

## CHAPTER 13

### NUISANCES<sup>1</sup>

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#### Article I. In General

##### SECTION 13-1. Purpose.

The purpose of this Chapter is to authorize and define the procedure for securing and removing buildings, junk, and/or grass or noxious growths, heretofore referred to as nuisances, located in the unincorporated areas of Iberia Parish. Buildings, junk and/or grass or noxious growths will be designated as nuisances when deemed to be in condition which endangers public health, safety or welfare, and Iberia Parish Government may cause to be removed any such nuisance within the unincorporated areas of Iberia Parish. (Ord. No. 2009-10-4137)

##### SECTION 13-2. Definitions.

*Nuisance* shall be defined as any condition of or the use of any premises or building which:

- (1) Unreasonably causes or tends to cause substantial diminution in the value of the property of others in the

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<sup>1</sup>**Editor's Note:** Section 1 of an ordinance enacted Oct. 14, 1987, amended the Code the deleting Ch. 13, Junk, substantive provisions of which consisted to Sections 13-1 - 13-3, and which derived from an ordinance of June 9, 1970, Sections 1-3; an ordinance of Feb. 25, 1987, Sections 1-3; and an ordinance of Sept. 9, 1987, Section 1. In addition, Sections 2-8 of said Oct. 14, 1987 ordinance also enacted provisions designated as a new Ch. 13, Sections 13-1 - 13-7. Additionally, Ordinance 94-11-1954 adopted November 9, 1994 deleted Ch. 13, Junk of which consisted of dangerous buildings, junkyards, and grass/noxious growth and replaced it with the current text.

**State law reference** - Authority to regulate and prohibit storage or abandonment (junk), R.S. 33:1263(30).

- neighborhood or vicinity in which such premises or building is located; or
- (2) Is reasonably offensive to the senses of persons of ordinary sensibility; or
  - (3) Is in any way dangerous to the health and safety of others.

*Repeat Offender.* Any Property owner or owner's representative who has received previous notification of a violation of Chapter 13 of the Iberia Parish Code of Ordinances which includes regulation for nuisances and provides penalties for the violation of said Chapter and who continues to be in verifiable violation of said Chapter for any piece or tract of property owned will be considered to be repeat offender.

*Parish Representative.* The designee of the Iberia Parish President.  
(Ord. No. 2008-07-4030)

### **SECTION 13-3. Authority to Enter Property.**

The Parish President, or his designee, is hereby authorized to enter and inspect property of which a complaint has been filed. If the property is found in violation of this Chapter, no such work shall be undertaken by the Parish President, or his designee, until the owner or said property shall have been notified as provided herein.

### **SECTION 13-4. Order of Notice to Remove.**

The Parish President, or his designee, shall issue a citation to the owner of the property declared as a nuisance as defined hereinabove. Notice will be served by either delivery by law enforcement agent, by registered or certified letter, return receipt requested or by publication in the official journal in accordance with the requirements of this Chapter. Property owners shall be allowed fifteen (15) days to either (1) remove the nuisance or (2) at a public hearing with the Iberia Parish Council show cause not to remove or request additional time for compliance. Should the notice be to secure an otherwise structurally sound building or structure, then the property owner shall be given the same fifteen days to secure the building as defined in this Section or show cause at said public hearing with the Iberia Parish Council.  
(2009-10-4137)

#### **SECTION 13-5. Time Extensions.**

The Iberia Parish Council has authority to grant extensions of the time required for compliance with this Chapter. Any owner requesting the extension for compliance shall be required, if an extension is granted, to post a security bond issued by a bonding company acceptable to the Parish President or his designee. In order to determine the amount of the bond, the Parish President, or his designee, shall determine an approximate cost for the removal of items causing a Nuisance on the property determined in violation of the Chapter. If the property does not comply with the requirements of this Chapter in the time granted for such extension, the security bond will be forfeited. The decision of the Iberia Parish Council to grant time extensions shall be in writing and shall be final unless appealed within five (5) working days as hereinafter provided.

