the notice shall subject him to another finding of contempt of court and subject him to additional penalties, fines or time in jail.

Sec. 34-203. - Citations; unlawful acts; records; failure to pay or appear; procedures.

- (a) Whenever any person has allegedly violated any provision of this division in the presence of a law enforcement officer, the law enforcement officer shall take the person's name, address, and driver's license number, and if the violation occurs from a motor vehicle, the license number of the motor vehicle, and if the violation occurs from a boat, the Louisiana Registered Boat Number, and shall issue a citation or summons or otherwise notify the offender in writing that he must appear in court at a time and place to be specified in such citation or summons.
- (b) Whenever any person has allegedly violated any provision of this division in the presence of any other individual, that individual shall take, if possible, the location of the incident, the type of litter, and if applicable, the vehicle license plate number, the vehicle color and body type, the vehicle year, make and model, any other vehicle identifier, and shall submit said information to a law enforcement officer, justice of the peace, or constable. If the law enforcement officer, justice of the peace or constable has reasonable grounds to believe a person has committed an offense of littering under any provision of this division, the law enforcement officer, justice of the peace or constable shall issue a citation or summons or otherwise notify the offender in writing that he must appear in court at a time and place to be specified in such citation or summons.
- (c) If applicable, the citation or summons shall indicate that the alleged violator may admit liability and, in lieu of appearing in court, make the payment of the applicable fines, penalties, and costs to the appropriate court or agency by mail. The law enforcement officer shall provide, in writing, the date by which the payment must be received and the name and phone number of the court or agency having jurisdiction over the alleged offense. The citation or summons shall state the amounts of the applicable fines, penalties, and costs, payable to the appropriate agency.
- (d) Each law enforcement officer upon issuing a citation or summons to an alleged violator of any provision of this division shall deposit the original citation or summons or a copy of the same with a court having jurisdiction over the alleged offense.
- (e) Upon the deposit of the original citation or summons, or a copy of the same with a court having jurisdiction over the alleged offense, the original citation or summons or a copy of the same shall be disposed of only by trial in a court of proper jurisdiction or any other official action by a judge of the court, including payment of the appropriate fines, penalties, and costs to that court by the person to whom such citation or summons has been issued.
- (f) It shall be unlawful for any law enforcement officer or any other officer or public employee to dispose of a litter citation or summons or copies thereof or of the record of the issuance of the citation or summons in a manner other than as required herein.
- (g) The chief administrative officer of each law enforcement agency in the parish shall require all officers under his supervision to return to him a copy of every litter citation or summons which was issued by the officer for the violation of a litter law or ordinance, and in addition shall require the return of all copies of every litter citation or summons which has been spoiled or upon which an entry has been made without having issued the citation or summons to the alleged offender.
- (h) The chief administrative officer shall also maintain or cause to be maintained in connection with every litter citation or summons issued by an officer under his supervision a record of the disposition of the charge by the

court in which the original or a copy of the litter citation or summons was deposited.

- (i) Nothing herein shall be construed as prohibiting or interfering with the authority of a district attorney or other prosecuting attorney to dismiss a litter citation or summons or litter charge by entry of a nolle prosequi.

Sec. 34-204. - Jurisdiction and procedure—Justice of the peace; constable; city court; district court; summary proceeding.

- (a) A litter violation may be brought in any justice of the peace court or Lafayette City Court which has jurisdiction over such matter. Lafayette District Court shall have concurrent jurisdiction with any justice of the peace court or Lafayette City Court over all litter violations. In addition, a constable may issue summons and serve subpoenas anywhere in the parish all in accordance with La. R.S. 13:2586. When the justice of the peace exercises his jurisdiction to adjudicate litter violations, prosecution of such litter violations shall be in accordance with La. R.S. 13:2587.1.
- (b) An action brought pursuant to this division shall be tried as a summary proceeding pursuant to La. C.C.P. art. 2591 *et seq.*
- (c) A justice of the peace who hears a matter involving a litter violation shall be compensated for time spent handling such matters, as follows:
 - (1) A justice of the peace shall be paid \$100.00 for each justice court session held for the purpose of hearing violations of this division.
 - (2) In addition to the fee paid under subsection (c)(1) of this section, a justice of the peace shall be paid \$10.00 for each litter violation case heard, regardless of the outcome of the hearing.
- (d) A constable shall be paid \$25.00 for each citation or summons issued pursuant to sections 34-200 and 34-200.1.

Sec. 34-205. - Distribution of special costs; establishment of a litter control section.

All special court costs, shall be collected and distributed, as follows:

- (1) 25% shall be payable to the law enforcement agency issuing the citation, if such agency issues the citation; otherwise, 25% shall be payable to the public works department, environmental quality division for the litter program as described in subsection (4).
- (2) (a) 25% shall be payable to the sheriff of the parish, the parish governing authority, or the municipality where the violation occurred.
 - (b) However, when the law is enforced by a justice of the peace court, then 25% shall be payable to the parish governing authority for reimbursement of expenses incurred by the justice of the peace court and for payment for time spent by such justice of the peace for handling such matters in accordance with subsection 34-204(c) of the Code.
- (3) 25% shall be payable to the office of the district attorney or if prosecuted in a justice of the peace court or city court, then to the parish governing authority for reimbursement of expenses incurred by the constable and for payment for time spent by such constable for handling such matters in accordance with subsection 34-204(d) of the Code or to the municipality for expenses incurred by the municipality or the time and expenses incurred by the municipal prosecuting attorney, as the case may be.
- (4) 25% shall be payable to the public works department, environmental quality division for the purpose of encouraging, organizing, and coordinating volunteer local anti-littering campaigns, to pay expenses for litter clean up, collection, enforcement, prosecution, education and prevention, and to purchase and operate equipment in connection therewith.

DIVISION 6. – Violations

Sec. 34-206. - Enforcement of Violations; Administrative Adjudication; Penalties

1. Applicability.

- A. This Section applies to any Violation of Divisions 1 through 4 of this Article in the City of Lafayette and the unincorporated areas of Lafayette Parish.
- B. The provisions of this Section shall be retroactive and shall apply to any Violation(s) of Divisions 1 through 4 this Article in existence as of the adoption of this Section and any occurring thereafter, regardless of whether said Violation(s) initially occurred prior to the adoption of this Article.

2. Definitions.

In addition to the definitions contained in Section 34-31, the following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Violation means a civil violation, related, but not limited to, any act, omission, condition, failure to act, and/or any non-compliance with or of any provision of Divisions 1 through 4 of this Article.

Order, judgment or notice of judgment means an administrative act of the hearing officer.

Unoccupied means having no legal occupant(s), vacant.

Violator means person(s), natural or juridical, who has been found liable for a Violation and/or ordered to abate or correct a Violation in an Order issued under this Section.

3. Authorization.

The City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, through one (1) or more of its appropriate departments, agencies, agents, employees, contractors and/or representatives, shall be authorized to and may enforce any Violation(s) of Divisions 1 through 4 of this Article against all alleged Violators pursuant to the procedures for administrative adjudication established in this Section.

4. Appointment of Hearing Officer.

- A. Administrative adjudication proceedings under this Section shall be conducted before hearing officers who have been licensed to practice law in Louisiana for at least two (2) years.
- B. Hearing officers shall be appointed by the Lafayette Mayor-President, and shall serve at the pleasure of the Lafayette Mayor-President.
- C. Hearing officers shall be sworn before the Lafayette City-Parish Attorney to uphold the Constitution, the laws and Constitution of the State of Louisiana, the Lafayette City-Parish Consolidated Government Home Rule Charter, and ordinances of the City of Lafayette, Parish of Lafayette, and the Lafayette City-Parish Consolidated Government, and to abide by the provisions of the Louisiana Code of Governmental Ethics.

5. Authority of Hearing Officer.

Hearing officers who have been appointed and sworn in accordance with this Section shall have the authority to hear and decide any and all Violations.

6. Powers of a Hearing Officer.

The hearing officer shall have the power to:

- A. Administer oaths and affirmations.
- B. Issue orders compelling the attendance of witnesses, respondents, alleged violators, and Violators, and the production of documents.
- C. Determine whether or not an alleged violator is liable for Violations.
- D. Levy fees, costs, and monetary penalties.
- E. Order Violators to correct Violations within a stipulated time.
- F. 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.
- G. Record orders, judgments, notices of judgments, or liens in the mortgage records of the Lafayette Parish Clerk of Court's Office.

7. Procedure for Hearing.

- A. Whenever LCG determines that a Violation exists, a notice of violation(s) shall be provided to the alleged violator(s).
- B. A notice of violation(s) shall:
 - i. Be in writing;
 - ii. Provide the municipal address of: (a) the cited property; and/or (b) the property upon which the nuisance(s) exist(s);
 - iii. Provide the date of the inspection(s);
 - iv. Provide description of alleged Violation(s);
 - v. Provide the mailing address and telephone number of the appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s);
 - vi. Provide the time, date and location of the administrative hearing whereby the alleged Violation(s) shall be adjudicated;
 - vii. Provide notice that the failure to appear at the hearing shall be considered an admission of liability for the alleged 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).
- C. Prior to holding an administrative hearing pursuant to this Section, the alleged violator(s) shall be notified at least 15 days (inclusive of legal holidays) in advance of the date that such a hearing is scheduled. Notice shall be personally served or sent to the alleged violator(s) by certified or registered U.S. Mail at the municipal

address listed in the Lafayette Parish Tax Assessor's Office of the property where the violation(s) exist(s) and/or, if applicable and reasonably determinable, the registered address of the Owner(s) and/or custodian(s) of the property creating the nuisance(s). 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.

