

NOTICE OF INTRODUCTION OF ORDINANCE

NOTICE IS HEREBY GIVEN that the following entitled ordinance was introduced in writing in the form required for adoption at a meeting of the Parish Council of the Parish of Livingston, State of Louisiana, on August 23, 2012, and laid over for publication of notice:

L.P. ORDINANCE NO. 12-32

AN ORDINANCE TO AMEND ARTICLE II OF CHAPTER 4.5-16 THROUGH 4.5-27 OF THE CODE OF ORDINANCES OF LIVINGSTON PARISH, “CONDEMNATION AND REMOVAL OF UNSAFE, DANGEROUS BUILDINGS.”

NOTICE IS HEREBY FURTHER GIVEN that the Parish Council of said Parish will meet on Thursday, September 13, 2012, at six (6:00) o’clock p.m., at the Parish Council Chambers, 20355 Government Boulevard, Livingston, Louisiana, at which time there will be a public hearing on the adoption of the aforesaid ordinance.

Lisa Frederick, Council Clerk

Cindy Wale, Council Chair

(As per rules of the Council, copies of the proposed ordinance shall be made available for public inspection in the Office of the Livingston Parish Council.)

The following ordinance, which was previously introduced in written form required for adoption at a regular meeting of the Livingston Parish Council on August 23, 2012, a summary thereof having been published in the Official Journal together with a notice of public hearing which was held in accordance with said public notice, was brought up for final passage as amended September 13, 2012, on Motion of _____ and seconded by _____:

L.P. ORDINANCE NO. 12-32

AN ORDINANCE TO AMEND ARTICLE II OF CHAPTER 4.5-16 THROUGH 4.5-27 OF THE CODE OF ORDINANCES OF LIVINGSTON PARISH, "CONDEMNATION AND REMOVAL OF UNSAFE, DANGEROUS BUILDINGS."

BE IT ORDAINED by the Livingston Parish Council, Parish of Livingston, State of Louisiana: The Code of Ordinances of the Parish of Livingston, Louisiana, is hereby amended- which sections shall read as follows:

Sec. 4.5-16. - Authority of parish government.

The parish council-president government may condemn and cause to be demolished or removed any building, camp or structure located within the unincorporated areas of [the] parish when the building, camp or structure is in a dilapidated and dangerous condition which endangers the public welfare. As used in this article, the term building refers to a roofed and walled structure built for permanent use and includes all appurtenant parts thereto. As used in this article, a camp refers to a recreational structure that includes a permanent roof and is utilized to house or provide shelter to persons and all appurtenant parts thereof. As used in this article a structure refers to anything made up of independent parts in a definite pattern of organization, specifically including but not limited to buildings, garages, workshops, storage sheds, barns, communication towers, water towers, facilities, factories, manufacturing plants and permanently installed equipment. As used in this article, the term parish council-president may also refer to as a judicial agent, a Marshall or Justice of the Peace.

Sec. 4.5-17. - Notice to owner; hearing; notice filed with recorder of mortgages binds transferees.

(a) Before the parish council-president government may condemn any building, camp or structure, there must be submitted to the parish council a written report detailing the current condition of the building, camp or structure and recommending the demolition or removal of the building, camp or structure inspected and signed by the parish building inspector and the parish president. In the case of a burned building, camp or structure, the building inspector shall also provide proof from the State Fire Marshall that the building is free from arson investigation. The parish council shall then accept this report and approve moving forward with condemnation proceedings by a resolution duly passed by a majority of the membership of the parish council. Thereafter, the Marshall, Justice of the Peace or parish president shall thereupon serve notice on the owner of the building, camp or structure requiring the said owner to show cause at an official hearing, why the building, camp or structure should not be condemned or removed. The location, date and hour of the hearing shall be stated in the notice which shall be served upon the owner of the building, camp or structure at least ten days prior to the date of the hearing, except in the case of grave public emergency as hereinafter provided. The notice may be served by registered or certified mail, postage prepaid, addressed to the owner at the owner's last known address. The notice may also be served by the sheriff or deputy sheriff or constable having jurisdiction and power to serve legal process where the owner of the building, camp or structure is found in the state and the officer shall make a return of the service as in ordinary cases.