If, in the opinion of the Iberia Parish Council, the facts justify that a nuisance as defined hereinabove actually does exist, and that a time extension is not warranted, the property owner shall abate the nuisance within fifteen (15) days of the hearing. (Ord. No. 2008-07-4030)

#### **SECTION 13-6. Appeal Procedure.**

The owner or representative of the owner, may appeal the decision of the Iberia Parish Council to the District Court having jurisdiction over the property. The appeal shall be made by filing a suit against the Iberia Parish Council, setting forth the reasons why the decision or order of the Council is illegal or improper and the issue shall be tried de novo and by preference in the District Court. (Ord. No. 2008-07-4030)

#### **SECTION 13-7. Penalties and Costs.**

- A. *Administrative Fees.* A schedule of administrative fees shall be established by the Nuisance Abatement Office and approved by the Parish President. Administrative fees shall include, but not be limited to, the costs associated in the investigation of property to determine if a nuisance is occurring, determining ownership, processing the notice and citation, serving, sending, and/or providing notice to the owner, attendance at hearing(s), and any other administrative tasks required in the proper enforcement of the provisions of this Chapter. (Ord. 2007-07-3912)

- B. *Abatement Costs.* Abatement costs are those direct costs incurred by either parish personnel or a parish contractor in the elimination and disposal of the nuisance. Abatement costs, when incurred, shall be assessed against the property owner in the manner provided for herein. Abatement costs shall include, but not be limited to, all labor, material and equipment costs for removal of abatement of the nuisance.
- C. *Repeat Offender Penalty.* Any property owner or representative who is considered a repeat offender, as defined in this Chapter, will be fined an additional amount of \$200 for the second offense, and for each subsequent offense. All fines for repeat offenders will be in addition to any costs incurred by the Parish for administrative and/or abatement costs and will be subject to the terms and conditions as established by this Chapter.
- D. *Charges.* All charges are to be paid in full within thirty (30) days of receipt of notice of charges. If the charges are not paid within thirty (30) days of receipt of the Notice of Charges, a lien will be filed and will automatically attached to the property in the total amount of all costs incurred. The Parish President or his designee will also file a certified copy of the invoice with the Tax Collector and the charges will be added to the annual ad valorem tax bill of the property involved, including expenses for filing and canceling of a property lien, all pursuant to the provisions of Louisiana Revised Statutes 33:1236 (21)(a)(iv); and 33:1236(49)(b)(iv); and 33:4754.  
(Ord. No. 2009-10-4137)

The Tax Collector effecting collection shall be reimbursed by the governing authority for an amount equal to fifteen percent (15%) of the amount of such charges actually collected from the property owner. This collection charge shall be in addition to such charges and shall also be added to the ad valorem tax bill of the property involved. This collection charge shall be in addition to ordinary service charges assessed with enforcement of this Chapter. In the exercise of the authority herein granted, the Parish of Iberia shall be the sole and proper defendant in any action, authorized by law, to contest the addition of such charges to the ad valorem tax bill of the property involved.

#### **SECTION 13-8. Additional Fines and Penalties.**

Any Owner, tenant, occupant or other person violating any provision of this Chapter shall be guilty of a misdemeanor and upon

conviction thereof in a court of competent jurisdiction be punished as follows:

- (a) For a first conviction, such person shall be fined not more than \$100 or imprisoned not more than six (6) months or both;
- (b) For a second and subsequent convictions, such person shall be fined not more than \$500 or imprisoned not more than six (6) months or both.

The above penalties shall be in addition to any fees incurred by the Parish for the removal and/or abatement of the nuisance. Such penalties are not subject to appeal and cannot be reduced or dismissed, other than in a court of law, by any agent, official or governing body.

#### **SECTION 13-9. Enforcement.**

- (1) Upon failure of the property owner to pay any fine levied as provided by ordinance or any costs incurred by the Parish for securing, or demolition or removal, or both, of such structures, and for maintenance of property in a sanitary condition, the Parish President or his designee may file a certified copy of the order levying a fine or fines or a copy of an invoice reflecting the amount of such costs with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the parish against the property.
- (2) In addition, to the charges in Section 13-7-D interest on costs incurred by the Parish which shall be paid prior to cancellation of the lien. The rate of interest shall not exceed the rate of legal interest, as provided in R.S. 9:3500, and shall be computed from the date of recordation of the lien until paid or enforced.
- (3) The lien obtained by the parish pursuant to this Section shall include not only the costs provided for in Section 13-7-D but shall include all attorney's fees and all costs incurred in the locating of the owner, notification of the owner, and the enforcement and collection of the amount secured by the lien.
- (4) The Parish's privilege and lien shall prime all other liens or privileges against the property filed after the notice to the owner is filed with the recorder of mortgages pursuant to this Section, regardless of the date on which the Parish's lien and

privilege is perfected, except that the Parish's lien and privilege will not prime other tax liens against the property.