- D. In addition to the service provided in subsection C, 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 days in advance of the date of the hearing. It shall be unlawful for any person other than an agent of LCG to remove a notice posted on the public right-of-way prior to the commencement of the hearing.
- E. Any person charged with Violation(s) 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 appropriate department(s), division(s), and/or component(s) of LCG enforcing the 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 based solely upon submitted documentary evidence.
- F. Any order compelling the attendance of witnesses or the production of documents may be enforced by the Lafayette City Court or by any other court of competent jurisdiction.
- G. Any administrative adjudication hearing held under the provisions of this Section 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.
- H. The hearing officer shall issue a final order, judgment, or notice of judgment within 30 days of the hearing, excluding legal holidays. A copy of the final order, judgment, or notice of judgment shall be personally served or sent to the Violator(s) in the manner set forth in subsection C within 14 days of issuance. Any notification so sent and returned by the U.S. Post Office shall be considered as having fulfilled the notification requirement. Notwithstanding the foregoing, the Violator or his/her representative may enter into the record of the hearing (either orally or in writing) an alternate mailing or electronic address for the purposes of receipt of any notice herein. 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 for 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 LCG may act to abate Violation(s) if the Violator fails to act in accordance with the order, judgment, or notice of judgment, where applicable.

I. LCG may enforce any order, judgment, or notice of judgment assessing fees, costs, and penalties, and/or stipulating a required correction, repair, or abatement measure.

8. Penalties.

- A. Any person, firm or corporation violating any provision of Divisions 1 through 4 of this Article is subject to a fine of not more than \$500.00 for each offense.
- B. After due notice of the final order, judgment, or notice of judgment has been provided pursuant to 34-206(7)(H), each day that Violation(s) continue(s), after the time for compliance, if any, has expired, shall be deemed a separate offense.
- C. A schedule of monetary penalties may be established by ordinance providing penalty amounts, consistent with 34-206(8)(A), for specific Violation(s).

9. Authority of LCG to enter property to abate violation; abandonment and disposal of property; immunity from liability.

- A. Pursuant to any final order, judgment, or notice of judgment issued by a Hearing Officer as a result of enforcement proceedings conducted under Division 6 of this Article, the City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, through one (1) or more of its appropriate departments, agencies, agents, employees, contractors and/or representatives, are hereby authorized to enter property found to be in violation of this Article to abate the Violation(s).
- B. Whenever a Violator fails or refuses to timely comply with any ordered abatement contained within any final order, judgment, or notice of judgment issued by a Hearing Officer and fails to appeal therefrom within the legal delays provided herein, and such abatement requires the removal of movable property, then, in such case:
 - i. The Violator's failure or refusal to comply shall constitute, without further notice being required, an abandonment of said movable property; and
 - ii. The City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, through one (1) or more of its appropriate departments, agencies, agents, employees, contractors and/or representatives, may dispose of said movable property.
- C. The City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, including its departments, agencies, agents, employees, contractors and/or representatives shall be immune

from any and all liability for all actions taken in an effort the remediate the Violation(s).

10. Costs.

A. Costs and expenses that may be recovered and enforced against a Violator under Divisions 1 through 4 of this Article include, but are not limited to:

- i. LCG's direct cost for abatement;
- ii. Costs of salary and all applicable overhead of LCG staff and contract personnel involved in the investigation, enforcement, and/or remediation or abatement of a violation;
- iii. Costs for equipment use or rental;
- iv. Attorney's fees;
- v. Hearing and/or court costs including, but not limited to, hearing officer and witness fees;
- vi. Costs of engineering and other technical services and studies as may be required;
- vii. Costs of monitoring programs necessary for correcting, monitoring, abating or mitigating violations;
- viii. Any other fee, cost, or expense reasonably and rationally related to LCG's enforcement action(s) to bring violation(s) into compliance or to abate and/or correct a violation of local, state or federal law.

B. In addition to any costs assessed in any order, judgment, or notice of judgment, at any point in the enforcement process after the time for compliance has expired, or following the conclusion of the LCG's enforcement/abatement action(s), the appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s) may notify, in the manner provided for in 34-206(7)(C), the Violator of the proposed full cost recovery that was the subject of enforcement/abatement action. Any notification so sent and returned by the U.S. Post Office shall be considered as having fulfilled the notification requirement. The notice of cost recovery issued must provide an itemized list of costs incurred by LCG, and contain a date not less than 30 days from the date of notice (date personally served, date mailed, or date e-mailed) providing a hearing with a hearing officer to appeal the accuracy and reasonableness of the costs.

C. In the event full payment is not received within 30 days of the notice of cost recovery, then following any appeal hearing upholding all or part of the costs, LCG may lien the property that was subject to the enforcement/abatement action for all applicable costs by recording the notice of cost recovery or administrative hearing order, judgment, or notice of judgment affirming appropriate costs in the mortgage and/or UCC records of the Lafayette Parish Clerk of Court's Office.

11. Liens.

A. LCG 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 LCG and described in the order, judgment, or notice of judgment and the notice of

cost recovery. The recordation of the order, judgment, or notice of judgment and the notice of cost recovery 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 Section shall be included in the next annual ad valorem tax bill.

- B. LCG, upon recordation of the order, judgment, notice of judgment, notice of cost recovery, or lien, 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.
- C. In order for the lien and privilege to arise, the order, judgment, notice of judgment, notice of cost recovery, or lien shall be final and not subject to appeal when recorded in the mortgage office.
- D. Any monies collected pursuant to this Section shall first satisfy all outstanding liens recorded against an immovable property and only when all outstanding liens are satisfied in full shall monies be applied towards an immovable property's ad valorem taxes.

12. Enforcement of liens—Additional requirements.

- A. Upon LCG instituting legal proceedings to obtain a writ to cause the seizure and sale of a property with outstanding liens, pursuant to subsection 11(B)(i), the property shall also be unoccupied.
- B. 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.

13. Appeal.

Any person determined by the hearing officer to be liable for a Violation may appeal the determination to the Fifteenth Judicial District Court for the Parish of Lafayette. Such appeal shall be instituted by filing, within 30 calendar days of notice of the hearing officer's order, judgment, or notice of judgment, a petition with the Fifteenth Judicial District Clerk of 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 order, judgment, or notice of judgment unless the person who files the appeal furnishes security prior to the service of notice of appeal with the appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s) 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), monetary penalty/penalties, cost(s) of the hearing, and cost(s), if any, of correcting the Violation(s).

14. Remedies not exclusive.

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

15. Recordkeeping.

A. At its commencement by notice of violation, every adjudication proceeding shall be assigned a docket number and a style in the form of "LCG versus" followed by the name of the alleged violator(s). The records pertaining to each proceeding shall be maintained as a separate file.

B. Each department(s), division(s), and/or component(s) of LCG enforcing a Violation(s) within the scope of this Section shall, with the advice of the Lafayette City-Parish Attorney, or his/her designee, 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 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, judgment or notice of judgment in the case and as to whether and when any lien was filed;
- vii. Statement(s) as to the date of filing and disposition of any appeal.

16. 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 appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s) that sent said notice of violation. Anyone found in violation of this subsection shall be fined \$500.00.

Secs. 34-207—34-230. - Reserved.

SECTION 3: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 4: After first having been adopted by a majority of the authorized membership of both the Lafayette Parish Council and the Lafayette City Council, this joint ordinance shall become effective upon signature of this joint ordinance by the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon override of a veto, whichever occurs first.

* * * * *

ORDINANCE NO. JO- -2021**AN ORDINANCE OF THE LAFAYETTE CITY COUNCIL
AND THE LAFAYETTE PARISH COUNCIL REPEALING
AND RE-ENACTING CHAPTER 34, ARTICLE II OF THE
LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT
CODE OF ORDINANCES**

BE IT ORDAINED by the Lafayette City Council and the Lafayette Parish Council, that:

WHEREAS, on December 16, 2020, by Joint Ordinance JO-111-2020, the Lafayette City Council and the Lafayette Parish Council adopted Chapter 89 of the Lafayette City-Parish Consolidated Government Code of Ordinances ("LCG Code of Ordinances"), referred to as the "Lafayette Development Code" ("LDC");

WHEREAS, among other things, the LDC created and established an Administrative Adjudication Bureau ("AAB") for the purpose of adjudicating enforcement actions related to violations of Chapter 89;

WHEREAS, the Lafayette City Council and the Lafayette Parish Council desire to expand the role of the AAB to adjudicate enforcement actions related to violations of Chapter 34, Article II of the LCG Code of Ordinances; and

WHEREAS, the Lafayette City Council and Lafayette Parish Council desire to repeal and re-enact Chapter 34, Article II of the LCG Code of Ordinances to further refine the regulations contained therein, the same being necessary to further the health, safety and welfare of the citizens of the City of Lafayette and unincorporated Lafayette Parish.

NOW, THEREFORE, BE IT ORDAINED by the Lafayette City Council and Lafayette Parish Council, that:

SECTION 1: All of the aforementioned "Whereas" clauses are adopted as part of this Joint Ordinance.

SECTION 2: Chapter 34, Article II of the LCG Code of Ordinances is hereby repealed and re-enacted as follows:

ARTICLE II. - NUISANCES

DIVISION I. - GENERALLY

Sec. 34-31. - 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:

Abandoned vehicle means any motor vehicle, as defined in this section, or other wheeled vehicle or similar mechanism, device or means of conveyance that is inoperable and is left unattended on public property for more than three days, or that has remained illegally on public property for a period of more than three days, or that has remained on private property without the consent of the owner or person in control of the property for more than three days.

Agricultural activities mean all activities undertaken in the production of crops, livestock, poultry, and forestry; and all aquacultural, floricultural, horticultural, silvicultural, and viticultural operations.

Agricultural products mean all crops, livestock, poultry, and forestry; and all aquacultural, floricultural, horticultural, silvicultural, and viticultural products.

Authority means the agency and/or department, including any authorized employee or agent thereof, charged with enforcing this article on behalf of the City of Lafayette, the Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government.

Boat means any watercraft, vessel, barge, or other vehicle operating in the waters of the parish, including all commercial and recreational watercraft.

Cigar butt means any unburned portion of a cigar, including any filter or tip attached thereto.

Cigarette butt means any unburned portion of a cigarette, including any filter or tip attached thereto.

Court approved community service litter abatement program shall mean a community service litter abatement program that has been approved by the court having jurisdiction over the violation being prosecuted.

Dispose shall mean, in any way whatsoever, to throw, discard, place, deposit, discharge, burn, dump, drop, eject, or allow the escape of a substance.