(b) If the owner is absent from the state and unrepresented therein, then the notice shall be served upon the owner by certified mail at the owner's last known address and upon the occupant of the dilapidated and dangerous building, camp or structure, if any, and also upon an attorney at law appointed by the parish president to represent the absentee owner. Domiciliary service may be made on the owner as in ordinary cases. In the case of a jointly owned building, camp or structure by a husband and wife, both the husband and the wife in community, shall be served with this notice. Otherwise, each and every owner of the building, camp or structure shall be served with notice as required herein.

(c) In the case of grave public emergency, where the condition of the building, camp or structure is such as to cause possible immediate loss or damage to persons or property and there is no means for the parish council-president government to restrict access to the property or otherwise secure and/or protect the general public from the property, the parish council-president government may condemn the building, camp or structure and cause its removal after 24 hours'

notice served upon the owner or the owner's agent or the occupant and attorney at law appointed to represent the absentee owner, incompetent owner, minor child owner or a deceased owner.

(d) Any notice served pursuant to this section shall be filed with the recorder of mortgages for parish, being the parish clerk of court. Once filed, the notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages and notice thereunto pertaining.

(e) As used herein, an absentee owner is one who has no representative in the state and whose whereabouts are not known and cannot be ascertained by diligent effort. A deceased person is a person who has died where there is no legally appointed person to represent the estate. A minor is a person who has not attained the age of majority, 18 years, and has no tutor appointed for him or her. An interdict is a person who has been declared incompetent to manage his or her own affairs and has no curator appointed for him or her.

(f) Whenever a word is used in this section in the plural form but there is only one person or thing within the scope of its application such word, though in plural form, shall have a singular meaning and vice versa. Likewise, words of one gender shall include the other gender.

(g) Council-president government shall order an abstract on the property prior to any action on property to be demolished or condemned.

Sec. 4.5-18. - Decision of governing authority; order to demolish or repair.

(a) After the hearing pursuant to this article, if in the opinion of the parish council, the facts justify it, an order shall be issued and entered by the parish council condemning the building and ordering that it be demolished or removed within a certain reasonable delay. If repairs will correct the dilapidated, dangerous or unsafe condition, the parish council-president government may grant the owner the option of making such repairs, but in such a case the general nature or extent of the repairs to be made, the time thereof and the defects to be corrected shall be specified in the decision of the government body.

(b) The decision of the parish council shall be in writing and shall be final unless appealed from within five days as hereinafter provided.

Sec. 4.5-19. - Appeal from decision.

(a) The owner, occupant, agent or other representative of the owner may appeal from the decision of the parish council-president government to the 21st Judicial District Court, being the district court having jurisdiction over the said immovable property and the building, camp, structure and/or improvements located thereon. The appeal shall be made by the filing of a suit against the parish council-president government, setting forth the reasons why the decision or order of the parish council-president government is illegal or improper and the issue shall be tried de novo and by preference in the 21st Judicial District Court. Where a grave public emergency has been declared by the parish council-president government, the owner of the building, camp or structure who desires to prevent the demolition or removal of the building, camp or structure must file a petition within 48 hours and must at the time of the filing of the petition furnish such bond as may be fixed by the district court to cover any damage that might be caused by the condition of the building, camp or structure.

(b) Either party may appeal from the judgment of the 21st Judicial District Court as in all other civil cases.

Sec. 4.5-20. - Compliance with decision; demolition by parish council-president government where owner fails to comply; notice; assistance of National Guard.

(a) The owner or the owner's designated agent may proceed to demolish and remove the building, camp or structure or have it repaired in accordance with the order of the parish council-president government, provided the owner or owner's agent executes a contract in writing obligating the owner to have the work done within the required time and files with the parish president a copy of the contract, together with a bond to guarantee performance.

(b) In the event that the owner or occupant of the building, camp or structure fails or refuses to comply with the decision of the parish council-president government and fails to appeal therefrom within the legal delays provided herein, then in that event, the parish president may proceed with the demolition or removal of the condemned building, camp or structure as a public nuisance, in which case neither the parish president, the members of the parish council nor the parish council-president government and its officers, agents and/or employees shall be liable for damages.

(c) Prior to the demolition or removal of the building, camp or structure by the parish council-

president government, the parish president or some official of parish government designated by the parish president shall serve notice upon the owner or his agent and upon the occupant of the building, camp or structure, if any there be, or upon the attorney at law appointed to represent the absentee owner, minor, interdict or unrepresented decedent, giving notice of the time when work will begin upon the demolition or removal of the building, camp or structure as a public nuisance. Demolition or removal of the building, camp or structure shall not begin until at least ten days after this notice is served.