- (5) After the Parish has levied such fine or fines or incurred such costs as constitute the lien and privilege on the property, the Director of Finance or equivalent officer may add said amounts to the next ad valorem tax bill of the owner, and said amount shall be subject to the same interest and penalties as delinquent ad valorem taxes.
- (6) If within six months after the filing of the lien provided for in this Section, the property owner fails to pay such lien and any interest thereon, the Director of Finance or equivalent officer of the Parish may offer for sale and subsequently sell or otherwise convey such property. The procedure for notice, advertisement, and sale of the property shall be governed by the law applicable to the sale of real property for delinquent municipal or parish taxes except that the property owner's right of redemption shall be limited to six months from the time the property is sold. Redemption by the original owner shall require reimbursement of any expenses incurred by the purchaser in the purchase and renovation of the property in addition to payment of liens placed on the property pursuant to this Section, interest thereon, and any amounts required by law applicable to the redemption of property sold for delinquent taxes.
- (7) Alternatively, the privilege and lien may be enforced in the district court pursuant to the Code of Civil Procedure, and may be enforced either against the subject property or against the owner personally by ordinary process and subsequent seizure and sale or garnishment of other movable or immovable property of the owner pursuant to the Code of Civil Procedure.
- (8) The amount of any Parish lien operating against the property and any interest accruing thereon may be canceled in whole or in part by the governing authority of the Parish in order to facilitate the sale or disposition of the property for the unpaid lien.
- (9) The provisions of this Section 13-9 shall not apply to any building or appurtenances on agricultural land when such land is used for agricultural purposes.

(Ord. No. 2009-10-4137)

## **SECTION 13-10. Enforcement and Presumptions Created.**

Partial compliance, with the notice given, by the owner, occupant, or tenant, or the failure or refusal of an owner, occupant or tenant or agent thereof, to completely remove and/or abate the nuisance located upon the owner's property within the time provided for herein shall be deemed a failure of such owner to comply with the requirements of the Chapter.

Unless the owner, occupant or tenant objects or responds in writing within Fifteen (15) days of the date of the notice as provided herein, it shall be presumed that the nuisance located on such property is, in fact, a nuisance or a threat to public health and safety. It shall be further presumed that the nuisance located on such property is not a crop or other vegetation or item.

The Parish may enforce any of the provisions of this Chapter upon motion or petition by the Parish in summary proceedings or ordinary proceedings in any court of competent jurisdiction. Nothing contained herein shall be construed as prohibiting or preventing the Parish from enforcing the provisions of this Ordinance through ordinary proceedings.

**Editor's Note:** Ordinance (2007-02-3874) adopted February 14, 2007 revised Sections 13-1 through 13-10 and included related amendment for Mediation Committee as Section 13-43. Ordinance No. 2008-07-4030 rescinded the Mediation Committee and replaced all references with the Iberia Parish Council and Parish President or his designee.

## **SECTION 13-11. Abandoned, Sunken Vessels.**

### **(a) Abandonment of Sunken Vessels Classified as Nuisance.**

The existence of an abandoned sunken or partially sunken vessel shall be classified as a nuisance. No. person shall abandon any sunken or partially sunken vessel, barge, watercraft, or other floating structure in any waterway within Iberia Parish.

### **(b) Abandonment Defined.**

As used in this Section, a vessel, barge, watercraft or other floating structure shall be considered abandoned when it remains in a sunken or partially sunken state for more than ninety (90) days.

### **(c) Remedy.**

Violations of this Section shall be abated in the manner specified in this Chapter.

### **(d) Immediate Removal Authorized.**

Notwithstanding any provision of this Section to the contrary, any sunken or partially sunken vessel, barge, watercraft or other floating structure within the Parish may be salvaged, seized, or moved immediately and without notice if the watercraft impedes

drainage or interferes with the normal use of the waterway where it is located.

**SECTIONS 13-12 through 13-14. Reserved.**

## **ARTICLE II. CONDEMNED/DANGEROUS BUILDINGS**

### **SECTION 13-15. Definitions.**

For the purpose of this Article, the following terms shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning:

**Owner** - The owner designated in the current tax rolls in the office of the Iberia Parish Tax Assessor, and the Parish shall have the right to rely exclusively on said tax rolls for the purpose of this Article.

**Condemned/Dangerous Building** - A building which is structurally unsound and presents a threat to the health, safety and welfare of the general public, and/or unoccupied and accessible to the general public and threatening to its health, safety and welfare.

**Demolition** - The act of tearing down and removing a structure.

**Securing** shall mean the closing of the building or structure by means of placing or attaching boards or other materials over doors, windows, and other means of entrance in order to prohibit persons from entering the building or structure and in order to maintain it in its present condition without further damage to such building or structure or danger to the public welfare and safety. (Ord. No. 2009-10-4137)

### **SECTION 13-16. Prohibitions.**

Upon receipt of a complaint concerning any building or structure in a dilapidated or dangerous condition, a written report recommending the demolition or removal of the building signed by the parish building inspector must be submitted to the Iberia Parish President. Notice of said condemnation and order to remove shall be served on the owner of the building or structure in compliance with this Chapter.