Junked item means any:

- (1) Junked vehicle.
- (2) Unused major electrical appliance and/or parts thereof, including but not limited to washing machines, clothes dryers, refrigerators, and freezers.
- (3) Machinery and/or equipment or parts thereof other than a junked vehicle and unused major electrical appliances which, by reason of deterioration through rusting, rotting, or otherwise, have become inoperable and/or unusable for the purpose for which they were intended.
- (4) Construction debris.
- (5) Waste paper, boxes and crates and/or parts thereof.

Junked vehicle means any motor vehicle, as defined in this section, or other wheeled vehicle or similar mechanism, device, or means of conveyance, and any camper or trailer which is not self-propelled, which, for any reason, is incapable, without repair, of being moved or of being propelled by application of internal power, and has remained situated on any real property for a period in excess of 30 days, and which, without repair, exhibits two or more of the following conditions:

- (1) Deterioration by rust of the body of the vehicle;
- (2) Deterioration of the exterior finish of the vehicle;

- (3) ~~Broken or cracked windows or windshields or headlight or any other cracked or broken glass;~~
- (14) ~~Absence of one or more component parts of the vehicle (for purposes of this section, component parts of a vehicle shall include, without limitation, as fenders, panels, doors, door handles, window handle, steering wheel, seats, dashboard, interior door moldings, bumpers, headlights, front and/or rear windshield or glass, hood, trunk door, trunk top, trunk handle, tailpipe, tires, wheels, grille, roof or tailgate);~~
- (5) ~~Significant physical damage to the vehicle (such as dents, cracks, scrapes or holes) or to component parts of the vehicle;~~
- (26) ~~Has become the habitat of rats, mice, opossums, raccoons, or snakes, or any other rodents, vermin, or insects;~~
- (7) ~~Is in such a state of deterioration that it cannot be profitably restored and has a fair market value of \$500.00 or less by using the rough trade-in value shown in the most recent National Automobile Dealers Association Guide;~~
- (38) ~~The operation of the vehicle, or similar mechanism, device, or means of conveyance would, in the opinion of LCPG/Authority, constitute a threat to the public health and safety in any other way because of its deteriorated, damaged, defective, or obsolete condition; or~~
- (49) ~~The vehicle, or similar mechanism, device, or means of conveyance lacks one or more characteristics which would prevent the issuance of a valid vehicle inspection tag. Is unlicensed.~~

Law enforcement officer means a duly commissioned officer having law enforcement powers and authorities.

Litter shall mean all waste material, except as provided and defined in R.S. 30:2173(2), abandoned on the property of another, whether or not it is reusable, functional or operable, including but not limited to any portion of a tobacco product, cigar butts, cigarette butts, disposable packages, containers, rubbish, cans, bottles, refuse, garbage, trash, debris, paper products, glass, metal, packing materials, plastic products, synthetic ropes, fishing nets, garbage bags, dunnage, dead animals, shopping carts, furniture or appliances, automotive parts, including but not limited to, tires, batteries and engines, trailers, boats, and boating accessories, tools and equipment, and building materials, roofing nails or waste or discarded materials of any kind and description. While being used for or distributed in accordance with their intended uses, litter shall not include political pamphlets, handbills, religious tracts and newspapers, and other similar printed materials, the unsolicited distribution of which is protected by the Constitution of the United States or the Constitution of Louisiana. 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. Litter shall also not include recyclable cardboard being transported in compressed bundles to processing facilities. "Agricultural product" as used in this definition means all crops, livestock, poultry, and forestry, and all aquacultural, floracultural, horticultural, silvicultural, and viticultural products.

Motor vehicle means any vehicle or similar mechanism, device, or means of conveyance which is self-propelled and designed to travel along the ground, on the water, in the air, and shall include, but not be limited to, automobiles, buses, motorbikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers, airplanes and boats. The term motor vehicle shall not include, and specifically excludes, non-motorized bicycles, scooters and the like, and any farm implement.

Nuisance means the maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property any of the following items, conditions or actions; provided, however, this enumeration shall not be deemed or construed to be exclusive, limiting or restrictive, nor shall it include dense smoke, noxious fumes, gas, soot, cinders, or accumulation of stagnant waters which occur as a result of agricultural activities:

- (1) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (2) The pollution of any public well or cistern, stream, lake, canal, roadside ditch or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (3) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (4) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

Owner means that person whom which is reflected/listed in any public record as the owner of the property in question.

Parish means that area within the corporate limits of the Lafayette City-Parish Consolidated Government.

Private property means any property which is privately owned and which is not public property.

Policing authority ~~or authority~~ means the police department; sheriff or such other authority as is vested with police authority for the City of Lafayette, the Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government.

Public property means:

- (1) Any street or highway which shall include the entire width between the boundary lines of every way publicly maintained for the purposes of vehicular traffic.
- (2) Any other publicly owned property or facility, including the waters of the parish and state.

Unlicensed means any motor vehicle which is not displaying a valid current license plate or a current vehicle safety inspection sticker as required by the laws of the State of Louisiana.

Sec. 34-32. - Territorial applicability.

The provisions of this article apply in both the unincorporated areas of the parish and the city.

Sec. 34-33. - Purpose and intent.

The Lafayette City Council and the Lafayette Parish Council ~~city-parish consolidated council~~ believes that a reasonable exercise of the police power of the LCPG should address issues of public safety, protection of economic values to properties and, in general, the maintenance of public peace and good order, safety, health, moral or general welfare. The ~~city-parish consolidated council~~ Lafayette City Council and the Lafayette Parish Council believes that an ordinance is necessary to establish revised regulations concerning nuisances, junked items and enclosures in order to promote the public interest in these areas and to impose reasonable and nondiscriminatory regulations concerning these subject matters. This article is intended to be a reasonable regulation of nuisances, junked items and enclosures which regulations will effectuate the public safety and protection of economic values to properties.

~~Sec. 34-34. - Judicial order of abatement.~~

- ~~(a) The LCPG may enforce the abatement of any violation of this article through the judicial process. If, within the specified delay, the notice to abate has not been complied with, the LCPG may file a petition for abatement in a court of competent jurisdiction to have the offending violation declared a public nuisance and to order its abatement. This proceeding shall be summary in nature and shall be directed against the owner of the premises, the occupant of the premises, if any, and, in the proper case, against any registered owner of the offending motor vehicle. A hearing on the matter shall be provoked by a rule to show cause why the requested~~

determination should not be made. Service of the rule to show cause shall be made in any manner provided by law.

- (b) ~~If evidence adduced at the hearing warrants the finding of a public nuisance, the judge shall declare it such and order its abatement forthwith. The judge shall also fix the reasonable cost of abatement, including, but not limited to, attorneys' fees incurred.~~
- (c) ~~Notice of the hearing shall constitute notice of any order rendered at such hearing or pursuant to such hearing and no further notice of the judicial order shall be required.~~
- (d) ~~The owner or occupant of the premises and/or the registered owner of the offending motor vehicle may appeal from the order of abatement by filing an appeal to the court of proper jurisdiction, setting forth the reasons why the decision or order of the lower court is improper and the issue shall be tried by preference, if possible, in the appellate court. The decision of lower court shall be final unless appealed within the time limit specified in the Louisiana Code of Civil Procedure.~~

Secs. 34-345—34-50. - Reserved.

DIVISION 2. - PROPERTY SCREENING

Sec. 34-51. — Reserved. ~~Effective date: notice to persons effected.~~

~~The provisions of this division shall become effective on December 1, 1998. Between December 1, 1997, and December 1, 1998, the director of the public works department shall inform all parties to be affected by the requirements of this division.~~

Sec. 34-52. - Variances.

For properties located in the City of Lafayette, Any variance or exception to any provision of this division must be approved by the vote of the Lafayette City-parish consolidated Council. For properties located in the unincorporated areas of Lafayette Parish, any variance or exception to any provision of this division must be approved by the vote of the Lafayette Parish Council.

Sec. 34-53. - Required screening.

No person shall store or offer for sale, commercially and/or for profit, any recyclable items, paper, iron and steel junk, rags or wreckage of motor-driven vehicles or automobiles or trucks, including parts and accessories thereof, and no person shall wreck or dismantle such items for commercial and/or for profit purposes on any open lot or parcel of ground that is not properly enclosed on all boundary lines, except where prohibited by law or regulation, which enclosure shall be by a substantial fence not less than seven feet or more than ten feet high and properly screening the enclosed area from public view. In such instances where a law or regulation prohibits the complete enclosure on all boundary lines, there shall be substantial compliance by making as much enclosure as possible of the lot or parcel of ground, except as prohibited by any law or regulation. Any decision as to whether or not the enclosure substantially complies shall be made by the director of the public works department and/or his designee. The fence shall be uniform in color and in height with all material, including posts and fencing, being of uniform height, color and construction. Such fence shall be wind resistant and able to withstand 100 mile per hour winds, constructed of a solid rigid material and completely nontransparent and of uniform color. The uniform color shall be any shade of beige, brown, black, dark green or gray. The color shall be approved by the director of the public works department or his designee prior to installation of the enclosures. Such areas or parcels of land, or premises, shall be enclosed with solid, nontransparent wall or fence. The fence or wall shall not contain any poster or advertising of any kind excepting one sign of the owner, lessee, operator or licensee of the premises on each street frontage not exceeding 100 square feet in size. The seven-foot minimum height requirement for fences shall not apply to those storage facilities which are in compliance with section 98-131 or any successor provisions in the City-Parish Consolidated Government Code.

Sec. 34-54. -- Notice to abate.

(a) -- When a nuisance violation of this division is found to exist, the director of the public works department shall order the owner of the property whereon such public nuisance exists to abate the same. This order shall:

- (1) -- Be in writing.
- (2) -- Be sent by certified mail and regular mail.
- (3) -- Specify the public nuisance and its location.
- (4) -- Specify the corrective measures required to gain compliance.