(d) The parish council-president government may request and the adjutant general of the Louisiana National Guard may assign, subject to the approval of the Governor, Louisiana National Guard personnel and equipment to assist in the removal and demolition of condemned buildings, camps and/or structures as public nuisances. The provisions of this sub-section shall be applicable when the budget of the parish council-president government for the demolition and removal of condemned buildings, camps and/or structures has been expended by the parish council-president government; however, the request must be accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the parish council-president government.

(e) In the event all procedural protections and substantive restraints have been adhered to by the parish council-president government, the parish council-president government and its personnel and the Louisiana National Guard and their personnel shall not be liable to the owner of the building, camp or structure for any damages sustained resulting from the demolition and/or removal of the building, camp or structure.

Sec. 4.5-21. - Lien and privilege for the costs of demolition, removal and maintenance by the parish council-president government; interest; attorneys fees.

(a) In the event of the demolition, removal and/or maintenance of property pursuant to article III of chapter 8 of this Code, the parish council-president government shall have a privilege and lien upon any and all immovable property and the improvements located thereon belonging to the owner of the condemned property and the owner of the condemned property is liable for:

(1) The cost to the parish council-president government of cleaning and maintenance of the immovable property and/or improvements at the site of the condemnation; and

(2) The cost to the parish council-president government of demolishing or removing or both of a building, camp or other structure situated upon the immovable property or improvements of the owner and all attorney's fees incurred by the parish council-president government in connection with such demolition or removal.

(b) "Maintenance" shall include but not be limited to the cutting of grass, weed abatement and trash and debris or garbage removal necessary as part of the condemnation process.

(c) The privilege and lien shall be preserved and enforced only after the owner has refused, after notification by the parish council-president government and a reasonable opportunity to be heard, to pay the cost incurred by the parish council-president government.

(d) The privilege and lien shall be preserved by the filing and recording of an affidavit signed by the parish president and duly filed in the mortgage records of the parish clerk of court. The affidavit shall include a description of the property sufficient to reasonably identify the immovable property involved and a statement of the facts listing the costs incurred by the parish council-president government.

(e) The privilege and lien shall be enforced by ordinary process in the 21st Judicial District Court in and for the parish within three years after it has been perfected. Alternatively, the privilege and lien may be enforced by assessing the amount of the privilege and lien against the immovable as a tax against the immovable property to be enforced and collected as any ordinary property tax lien to be assessed against the said property; said lien and privilege may be collected in the manner fixed for collection of taxes and shall be subject to the same civil penalties for delinquencies. After the parish council-president government has incurred such cost as constitute the lien and privilege on the property, the parish president may send an attested bill of said cost and expenses which constitute the lien and privilege to the parish sheriff who shall add the amount of the said bill to the next tax bill of the owner. The lien obtained by the parish council-president government pursuant to proper notification and filing shall include not only the cost provided for in subsection (a) of this section but shall also include all reasonable attorneys fees and/or cost of court incurred in the locating of the owner, the notification of the owner and the enforcement and collection of the amounts secured by the lien against the immovable property and the improvements located thereon, as certified to by the parish finance director. The parish

council-president government shall also recover interest on the amount secured by the lien. The interest shall be set at the rate of legal interest provided for in La. R.S. 9:3500 and shall be computed from the date of recordation of the lien with the parish clerk of court and accrue thereafter until paid in full. The parish council-president government's privilege and lien shall prime all of the liens and privileges against the property filed after the notice to the owner to show cause is filed with the parish clerk of court as recorder of mortgages for Livingston Parish, Louisiana, pursuant to the provisions of La. R.S. 33:4762(D) regardless of the date on which the parish council-president government's lien and privilege is perfected, except that the parish council-president government's lien and privilege will not prime other tax liens against the property.

(f) The lien shall not be cancelled until the payment of all amounts including costs, attorneys fees and interest.

(g) In addition to the lien and enforcement procedures authorized under this section, the parish council-president government has a cause of action against the owner personally for the cost incurred by the parish council-president government. Such action may be brought by ordinary proceedings in any court of competent jurisdiction.