The creation of or the maintenance of any nuisance as defined herein is hereby prohibited and is punishable by the penalties and remedies herein set forth.

#### **SECTION 13-17. Emergency Condemnation.**

In case of grave public emergency, where the condition of the building is such as to cause possible immediate loss or damage to the public health and safety or to the property of others, the Parish President may condemn the building and order its demolition seventy-two (72) hours after notice is served upon the owner or his agent or the occupant.

Where a grave public emergency has been declared by the Parish President, the owner of the building who desires to prevent the demolition and removal thereof must file a petition within forty-eight (48) hours and must, at the time of the filing of the petition, furnish such bond as may be fixed by the District Judge to cover any damage(s) that might be caused by the condition of the building. Either party may appeal from the judgement of the District Court as in other cases.

#### **SECTION 13-18 through 13-22. Reserved.**

### **ARTICLE III. JUNKYARDS**

#### **SECTION 13-23. Definitions.**

For the purpose of this Article, the following terms shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning:

**Junk** shall be defined as any wrecked or inoperative or discarded or abandoned vehicles; or any inoperative or discarded or abandoned machinery, equipment, furniture, household appliances or other such items of any kind; or any discarded or abandoned metal, plastics, wood or other inanimate objects of any kind; or any part or parts thereof, which may be treated or prepared so as to be used again in some form. Wrecked, inoperative, discarded or abandoned vehicles, as indicated in this definition, shall be described as vehicles which cannot be started and cannot moved forward and backward on its own engine power. Vehicles which are not capable of providing the appropriate legal documents (inspection sticker, valid license plate, valid registration, etc.) and which DO NOT meet the description included in the previous sentence shall not be considered as "junk". Any such vehicle which has been tagged by

the Sheriff's Department, or the Parish's designee, as a junk vehicle during the enforcement of this Ordinance shall not be relocated to any other tract of property. In the event that said tagged vehicle(s) is moved to another tract of property will not, in any way, prohibit the enforcement of this Ordinance.

A **Junk Dealer** shall mean the owner and/or proprietor of an establishment or business who possesses the appropriate State and local occupational licenses or permits to engage in and who engages in the retail sale of salvaged junk.

(Ord. 2007-07-3912, adopted 07/11/07)

#### **SECTION 13-24. Prohibitions - General.**

The placing, abandonment, leaving, keeping or storage upon any premises or within any building of any object or substance defined hereinabove is hereby prohibited and is punishable by the penalties and remedies herein set forth.

#### **SECTION 13-25. Same - Public Property.**

It shall be unlawful to store, place, leave or abandon any of the items or substances defined herein on the right-of-way of any public road forming a part of the Parish Road System or on any public drainage right-of-way, street or sidewalk.

Any object, item or substance defined in Section 13-23 hereinabove found on any public road or drainage right-of-way described in Section 13-25 may be removed therefrom by the Iberia Parish Government, or its designee, and shall be held and stored elsewhere for claiming by the owner thereof within ten (10) days from the date upon which publication of notice appears in the official journal of the Parish or from actual notice, and in the event of reclaiming by the owner within such period, or if the owner thereof is identified, a charge of Ten Dollars (\$10.00) per day for each day of storage and the reasonable cost of removal shall be imposed upon said owner. If the owner fails to claim the stored property within the delay provided, the property may be sold by the Parish Government at public auction for the best available price and after deduction for the cost of removal and storage charges, the balance of the price received, if any, shall be paid into the General Fund of the Parish of Iberia, or the Parish Government may dispose of such objects in the manner of disposing solid waste.

## **SECTION 13-26. Exceptions.**

Notwithstanding anything herein to the contrary, it shall be lawful for a junk dealer to store or offer for sale any object defined hereinabove; provided, that said junk stored for such purposes on any open lot or parcel of ground is properly enclosed on all boundary lines with a substantial nontransparent fence or wall, not less than Seven (7') feet nor more than Ten (10') feet high and properly screened from public view. The fence or wall shall not contain any poster or advertising of any kind, except one sign of the owner, lessee, operator or licensee of said premises on each street frontage, not exceeding 100' feet square in size. Said fence, in itself, shall not create a nuisance and will be of a design and quality as approved by the Parish President or his designee.