(b) -- The notice to abate will contain a specific description of the findings of the inspector. **Sec. 34-55. -- Authority of the director of the public works department to enter property.**

The director of the public works department is hereby authorized to enter property found to be in violation of this division, and to abate the violation, provided no such work shall be undertaken by the director until the owner of the lot, place or area or the owners of the property abutting the sidewalk or banquette shall have had the opportunity to do the work himself at least 30 days after notice has been given by advertisement in the official journal of the LCPG and by notice to the public on two consecutive days or at least 30 days after notice has been given to:

- (1) -- Such owner;
- (2) -- In such owner's absence from the city and parish, the agent of the leased or occupied premises; or
- (3) -- If the agent is not known, the occupant thereof. **Sec. 34-56. -- Liability for costs when LCPG does work; collection.**

The actual cost to the LCPG, including reasonable and required administrative charges of having work performed pursuant to the provisions of this division, is declared to be a charge, cost or expense of the property abutting the sidewalk or banquette, or of the lot, place or area, where such abatement has occurred. The costs and expenses shall be collected in the manner fixed for the collection of taxes and shall be subject to the same penalties for delinquencies. The director of the finance department shall demand of the owners of such property the payment of such charges, costs or expenses. After the abatement shall have been done by the director of the public works department, after due notice as provided in this division if the costs or expenses thereof shall not have been paid within 30 days after demand, the director of the finance department shall add the amount of the bill to the next tax bill of the owner. The director of the finance department shall also have recorded in the mortgage records of the parish an attested bill showing the cost and expense incurred for the work and the place or property on which the work was done, so as to establish for the LCPG a lien and privilege securing the payment by the property owner of the charges, costs and expenses and legal interest on such amounts from the date of recordation. **Sec. 34-57. -- Responsibility for violations by corporations.**

For the purpose of enforcing the provisions of this division, a corporation shall be deemed to be represented by its president, or in the absence of the president, by its vice-president, or in the absence of both, by the officer or individual in charge of the affairs of the corporation. Any such representative shall be held responsible and punished for any violation by the corporation of the provisions of this division. **Sec. 34-58. -- Responsibility for violations by firms.**

Each of the owners or partners of a partnership, joint venture or association shall be held individually responsible and punishable for any violation by the entity of the provisions of this division. ~~Sec. 34-59. — Charges when LCPG abates violation.~~

If the LCPG is forced to perform duties pursuant to the provisions of this division due to nonperformance by the property owner, the property owner shall be responsible for all costs and/or expenses incurred for the remediation of the violation, plus administrative charges not to exceed 50 percent of the contractor's charges shall be added to cover LCPG's expenses. ~~Sec. 34-60. — Collection of charges when LCPG abates violation.~~

The actual costs to the LCPG, including the reasonable and required administrative charges, and having work performed pursuant to the provisions of this division, is declared to be a charge, cost or expense of the property abutting the sidewalk or banquette, or of the lot, place or area, where such abatement has occurred. The costs and expenses shall be collected in the manner fixed for the collection of taxes and shall be subject to the same penalties for delinquencies. The director of the finance department shall demand of the owners of such property the payment of such charges, costs or expenses. After the abatement shall have been done by the director of the public works department, after due notice as provided in this division if the costs or expenses thereof shall not have been paid within 30 days after demand, the director of the finance department shall add the amount of the bill to the next tax bill of the owner. The director of the finance department shall also have recorded in the mortgage records of the parish an attested bill showing the cost and expense incurred for the work and the place or property on which the work was done, so as to establish for the LCPG a lien and privilege securing the payment by the property owner of the charges, costs and expenses and legal interest on such amounts after the date of recordation. ~~Secs. 34-5461—34-75. - Reserved.~~

DIVISION 3. - JUNKED VEHICLES OR ABANDONED VEHICLES

Sec. 34-76. - Declaration of public nuisance; prohibition.

The presence of any junked vehicle or abandoned vehicle within the City of Lafayette and the unincorporated areas of Lafayette Parish city-parish shall be deemed and is hereby declared a public nuisance. It shall be unlawful for any person to cause or maintain such a public nuisance by abandoning, wrecking, dismantling, partially dismantling, rendering inoperable, or discarding any vehicle on the real property of another or on public property, or to suffer, permit, or allow any junked vehicle and/or abandoned vehicle to be parked, left, or maintained on his own real property, provided that this section shall not apply to:

- (1) Any junked vehicle in an appropriate business, storage place, or depository, maintained at a location where such business, storage place, or depository is authorized by and is in compliance with under the Lafayette Unified Development Code (chapter 89 of this title) and other regulatory ordinances of LCPG.
- (2) Any vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

Sec. 34-77. — Custody of Abandoned Vehicles; Seizure, Sale, and Disposal of Junked Vehicle and/or Abandoned Vehicle Seizure.

(a) (a) — LCPG, through its authorized representative, may take into custody any abandoned vehicle found on public or private property. LCPG may employ its own personnel, equipment, and/or facilities, and/or may employ such other persons, equipment and/or facilities for the purpose of removing, preserving, and storing abandoned vehicles as it may determine necessary.

(b) ~~LCPG, through its duly authorized representative, may seize, sell, dispose of or otherwise hold any junked vehicle and/or abandoned vehicle which is found to be in violation of this division pursuant to any final order, judgment, or notice of judgment issued by a Hearing Officer as a result of enforcement proceedings conducted under Division 6 of this Article. At any time prior to the sale or disposition, the owner thereof shall be entitled to regain possession upon the furnishing of proof of satisfaction of all conditions and/or obligations imposed in any final order, judgment, or notice of judgment issued by a Hearing Officer as a result of enforcement proceedings conducted under Division 6 of this Article, payment of such costs as may be fixed by the policing authority for the violation. The costs so fixed shall cover all charges and expenses for removing the vehicle to the place of holding as well as all other costs, charges, and expenses, including, but not limited to, administrative costs of providing the requisite notice incurred during the period of holding.~~

(c) ~~Any junked vehicle and/or abandoned vehicle subject to seizure, removal, sale, and/or disposal under subsection (b) of this section shall be considered public property and may be disposed of by LCPG or its authorized representative. LCPG or its authorized representative is hereby authorized to dispose of any such vehicle by any of the following means, to-wit:~~

- ~~(1) By causing the vehicle to be delivered to a salvage or scrap facility and surrendered as scrap to any such facility willing to accept same;~~
- ~~(2) By contracting with one or more towing companies to provide that the towing company or companies shall remove the vehicle upon request of LCPG in return for being allowed to retain the value received from the sale of such vehicle; or~~
- ~~(3) Otherwise dispose of the vehicle using the most cost effective means possible, including payment of reasonable fees to any third party willing to accept the vehicle where no person is willing to purchase the vehicle or accept the same as scrap or salvage.~~

~~(b) LCPG, through its authorized representative, may take into custody any junked vehicle and/or abandoned vehicle found on public or private property. LCPG may employ its own personnel, equipment, and/or facilities, and/or may employ such other persons, equipment and/or facilities for the purpose of removing, preserving, and storing junked vehicles and/or abandoned vehicles as it may determine necessary.~~

Sec. 34-78. -- Notification of owners.

~~(a) Whenever any vehicle is determined to be a junked vehicle and/or an abandoned vehicle, LCPG, through its authorized representative, shall cause the following notice to issue:~~

- ~~(1) LCPG shall place a written notice on the vehicle itself;~~
 - ~~(2) LCPG shall deliver written notice to the owner of record of the property upon which the vehicle is located, either by hand delivery or by certified mail, return receipt requested;~~
 - ~~(3) If different from the owner of record, LCPG shall deliver written notice to the occupant of the property upon which the vehicle is located, either by hand delivery or by certified mail, return receipt requested; and~~
 - ~~(4) If known, LCPG shall deliver written notice to the owner of the vehicle, either by hand delivery or by certified mail, return receipt requested.~~
- ~~(b) If notice by certified mail is returned, refused, and/or unclaimed, notice shall be deemed to have been given.~~

~~(c) Each written notice issued pursuant to subsection (a) of this section shall state the following:~~

- ~~(1) The procedure by which one may request a hearing before the chief administrative officer pursuant to section 34-80 of this title;~~

(2) — That, if the junked vehicle is not removed within 15 calendar days of the date of the notice and no timely request for a hearing is made, LCPG may remove and dispose of the vehicle pursuant to section 34-81 or 34-82;

(3) — That, in lieu of removal of the vehicle pursuant to section 34-81 or 34-82, the owner or occupant of the property upon which the vehicle is located and/or the owner of the vehicle may, within 15 calendar days of the date of the notice, remit to LCPG a sum equal to the total of all costs, expenses, and charges for towing the vehicle and all administrative costs associated therewith, including, but not limited to, costs of providing the requisite notice, together with a written letter of authority authorizing LCPG to remove and dispose of the vehicle;

(d) — When notified as set forth herein, the owner and/or occupant of the premises upon which the vehicle is located shall be jointly and severally liable with the owner of the vehicle.

Sec. 34-79. — Failure to remove upon a notification.

(a) — If the vehicle is not removed within 15 calendar days of the date of the notice or authority and no timely request for a hearing pursuant to section 34-80 is made the vehicle may be removed and disposed of by LCPG in accordance with section 34-81 or 34-82 of this title, as applicable. In such event, LCPG shall be entitled to recover any and all costs, charges, and expenses incurred by LCPG for the removal, storage, and/or disposal of the vehicle and for all administrative costs associated therewith, including, but not limited to, costs of providing the requisite notice. In the event the owner of the premises upon which the vehicle is located is to be taxed for such costs, charges, and expenses, the same may be represented and secured by a lien filed in the public records of the Lafayette Parish Clerk of Court attesting to the costs, charges and expenses incurred. Such lien shall be recoverable and may be enforced in the same manner and by the same procedure set forth at section 97-31 of this title, relative to weeds and noxious growths.

(b) — In lieu of removal of the vehicle pursuant to section 34-81 or 34-82, the owner or occupant of the property upon which the vehicle is located and/or the owner of the vehicle may, within 15 calendar days of the date of the notice, remit to LCPG a sum equal to the sum of all costs, charges, and expenses of towing the vehicle and all administrative costs associated therewith, including, but not limited to, costs of providing the requisite notice, together with a written letter of authority authorizing LCPG to remove and dispose of the vehicle. The letter of authority shall be in the form provided by LCPG. In the event that anyone other than the person determined to be the owner of the vehicle grants authority for removal thereof and pays the required fees, costs, charges, and expenses, then, in order to permit the owner of the vehicle the opportunity to remove the vehicle himself, LCPG shall not remove the vehicle until the elapse of 15 days from the date of the notice.