(h) (1) If immovable property, which may be subject to a lien and a privilege granted in favor of the parish council-president government under this section, is owned indivision and the owners in indivision, with their proportionate share in the property are listed separately by the tax assessor on the ad valorem tax roll for the parish, then the parish council-president government shall notify each owner in indivision of that owner's liability under this section.

(2) Upon failure of each owner in indivision to pay that owner's proportionate share of the charges incurred under this section, that part of the property for which the charges are not paid shall be subject to a lien and privilege in favor of the parish council-president government as provided in this section.

(3) Notwithstanding the provisions of subsection (f) of this section to the contrary, upon payment by an owner in indivision of that owner's proportionate share listed in the ad valorem tax roll for the parish of the charges, attorneys fees and interest incurred under this section and after certification of such proportionate interest by the parish assessor, the lien and privilege granted under this section shall be removed from the proportionate interest of the paying owner in indivision. If outstanding charges levied under the section are added to the annual ad valorem tax bill, the proportionate payment by the paying owner or owners in indivision shall be reflected on the bill and each such owner's interest in the property free of such charge will be distinguished on the tax bill.

(4) Notice of the lien and privilege required by this section shall be made upon the owners in indivision at their actual address or last known address listed in the tax rolls of the parish.

Sec. 4.5-22. - Attorney to represent absentee, minor, interdict or unrepresented deceased persons.

In the event that the building, camp or structure is unoccupied and its owner is an absentee from the State and unrepresented therein or in the event the building is owned by a minor who has no tutor or an interdict who has no curator, or in the event that the building is owned by a deceased person for whom no estate representative has been appointed, the parish president shall appoint an attorney at law to represent the absentee, minor or interdict and/or the unopened estate, upon whom the notices and other proceedings provided in this subpart [section] may be served. The attorney so appointed shall represent and notify the owner and shall be paid a reasonable fee to be taxed as cost.

Sec. 4.5-23. - Words to include both plural and singular and both genders.

Whenever a word is used in this article in plural form but there is only one person or thing within the scope of its application, such word, though in plural form, shall have a singular meaning and vice versa. Likewise works of one gender shall include the other gender.

Sec. 4.5-24. - Services of attorney to certify title.

At such time as the parish council-president government receives a written report from the parish building inspector and the parish president as required at section 4.5-17 hereinabove concerning

a building, camp or structure in need of condemnation, the parish council-president government shall retain the services of an attorney at law to research and abstract title to the property and issue a title opinion letter to the parish council-president government certifying for a period of time not less than 50 years as to ownership of and the status of taxes, mortgages and liens against the subject property and providing any and all information on the public records detailing the names and addresses of the current owners. This abstract of real estate title, title examination and title certification letter shall be obtained by the parish council-president government and shall be obtained prior to sending the notices required in article III of this chapter.

Sec. 4.5-25. - Reserved.

Sec. 4.5-26. - Budget for condemnation proceedings.

The parish council-president government shall include in its annual budget reasonable amounts for the payment of abstractors, attorneys, engineers, architects, contractors and other costs and expenses associated with the condemnation of dilapidate and dangerous buildings within the unincorporated areas of Livingston Parish, Louisiana.

Sec. 4.5-27. - Parish finance director to keep records of costs.

The parish finance director shall maintain a separate and exact record of all fees, expenses and costs incurred by the parish council-president government and associated with condemnation of buildings, camps and/or structures. These amounts shall be paid from the budget of the parish general fund. These records shall include copies of all bills, receipts and cancelled checks.

BE IT FURTHER ORDAINED that all ordinances or parts of ordinances in conflict herewith are hereby repealed. If any provision of this ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this ordinance are hereby declared to be severable.

The effective date of this ordinance shall be as prescribed by law.

Upon being subjected to a vote, the vote thereon was as follows:

YEAS:

NAYS:

And the ordinance was declared adopted on the 26th of July, 2012.

Cindy Wale, Council Chair

ATTEST:

Lisa Frederick, Council Clerk

INTRODUCED _____ ADOPTED _____

DELIVERED TO PRESIDENT _____, _____ o'clock ____ .M.

APPROVED BY PRESIDENT _____

Layton Ricks Date

VETOED BY PRESIDENT _____

Layton Ricks Date

RECEIVED FROM PRESIDENT _____, _____ o'clock ____ .M.