**SECTIONS 13-27 through 13-32. Reserved.**

## **ARTICLE IV. GRASS/NOXIOUS GROWTHS<sup>2</sup>**

### **SECTION 13-33. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Article:

**Lot.** Any lot, portion of lot or other property, improved or unimproved, located within a residential area, whether or not said residential area is a dedicated subdivision.

**Owner.** The owner designated in the current tax rolls in the office of the Iberia Parish Tax Assessor, and the Parish shall have the right to rely exclusively on said tax rolls for purposes of this Article.

**Residential Area.** A designated subdivision or any area which contains three (3) occupied residences within a five hundred foot radius of the nuisance in question.

(Ord. 2000-06-2673, 06-14-00)

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<sup>2</sup>**State law reference:** Authority to require grass cutting, La. R.S. 33:1236(21), health regulations generally, Revised Statute - Title 40.

#### **SECTION 13-34. Prohibitions.**

No owners, tenants or occupants of any lot shall cause or permit any weeds, grass or deleterious, unhealthy or noxious growths or matter over an average of 18" in height to grow, stand or accumulate on any lot owned, leased or occupied by such owner, tenant or occupant, or any abutting sidewalk or neutral ground within any residential area; nor shall such owner, tenant or occupant cause or permit any lot owned, leased or occupied by such owner, tenant or occupant or any abutting sidewalk or neutral ground to become a haven for rodents or other dangerous animals or reptiles in any residential area.

No owners, tenants or occupants of any lot shall cause or permit any weeds, grass or deleterious, unhealthy or noxious growths or matter over an average 30" in height to grow, stand or accumulate on any lot owned, leased or occupied by such owner, tenant or occupant, or any abutting sidewalk or neutral ground not located within any residential area; nor shall such owner, tenant or occupant cause or permit any lot owned, leased or occupied by such owner, tenant or occupant, or any abutting sidewalk or neutral ground to become a haven for rodents or other dangerous animals or reptiles in any residential area.

Hayfields and naturally forested areas shall not be disturbed unless abutting a residential area and then only to the extent of 100' adjacent to any property line of any lot with an occupied residence located within said residential area. Additionally, the area shall not allow it to become a haven for rodents or other dangerous animals or reptiles. A lot shall be deemed to constitute a haven for rodents or other dangerous animals or reptiles upon determination by the Parish Health Department that the presence of rodents or reptiles or other dangerous animals on said lot creates a nuisance or is a threat to public health and safety.

Unoccupied property used for commercial farming and designated as such by virtue of occupancy and continuous use, shall also be excluded from the provisions of this Article, but in no case, shall the owner of such property allow it to become a haven for rodents, or other dangerous animals or reptiles. A lot shall be deemed to constitute a haven for rodents or other dangerous animals or reptiles upon determination by the Parish Health Department that the presence of rodents or other dangerous animals or reptiles creates a nuisance or is a threat to public health or safety.

The Parish President or his designee may, at his option, cause notice to cut, destroy and/or remove from any lot such weeds, grass or deleterious, unhealthy or noxious growths or matter found

growing, lying or located on such lot and/or to rid such lot of rodents or other dangerous animals to be published on two (2) consecutive days in the official journal of the Parish. Such notice shall be deemed to meet the requirements of notice to any and all owners, tenants or occupants of any such lot.

(Ord. 2000-06-2673, 06-14-00)

#### **SECTIONS 13-35 to 13-42. Reserved.**

**Editor's Note:** Section 1 of an Ordinance (93-07-1642) adopted July 14, 1993, rescinded Chapter 6, Article III, Division 1, consisting of building condemnation and demolition regulations and replaced said regulations as Chapter 13, Article II. Previous ordinances pertaining to similar subject matter were enacted on 3-14-90 and 8-8-84.

Section 2 of an Ordinance (93-07-1642) adopted July 14, 1993, rescinded Chapter 12, Article II, consisting of grass cutting regulations and replaced said regulations as Chapter 13, Article IV. Previous ordinances pertaining to similar subject matter were enacted on 10-28-87; 2-25-87; 12-10-86; 8-13-86; 7-14-70; and 5-12-70.

Section 3 of an Ordinance (93-07-1642) adopted July 14, 1993, rescinded Chapter 13, consisting of "Junk" regulations and replaced said regulations as Chapter 13, Article III. Previous ordinances pertaining to similar subject matter were enacted on 10-14-87; 9-9-87; 2-25-87 and 6-9-70.

Ordinance (94-11-1954) adopted November 9, 1994, rescinded Chapter 13 and replaced with current regulations.

Section 4 of Ordinance No. 2008-07-4030 rescinded all references to the Mediation Committee and includes references for the Iberia Parish Council and the Parish President or his designee.