Sec. 34-80. — Hearing.

(a) — The owner of the junked vehicle and/or abandoned vehicle, the owner of the premises upon which such vehicle is located, and/or the occupant of the premises upon which such vehicle is located may, within 15 days of the date of the notice, request, in writing, a hearing to contest the determination made by LCPG. Such written request shall be directed to the Development and Planning Department, Attn: Alcohol and Noise Control, 220 W. Willow Street, Building D, Lafayette, Louisiana 70504, and must be received by the Development and Planning Department within 15 days of the date of the notice if delivered by hand delivery, or postmarked within 15 days of the date of notice if sent by mail.

(b) — The hearing shall be conducted by the chief administrative officer or his designee, who shall serve as hearing officer.

(c) — The hearing shall be held within a reasonable time after receipt of the written request for a hearing, and the person requesting the hearing shall be notified in writing of the time and place of the hearing at least five days in advance thereof. At the hearing, LCPG or the person requesting the hearing may introduce such testimony or other evidence as is deemed necessary.

(d) — Any person determined to be in violation of this division by a final order of the hearing officer may appeal such determination to the District Court for the Parish of Lafayette. The appeal shall be instituted by filing, within 30 days of the date of the order, a petition with the clerk of the district court along with payment of such reasonable costs as may be required by the clerk of court for the same.

Sec. 34-81. — Sale by LCPG of abandoned vehicle which does not qualify as junked vehicle; procedure.

Whenever any vehicle which does not qualify as a junked vehicle has been seized or is otherwise held by LCPG after having been removed from public or private property, and the same has not been claimed for a period of three months, then, in such case, the vehicle shall be considered as having been abandoned to the LCPG and, as such, LCPG may dispose of the vehicle and collect all costs, charges and expenses of removing, storing and disposing of the vehicle and all administrative costs associated therewith, including, but not limited to, costs of providing the requisite notice, in the following manner:

(1) — Within ten days after the seizure of the vehicle, LCPG shall notify the owner of the vehicle: (i) that LCPG is holding the vehicle, (ii) of the location of the vehicle, and (iii) that the vehicle will be sold to the highest bidder as of a date stated therein, unless the owner claims the vehicle and pays to LCPG all costs, charges, and expenses incurred for the removal, storage and detention of the vehicle prior to the date of the sale. Any such notice shall be mailed via certified mail, return receipt requested, to the last known address of the owner of the vehicle. A second letter shall be sent after the elapse of three months from the date of seizure. A copy of both letters shall be sent to any person known to be the holder of a security interest in the vehicle.

(2) — Before any seized vehicle is sold, LCPG shall cause the vehicle to be appraised by a competent appraiser and shall publish a notice of the sale of the vehicle in the official journal of LCPG not less than three times within the ten-day period immediately preceding the sale. Such notice shall include the following information: (i) a description of each vehicle to be sold at the sale; (ii) the date and place of the sale; and (iii) that LCPG may sell the vehicles individually or in globe, at the discretion of LCPG, to the highest bidder therefor.

(3) — LCPG shall deduct from the proceeds of the sale of a vehicle under this division the amount necessary to pay all costs, charges, and expenses of the removal, detention, storage, and/or disposal of the vehicle. Any remaining funds shall be placed in an account specifically established by LCPG for the same. If, within one year of the date of the sale of a vehicle, the owner thereof presents sufficient proof of ownership, as determined by LCPG, he shall be entitled to the amount received by LCPG from the sale of the vehicle, less all costs, charges, and expenses of the sale and any sum due LCPG arising from the removal, storage, detention, and/or disposal of the vehicle and all administrative costs associated therewith, including, but not limited to, costs of providing the requisite notice. Similarly, if, within one year of the date of the sale of a vehicle, the holder of a lien with respect thereto presents to LCPG sufficient proof of such lien, as determined by LCPG, he shall be entitled to recover any proceeds from the sale remaining after the deduction of all costs, charges, and expenses of the sale and any sum due LCPG arising from the removal, storage, detention, and/or disposal of the vehicle and all administrative costs associated therewith; provided, however, that a lienholder shall not be entitled to recover an amount greater than the sum secured by the lien.

Sec. 34-82. — Sale or other disposal by LCPG of junked vehicles.

(a) — Any junked vehicle, as defined in this chapter, may be removed and disposed of after the elapse of 15 days from the date of the written notice required under section 34-78 of this title, provided that no timely request for a hearing is made in accordance with section 34-80 of this title. Further provided, if a hearing has been requested and it is determined at such hearing that the junked vehicle is a public nuisance, the junked vehicle shall not be removed and disposed of until all appeals have been exhausted and/or all applicable appeal delays have expired.

(b) — Any junked vehicle subject to removal and disposal under subsection (a) of this section shall be considered public property and shall be disposed of by the Lafayette

Police Department, if located within the City of Lafayette, or by the Lafayette Parish Sheriff's Office, if located within an incorporated Parish of Lafayette. The Lafayette Police Department and Lafayette Parish Sheriff's Office are hereby authorized to dispose of any such vehicle by any of the following means, to-wit:

- (1) By causing the junked vehicle to be delivered to a salvage or scrap facility and surrendered as scrap to any such facility willing to accept same;
- (2) By contracting with one or more towing companies to provide that the towing company or companies shall remove the junked vehicle upon request of LCPG in return for being allowed to retain the value received from the sale of such junked vehicle; or
- (3) Otherwise dispose of the junked vehicle using the most cost-effective means possible, including payment of reasonable fees to any third party willing to accept the junked vehicle where no person is willing to purchase the junked vehicle or accept the same as scrap or salvage.

Sec. 34-83. - Criminal liability for noncompliance with removal order.

Any person who fails to comply with a notice delivered in accordance with this Division shall be guilty of a misdemeanor and shall be subject to a fine of up to \$500.00 or a prison term of up to six months, or both, for each violation. The LCPG representative issuing the notice to remove a junked vehicle and/or abandoned vehicle is authorized to coordinate such efforts with the appropriate law enforcement agency and, in conjunction therewith, shall be entitled, with said law enforcement agency, to issue a misdemeanor summons for any violation of this section.

Secs. 34-784—34-90. - Reserved.

DIVISION 4. - OTHER NUISANCES

Sec. 34-91. - Prohibited.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance or junked items other than motor vehicles as defined in section 34-31.

Sec. 34-92. - Notice to abate.

- (a) When a nuisance is found to exist, the public works director shall order the owner of the property on which the public nuisance exists to abate and/or remove the same. This order shall:
 - (1) Be in writing.
 - (2) Be sent by regular mail.
 - (3) Specify the public nuisance and its location.
 - (4) Specify the corrective measures required to gain compliance.
- (b) The notice to abate will contain a specific description of the findings of the inspector.

Sec. 34-93. - Authority of the public works director to enter property.

The public works director is hereby authorized to enter property found to be in violation of this division, and to abate the violation, provided no such work shall be undertaken by the public works director until the owner of the lot, place or area or the owners of the property abutting the sidewalk or banquette shall have had the opportunity to do the work at least ten days after notice has been given by advertisement in the official journal of the city/parish consolidated government, or by notice to the public on two consecutive days or at least ten days after notice has been given to:

- (1) Such owner;
- (2) In such owner's absence from the city and parish, the agent of the leased or occupied premises; or

(3) — If the agent is not known, the occupant thereof.

~~Sec. 34-94. — Liability for charges, costs, and expenses when city-parish consolidated government does work: collection.~~

~~The actual costs to the city-parish consolidated government, including all authorized charges and expenses, for having work performed pursuant to the provisions of this division, is declared to be a charge, cost or expense of the property abutting the sidewalk or banquette, or of the lot, place or area, where such abatement has occurred. The charges, costs and expenses shall be collected in the manner fixed for the collection of taxes and shall be subject to the same penalties for delinquencies. The public works director shall demand of the owners of such property the payment of such charges, costs or expenses. After the abatement shall have been done by the public works director after due notice as provided in this division, if the charges, costs or expenses thereof shall not have been paid within 30 days after demand, the chief financial officer shall add the amount of the bill to the next tax bill of the owner. The chief financial officer shall also have recorded in the mortgage records of the parish an attested bill showing the cost and expense incurred for the work and the place or property on which the work was done, so as to establish for the city-parish consolidated government a lien and privilege securing the payment by the property owner of the charges, costs and expenses and legal interest on such amounts from the date of recordation.~~

Secs. 34-92—34-94. - Reserved.

Sec. 34-95. - Responsibility for violations by corporations.

For the purpose of enforcing the provisions of this division, a corporation shall be deemed to be represented by its president, or in the president's absence, by its vice-president, or in the absence of both, by the officer or individual in charge of the affairs of the corporation. Any such representative shall be held responsible and punished for any violation by the corporation of the provisions of this division.

Sec. 34-96. - Responsibility for violations by firms.

Each of the owners or partners of a partnership, limited liability company, joint venture or association shall be held individually responsible and punishable for any violation by the entity of the provisions of this division.

~~Sec. 34-97. — Reserved.Charges when LCPC abates violation.~~

~~If the city-parish consolidated government undertakes to perform these duties due to the non-performance of the owner of the private property, the owner of the private property shall be responsible for all costs and/or expenses incurred for the remediation of the violation. Administrative charges not to exceed 50 percent of the contractor's charges shall be added to cover the city-parish consolidated government's expenses.~~

Sec. 34-98. - City-parish consolidated government immune from liability, additional penalty for stagnant waters.

- (a) If the city-parish consolidated government undertakes to abate the accumulation of stagnant waters due to the nonperformance of the owner of the private property, the city-parish consolidated government and its officers, agents, employees, contractors or other representatives shall be immune from any and all liability for all actions taken in an effort to remediate the violation.
- (b) In addition to the costs and expenses outlined in section 34-204, in cases where the city-parish consolidated government undertakes to abate the accumulation of stagnant waters, an additional penalty of \$125.00 shall be assessed against the owner of the private property.

Secs. 34-99—34-199. - Reserved.

DIVISION 5. - LITTER ABATEMENT

Sec. 34-200. - Simple littering prohibited; civil penalties; disbursement of costs.

- (a) No person shall dispose or permit the disposal of litter upon any public property or private property located within the areas of the parish, or in or on the waters of the parish, whether from a motor vehicle or otherwise, including, but not limited to any public rights-of-way, public park, campground, forest land, recreational area, trailer park, street, the premises of any public, local, state or federal agency or political subdivision, 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. The term "permit" as used in this section is synonymous with the inference referenced in subsections (d) and (d)(1) herein. For purposes of this division, "motor vehicle:" shall have the meaning ascribed to it in La. R.S. 32:1.
- (b) No person shall operate a boat or motor vehicle on any public or private property 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.
- (d) If the litter disposed of is from a motor vehicle, except a bus or large passenger vehicle or a school bus, all as defined by La. R.S. 32:1, there shall be an inference that the driver of the motor vehicle disposed of the litter unless the driver can prove that another person disposed of the litter in accordance with the following:
 - (1) Except as provided in subsection (d)(2) of this section, when the identity of the driver of the motor vehicle is not known, there shall be an inference that the owner of the motor vehicle was the driver of the motor vehicle and the owner shall be solely liable for litter fines, fees and costs for the disposal of litter from the motor vehicle, unless the owner can prove that the motor vehicle was operated by another person at the time of the violation or that another person disposed of the litter.
 - (2) An owner of a motor vehicle who is engaged in the business of renting or leasing motor vehicles under written rental or leasing agreements (lessor) shall not be liable for litter fines, fees or costs pursuant to subsection (d)(1) of this section if, within 30 days after receiving the citation, the owner provides, in affidavit form, the true name, address, and driver's license number with the state of issuance of the lessee at the time of the offense described in the citation, or provides a true copy of the lease or rental agreement to the law enforcement agency issuing the citation.
 - (3) If the lessor complies with the above provision of subsection (d)(2) of this section, the lessee shall be cited for the litter violation.
 - (4) A lessor who fails to comply with the provisions of subsection (d)(2) of this section shall be treated as any other owner and shall be solely liable for litter fines, fees and costs for the disposal of litter from the motor vehicle.
 - (5) If an owner of a motor vehicle receives a citation during the period where the motor vehicle was reported to the police department as having been stolen, such citation shall be dismissed by the prosecutor.
 - (6) An owner or driver who pays litter fines, fees or costs pursuant to subsection (d) of this section shall have the right to recover same from the

person who committed the act of littering by filing a civil suit outside the regulations contained in this division.

- (e) When litter disposed in violation of this section is discovered to contain any article or articles, 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.
- (f) Whoever violates the provisions of this section shall be cited by means of a citation, summons, or other means provided by law and shall be subject to the following fines, fees and costs:
 - (1) For a first violation, the offender shall be assessed a \$75.00 fine or shall be given the opportunity to perform up to eight hours of community service in a court-approved litter abatement work program in lieu of the \$75.00 fine. The offender shall also be assessed a \$15.00 administrative fee if the offender chooses to mail in the assessed fine. The offender shall also have the option of requesting a hearing and paying special court costs under subsection (g)(3) of this section.
 - (2) For a second and each subsequent violation, the offender shall be assessed a \$500.00 fine or shall be given the opportunity to perform up to 16 hours of community service in a court-approved litter abatement work program in lieu of the \$500.00 fine. For a second and each subsequent violation, it shall be mandatory that the alleged offender appear in the court exercising jurisdiction; there shall be no option of mailing in the assessed fine.
 - (3) For each violation, if a hearing is requested or required, the offender shall pay special court costs of \$100.00 which shall be disbursed and payable as set forth in section 34-205 of the Code. Court costs shall be paid whether the offender is assessed a fine or performs community service.
- (g) A person may be found 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 exercising jurisdiction establishes that the defendant has committed the offense.
- (h) For the purposes of this section, each occurrence involving a distinct and identifiable item of litter shall constitute a separate violation.
- (i) In addition to penalties otherwise provided, a person held liable 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.
- (j) *Exception.* Notwithstanding any provision to the contrary, this section shall not apply to any activity by persons owning or operating duly licensed commercial vehicles engaged in the collection and transportation of solid waste, construction, or demolition debris or wood waste, in the course of servicing scheduled pickup routes or en route to an authorized pickup station, transfer station, or disposal facility. To qualify for the exemption provided for in this subsection, the commercial vehicle shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the waste, prevents waste from falling or blowing from the vehicle, and ensures that leachate from the waste is not discharged from the vehicle during transportation.

Sec. 34-200.1. - Commercial littering prohibited; civil penalties; indemnification; 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 property or private property located within the parish, or in or on the waters of the parish, whether from a motor vehicle or otherwise, including, but not limited to any public rights-of-way, public park, campground, forest land, recreational area, trailer park, street, the premises of any public, local, state or federal agency or political subdivision, 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. The term "permit" as used in this section is synonymous with the inference referenced in subsection (c) herein. For purposes of this division, "motor vehicle" shall have the meaning ascribed to it in La. R.S. 32:1.
- (b) No person shall operate any truck or other vehicle on any public street or highway located within the parish 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) (1) If the litter 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 a permissive rebuttable presumption that the possessor committed the act of disposing.
- (2) When litter disposed in violation of this section is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings, which display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be a permissive rebuttable presumption that such person has violated this section.
- (d) 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.
- (e) The person shall be cited for the offense by means of a citation, summons, or other means provided by law.
- (f) Any person found liable under the provisions of this section shall:
 - (1) Pay a civil penalty of \$100.00. The offending person may mail in the fine for the first violation if such person so chooses. The offending person shall also be assessed a \$15.00 administrative fee if the offending person chooses to mail in the assessed fine for the first violation. For a second and each subsequent violation, it shall be mandatory that the alleged offending person appear in the court exercising jurisdiction; there shall be no option of mailing in the assessed fine.
 - (2) Repair or restore property damaged by or pay damages for any damage 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.
- (g) Any person found liable under the provisions of this section shall pay special court costs of \$50.00 in lieu of other costs of court which shall be disbursed and payable as set forth in section 34-205 of the Code.
- (h) 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.

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

Sec. 34-201. - Community service litter abatement work program and indemnification.

- (a) A "Court approved community service litter abatement program" currently exists in Lafayette Parish, through the city-parish consolidated government.
- (b) Any person who participates in the city-parish consolidated government community service litter abatement work program shall have no cause of action for damages against the city-parish consolidated government or the entity conducting the program or supervising his participation therein, nor against any employee or agent of the city-parish consolidated government or such entity, for any injury or loss suffered by him during or arising out of his participation in the program, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the city-parish consolidated government or entity or its employee or agent. Neither the city-parish consolidated government nor the entity shall be liable for any injury caused by the individual participating in the program unless the gross negligence or intentional act of the city-parish consolidated government or the entity or their employee or agent was a substantial factor in causing the injury. No provision hereof shall negate the requirement to provide an offender with necessary medical treatment as statutorily required.

Sec. 34-202. - Legal enforcement; penalties; payment by mail.

- (a) Alleged first time offenders may plead guilty and pay the applicable fine and associated fee by mail; however, if the offender fails to pay the fine and associated fee by mail in advance of adjudication and fails to appear at the time and date indicated on the citation for the litter violation hearing, the court exercising jurisdiction may impose an additional fine or penalty in an amount not to exceed the amount of the fine or penalty for the original violation.
- (b) Whenever an alleged offender fails to pay the applicable fine and associated fee or fails to appear before the judicial officer at the place and time specified in a citation or summons, the judicial officer of the court exercising jurisdiction shall immediately notify the alleged offender by certified mail that:
 - (1) The judicial officer has taken judicial notice of his failure to appear at the hearing on the date and time listed on the citation or summons and has found him in contempt of court and his failure to appear shall subject him to additional penalties, fines or time in jail.
 - (2) The failure to pay all outstanding fines and fees within 15 days from receipt of the notice shall subject him to another finding of contempt of court and subject him to additional penalties, fines or time in jail.

Sec. 34-203. - Citations; unlawful acts; records; failure to pay or appear; procedures.

- (a) Whenever any person has allegedly violated any provision of this division in the presence of a law enforcement officer, the law enforcement officer shall take the person's name, address, and driver's license number, and if the violation occurs from a motor vehicle, the license number of the motor vehicle, and if the violation occurs from a boat, the Louisiana Registered Boat Number, and shall issue a citation or summons or otherwise notify the offender in

writing that he must appear in court at a time and place to be specified in such citation or summons.

- (b) Whenever any person has allegedly violated any provision of this division in the presence of any other individual, that individual shall take, if possible, the location of the incident, the type of litter, and if applicable, the vehicle license plate number, the vehicle color and body type, the vehicle year, make and model, any other vehicle identifier, and shall submit said information to a law enforcement officer, justice of the peace, or constable. If the law enforcement officer, justice of the peace or constable has reasonable grounds to believe a person has committed an offense of littering under any provision of this division, the law enforcement officer, justice of the peace or constable shall issue a citation or summons or otherwise notify the offender in writing that he must appear in court at a time and place to be specified in such citation or summons.
- (c) If applicable, the citation or summons shall indicate that the alleged violator may admit liability and, in lieu of appearing in court, make the payment of the applicable fines, penalties, and costs to the appropriate court or agency by mail. The law enforcement officer shall provide, in writing, the date by which the payment must be received and the name and phone number of the court or agency having jurisdiction over the alleged offense. The citation or summons shall state the amounts of the applicable fines, penalties, and costs, payable to the appropriate agency.
- (d) Each law enforcement officer upon issuing a citation or summons to an alleged violator of any provision of this division shall deposit the original citation or summons or a copy of the same with a court having jurisdiction over the alleged offense.
- (e) Upon the deposit of the original citation or summons, or a copy of the same with a court having jurisdiction over the alleged offense, the original citation or summons or a copy of the same shall be disposed of only by trial in a court of proper jurisdiction or any other official action by a judge of the court, including payment of the appropriate fines, penalties, and costs to that court by the person to whom such citation or summons has been issued.
- (f) It shall be unlawful for any law enforcement officer or any other officer or public employee to dispose of a litter citation or summons or copies thereof or of the record of the issuance of the citation or summons in a manner other than as required herein.
- (g) The chief administrative officer of each law enforcement agency in the parish shall require all officers under his supervision to return to him a copy of every litter citation or summons which was issued by the officer for the violation of a litter law or ordinance, and in addition shall require the return of all copies of every litter citation or summons which has been spoiled or upon which an entry has been made without having issued the citation or summons to the alleged offender.
- (h) The chief administrative officer shall also maintain or cause to be maintained in connection with every litter citation or summons issued by an officer under his supervision a record of the disposition of the charge by the court in which the original or a copy of the litter citation or summons was deposited.
- (i) Nothing herein shall be construed as prohibiting or interfering with the authority of a district attorney or other prosecuting attorney to dismiss a litter citation or summons or litter charge by entry of a nolle prosequi.

Sec. 34-204. - Jurisdiction and procedure—Justice of the peace; constable; city court; district court; summary proceeding.

- (a) A litter violation may be brought in any justice of the peace court or Lafayette City Court which has jurisdiction over such matter. Lafayette District Court shall have concurrent jurisdiction with any justice of the peace court or

Lafayette City Court over all litter violations. In addition, a constable may issue summons and serve subpoenas anywhere in the parish all in accordance with La. R.S. 13:2586. When the justice of the peace exercises his jurisdiction to adjudicate litter violations, prosecution of such litter violations shall be in accordance with La. R.S. 13:2587.1.

- (b) An action brought pursuant to this division shall be tried as a summary proceeding pursuant to La. C.C.P. art. 2591 et seq.
- (c) A justice of the peace who hears a matter involving a litter violation shall be compensated for time spent handling such matters, as follows:
 - (1) A justice of the peace shall be paid \$100.00 for each justice court session held for the purpose of hearing violations of this division.
 - (2) In addition to the fee paid under subsection (c)(1) of this section, a justice of the peace shall be paid \$10.00 for each litter violation case heard, regardless of the outcome of the hearing.
- (d) A constable shall be paid \$25.00 for each citation or summons issued pursuant to sections 34-200 and 34-200.1.

Sec. 34-205. - Distribution of special costs; establishment of a litter control section.

All special court costs, shall be collected and distributed, as follows:

- (1) Twenty-five percent shall be payable to the law enforcement agency issuing the citation, if such agency issues the citation; otherwise, 25 percent shall be payable to the public works department, environmental quality division for the litter program as described in subsection (4).
- (2) (a) Twenty-five percent shall be payable to the sheriff of the parish, the parish governing authority, or the municipality where the violation occurred.
 - (b) However, when the law is enforced by a justice of the peace court, then 25 percent shall be payable to the parish governing authority for reimbursement of expenses incurred by the justice of the peace court and for payment for time spent by such justice of the peace for handling such matters in accordance with subsection 34-204(c) of the Code.
- (3) Twenty-five percent shall be payable to the office of the district attorney or if prosecuted in a justice of the peace court or city court, then to the parish governing authority for reimbursement of expenses incurred by the constable and for payment for time spent by such constable for handling such matters in accordance with subsection 34-204(d) of the Code or to the municipality for expenses incurred by the municipality or the time and expenses incurred by the municipal prosecuting attorney, as the case may be.
- (4) Twenty-five percent shall be payable to the public works department, environmental quality division for the purpose of encouraging, organizing, and coordinating volunteer local anti-littering campaigns, to pay expenses for litter clean up, collection, enforcement, prosecution, education and prevention, and to purchase and operate equipment in connection therewith.

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Secs. 34-206—34-230.—Reserved. DIVISION 6. — Violations

Sec. 34-206. - Enforcement of Violations; Administrative Adjudication; Penalties

1. Applicability.

- A. This Section applies to any Violation of Divisions 1 through 4 of this Article in the City of Lafayette and the unincorporated areas of Lafayette Parish.
- B. The provisions of this Section shall be retroactive and shall apply to any Violation(s) of Divisions 1 through 4 this Article in existence as of the adoption of this Section and any occurring thereafter, regardless of whether said Violation(s) initially occurred prior to the adoption of this Article.

2. Definitions.

In addition to the definitions contained in Section 34-31, the following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning.

Violation means a civil violation, related, but not limited to, any act, omission, condition, failure to act, and/or any non-compliance with or of any provision of Divisions 1 through 4 of this Article.

Order, judgment or notice of judgment means an administrative act of the hearing officer.

Unoccupied means having no legal occupant(s), vacant.

Violator means person(s), natural or juridical, who has been found liable for a Violation and/or ordered to abate or correct a Violation in an Order issued under this Section.

3. Authorization.

The City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, through one or more of its appropriate departments, agencies, agents, employees, contractors and/or representatives, shall be authorized to and may enforce any Violation(s) of Divisions 1 through 4 of this Article against all alleged Violators pursuant to the procedures for administrative adjudication established in this Section.

4. Appointment of Hearing Officer.

- A. Administrative adjudication proceedings under this Section shall be conducted before hearing officers who have been licensed to practice law in Louisiana for at least two years.
- B. Hearing officers shall be appointed by the Mayor-President, and shall serve at the pleasure of the Mayor-President.
- C. Hearing officers shall be sworn before the City-Parish Attorney to uphold the Constitution, the laws and Constitution of the State of Louisiana, the Lafayette City-Parish Charter, and Ordinances of the City of Lafayette, Parish of Lafayette, and the Lafayette City-Parish Consolidated Government, and to abide by the provisions of the Louisiana Code of Governmental Ethics.

5. Authority of Hearing Officer.

Hearing officers who have been appointed and sworn in accordance with this Section shall have the authority to hear and decide any and all Violations.

6. Powers of a Hearing Officer.

The hearing officer shall have the power to:

- A. Administer oaths and affirmations.
- B. Issue orders compelling the attendance of witnesses, respondents, alleged violators, and Violators, and the production of documents.
- C. Determine whether or not an alleged violator is liable for Violations.
- D. Levy fees, costs, and monetary penalties.
- E. Order Violators to correct Violations within a stipulated time.
- F. 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.
- G. Record orders, judgments, notices of judgments, or liens in the mortgage records of the Lafayette Parish Clerk of Court's Office.

7. Procedure for Hearing.

- A. Whenever LCG determines that a Violation exists, a notice of violation(s) shall be provided to the alleged violator(s).
- B. A notice of violation(s) shall:
 - i. Be in writing;
 - ii. Provide the municipal address of: (a) the cited property; and/or (b) the property upon which the nuisance(s) exist(s);
 - iii. Provide the date of the inspection(s);
 - iv. Provide description of alleged Violation(s);
 - v. Provide the mailing address and telephone number of the appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s);
 - vi. Provide the time, date and location of the administrative hearing whereby the alleged Violation(s) shall be adjudicated;
 - vii. Provide notice that the failure to appear at the hearing shall be considered an admission of liability for the alleged 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).
- C. Prior to holding an administrative hearing pursuant to this Section, the alleged violator(s) shall be notified at least 15 days (inclusive of legal holidays) in advance of the date that such a hearing is scheduled. Notice shall be personally served or sent to the alleged violator(s) by certified or registered U.S. Mail at the municipal address listed in the Lafayette Parish Tax Assessor's Office of the property where the violation(s) exist(s) and/or, if applicable and reasonably determinable, the registered address of the Owner(s) and/or custodian(s) of the property creating the nuisance(s). 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.

- D. In addition to the service provided in subsection C, 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 days in advance of the date of the hearing. It shall be unlawful for any person other than an agent of LCG to remove a notice posted on the public right-of-way prior to the commencement of the hearing.
- E. Any person charged with Violation(s) 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 appropriate department(s), division(s), and/or component(s) of LCG enforcing the 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 based solely upon submitted documentary evidence.
- F. Any order compelling the attendance of witnesses or the production of documents may be enforced by the Lafayette City Court or by any other court of competent jurisdiction.
- G. Any administrative adjudication hearing held under the provisions of this Section 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.
- H. The hearing officer shall issue a final order, judgment, or notice of judgment within 30 days of the hearing, excluding legal holidays. A copy of the final order, judgment, or notice of judgment shall be personally served or sent to the Violator(s) in the manner set forth in subsection C within 14 days of issuance. Any notification so sent and returned by the U.S. Post Office shall be considered as having fulfilled the notification requirement. Notwithstanding the foregoing, the Violator or his/her representative may enter into the record of the hearing (either orally or in writing) an alternate mailing or electronic address for the purposes of receipt of any notice herein. 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 for 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 LCG may act to abate Violation(s) if the Violator fails to act in accordance with the order, judgment, or notice of judgment, where applicable.
- l. LCG may enforce any order, judgment, or notice of judgment assessing fees, costs, and penalties, and/or stipulating a required correction, repair, or abatement measure.

8. Penalties.

- A. Any person, firm or corporation violating any provision of Divisions 1 through 4 of this Article is subject to a fine of not more than \$500.00 for each offense.
- B. After due notice of the final order, judgment, or notice of judgment has been provided pursuant to 34-206(7)(H), each day that Violation(s) continue(s), after the time for compliance, if any, has expired, shall be deemed a separate offense.
- C. A schedule of monetary penalties may be established by ordinance providing penalty amounts, consistent with 34-206(8)(A), for specific Violation(s).

9. Authority of LCG to enter property to abate violation; abandonment and disposal of property; immunity from liability.

- A. Pursuant to any final order, judgment, or notice of judgment issued by a Hearing Officer as a result of enforcement proceedings conducted under Division 6 of this Article, the City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, through one or more of its appropriate departments, agencies, agents, employees, contractors and/or representatives, are hereby authorized to enter property found to be in violation of this Article to abate the Violation(s).
- B. Whenever a Violator fails or refuses to timely comply with any ordered abatement contained within any final order, judgment, or notice of judgment issued by a Hearing Officer and fails to appeal therefrom within the legal delays provided herein, and such abatement requires the removal of movable property, then, in such case:
 - i. The Violator's failure or refusal to comply shall constitute, without further notice being required, an abandonment of said movable property; and
 - ii. The City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, through one or more of its appropriate departments, agencies, agents, employees, contractors and/or representatives, may dispose of said movable property.
- C. The City of Lafayette, Parish of Lafayette, and/or the Lafayette City-Parish Consolidated Government, including its departments, agencies, agents, employees, contractors and/or representatives shall be immune from any and all liability for all actions taken in an effort to remediate the Violation(s).

10. Costs.

- A. Costs and expenses that may be recovered and enforced against a Violator under Divisions 1 through 4 of this Article include, but are not limited to:

- i. LCG's direct cost for abatement;
 - ii. Costs of salary and all applicable overhead of LCG staff and contract personnel involved in the investigation, enforcement, and/or remediation or abatement of a violation;
 - iii. Costs for equipment use or rental;
 - iv. Attorney's fees;
 - v. Hearing and/or court costs including, but not limited to, hearing officer and witness fees;
 - vi. Costs of engineering and other technical services and studies as may be required;
 - vii. Costs of monitoring programs necessary for correcting, monitoring, abating or mitigating violations;
 - viii. Any other fee, cost, or expense reasonably and rationally related to LCG's enforcement action(s) to bring violation(s) into compliance or to abate and/or correct a violation of local, state or federal law.
- B. In addition to any costs assessed in any order, judgment, or notice of judgment, at any point in the enforcement process after the time for compliance has expired, or following the conclusion of the LCG's enforcement/abatement action(s), the appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s) may notify, in the manner provided for in 34-206(7)(C), the Violator of the proposed full cost recovery that was the subject of enforcement/abatement action. Any notification so sent and returned by the U.S. Post Office shall be considered as having fulfilled the notification requirement. The notice of cost recovery issued must provide an itemized list of costs incurred by LCG, and contain a date not less than 30 days from the date of notice (date personally served, date mailed, or date e-mailed) providing a hearing with a hearing officer to appeal the accuracy and reasonableness of the costs.
- C. In the event full payment is not received within 30 days of the notice of cost recovery, then following any appeal hearing upholding all or part of the costs, LCG may lien the property that was subject to the enforcement/abatement action for all applicable costs by recording the notice of cost recovery or administrative hearing order, judgment, or notice of judgment affirming appropriate costs in the mortgage and/or UCC records of the Lafayette Parish Clerk of Court's Office.

11. Liens.

- A. LCG 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 LCG and described in the order, judgment, or notice of judgment and the notice of cost recovery. The recordation of the order, judgment, or notice of judgment and the notice of cost recovery 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 Section shall be included in the next annual ad valorem tax bill.

B. LCG, upon recordation of the order, judgment, notice of judgment, notice of cost recovery, or lien, 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 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.

C. In order for the lien and privilege to arise, the order, judgment, notice of judgment, notice of cost recovery, or lien shall be final and not subject to appeal when recorded in the mortgage office.

D. Any monies collected pursuant to this Section shall first satisfy all outstanding liens recorded against an immovable property and only when all outstanding liens are satisfied in full shall monies be applied towards an immovable property's ad valorem taxes.

12. Enforcement of liens--Additional requirements.

A. Upon LCG instituting legal proceedings to obtain a writ to cause the seizure and sale of a property with outstanding liens, pursuant to subsection 11(B)(i), the property shall also be unoccupied.

B. 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.

13. Appeal.

Any person determined by the hearing officer to be liable for a Violation may appeal the determination to the Fifteenth Judicial District Court for the Parish of Lafayette. Such appeal shall be instituted by filing, within 30 calendar days of notice of the hearing officer's order, judgment, or notice of judgment, a petition with the Fifteenth Judicial District Clerk of 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 order, judgment, or notice of judgment unless the person who files the appeal furnishes security prior to the service of notice of appeal with the appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s) 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), monetary penalty/penalties, cost(s) of the hearing, and cost(s), if any, of correcting the Violation(s).

14. Remedies not exclusive.

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

15. Recordkeeping.

A. At its commencement by notice of violation, every adjudication proceeding shall be assigned a docket number and a style in the form of "LCG versus" followed by the name of the alleged violator(s). The records pertaining to each proceeding shall be maintained as a separate file.

B. Each department(s), division(s), and/or component(s) of LCG enforcing a Violation(s) within the scope of this Section shall, with the advice of the Lafayette City-Parish Attorney, or his/her designee, 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 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, judgment or notice of judgment in the case and as to whether and when any Lien was filed;
- vii. Statement(s) as to the date of filing and disposition of any appeal.

16. 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 appropriate department(s), division(s), and/or component(s) of LCG enforcing the Violation(s) that sent said notice of violation. Anyone found in violation of this subsection shall be fined \$500.00.

Secs. 34-207—34-230. - Rescinded.

SECTION 3: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 4: EFFECTIVE DATE. After first having been adopted by a majority of the authorized membership of both the Lafayette Parish Council and the Lafayette City Council, this Joint Ordinance shall become effective upon signature of this Joint Ordinance by the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon override of a veto, whichever occurs first.



Internal Memorandum
Legal Department

TO: Veronica Williams, Clerk of the Council

FROM: Paul D. Escott, Assistant City-Parish Attorney

CC: Pat Lewis, City Councilman District 1
Kevin Naquin, Parish Council District 2
Cydra Wingerter, Chief Administrative Officer
Mary Sliman, Director of Development & Planning
Greg Logan, City-Parish Attorney

SUBJECT: Joint Ordinance Repealing and Re-Enacting Chapter 34, Article II of LCG Code of Ordinances

DATE: May 18, 2021

Vee,

On behalf of City Councilman Pat Lewis and Parish Councilman Kevin Naquin, I submit the following, to wit:

- (a) An Ordinance of the Lafayette City Council and the Lafayette Parish Council Repealing and Re-Enacting Chapter 34, Article II of the LCG Code of Ordinances
- (b) Agenda Item Submittal Form

I request that this Joint Ordinance be placed on the June 1, 2021 agenda(s) for the Lafayette City and Lafayette Parish Council meeting(s).



Paul D. Escott
Assistant City-Parish Attorney

LAFAYETTE JOINT COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) JUSTIFICATION FOR REQUEST: An Ordinance of the Lafayette City Council and the Lafayette Parish Council Repealing and Re-Enacting Chapter 34, Article II of the LCG Code of Ordinances

2) ACTION REQUESTED: Adoption of Joint Ordinance

3) COUNCIL DISTRICT(S) (if applicable): N/A

4) REQUESTED ACTION OF COUNCIL:

A) INTRODUCTION: June 1, 2021

B) FINAL ADOPTION: June 15, 2021

5) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Cover Memo (1 page)

B) Joint Ordinance (19 pages) (redline - 25 pages)

C) Agenda Item Submittal Form (1 page)

6) FISCAL IMPACT:

 Fiscal Impact

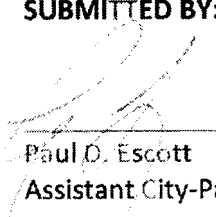
 X No Fiscal Impact

AUTHORED BY:

Patrick Lewis
City Councilman, District 1

Kevin Naquin
Parish Councilman, District 2

SUBMITTED BY:


Paul D. Escott
Assistant City-Parish Attorney

DISPOSITION OF ORDINANCE NO. JO-025-2021

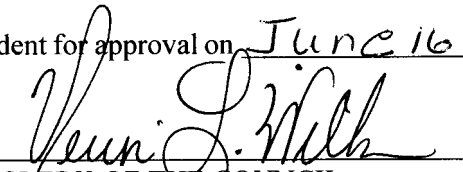
1. This ordinance was introduced:
June 1, 2021
YEAS: K. Naquin,
Carlson, Guilbeau, Rubin
NAYS: None
ABSENT: Tabor
ABSTAIN: None

Final disposition by **Parish Council**:
June 15, 2021
YEAS: Tabor, K. Naquin,
Carlson, Guilbeau, Rubin
NAYS: None
ABSENT: None
ABSTAIN: None

This ordinance was introduced:
YEAS: Lewis, A. Naquin,
Hebert, Cook, Lazard
NAYS: None
ABSENT: None
ABSTAIN: None

Final disposition by **City Council**:
YEAS: Lewis, A. Naquin,
Cook, Lazard
NAYS: None
ABSENT: Hebert
ABSTAIN: None

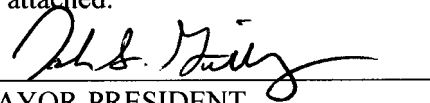
2. Notice of Public Hearing: This ordinance was published by Title and Notice of Public Hearing was published in the Advertiser on June 4, 2021.
3. This ordinance was presented to the Mayor-President for approval on June 16, 2021, at 9:10 o'clock a.m.


CLERK OF THE COUNCIL

4. Disposition by Mayor-President:

I hereby:

- A. Approve this ordinance, the 21 day of JUNE, 2021, at 3:00 o'clock p.m.
- B. Veto this ordinance, the _____ day of _____, 2021, at _____ o'clock _____.m., veto message is attached.
- C. Line item veto certain items this _____ day of _____, 2021, at _____ o'clock _____.m., veto message is attached.


MAYOR-PRESIDENT

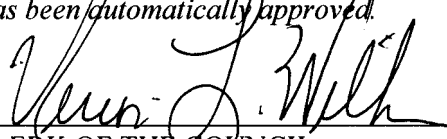
5. Returned to Council Office ~~with~~/without veto message on June 22, 2021, at 9:40 o'clock a.m.

6. Reconsideration by Council (if vetoed):

On _____, 2021, the Councils did/refused to adopt this ordinance after the Mayor-President's veto.

7. Returned to the Council Office without signature of Mayor-President (*unsigned*) on _____, 2021, at _____ o'clock _____.m.

If not signed or vetoed by the Mayor-President, and ten days have elapsed since this ordinance was presented to him for action, same has been automatically approved.


CLERK OF THE COUNCIL

8. Full publication of this ordinance was made in the Advertiser on June 18, 2021.

