

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 33. Municipalities and Parishes ([Refs & Annos](#))

Chapter 14. Exercise of Police Power

▢ [Part I. Building Regulations](#)

→ [Subpart A. Municipal Zoning Regulations \(Refs & Annos\)](#)

→ **§ 4721. Regulation of size and use of buildings**

For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing authority of all municipalities may regulate and restrict the height, number of stories, and size of structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of the buildings, structures, and land for trade, industry, residence, or other purposes; provided that zoning ordinances enacted by the governing authority of municipalities or the acts of the zoning commission, board of adjustment as herein provided for, or zoning administrator shall be subject to judicial review on the grounds of abuse of discretion, unreasonable exercise of the police powers, an excessive use of the power herein granted, or the denial of the right of due process, provided, further, that the right of judicial review of a zoning ordinance shall not be limited by the foregoing.

**§ 4722. Creation of districts; powers of municipal authorities; transfers of development rights; and uniform regulations within district**

A. For any and all of the purposes set forth in [R.S. 33:4721](#) the governing authority of any municipality may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes; and within the districts so created, the governing authority may regulate and restrict the erection, construction, alteration, or use of buildings, structures or land.

B. The governing authority of all municipalities having over four hundred seventy-five thousand population shall have the power to provide for official landmark or other appropriate designation by ordinance of areas, places, buildings, and structures having a special historical, community, or aesthetic interest or value; and in connection with those areas, places, buildings, and structures so designated by ordinance to impose regulations governing their construction, alteration, demolition, and use and to adopt additional measures appropriate to their preservation, enhancement, or use, which additional measures may include but are not limited to:

- (1) Establishment of procedures authorizing owners of designated property to transfer development rights in such amount and subject to such conditions and controls as are appropriate to secure the purposes of this Part;
- (2) The acquisition of the complete ownership of properties so designated or a lesser interest therein, including

a preservation restriction, and the reconstruction, operation, or transfer by the municipality of any such property so acquired or the transfer of any development rights so acquired, all in accordance with such procedures and regulations and subject to such conditions as the governing authority deems reasonable and appropriate.

C. All such regulations shall be uniform for each class or kind of land and structure throughout each district, but the regulations of one district may differ from those in other districts. However, no regulation shall change the status of premises which have been continuously used for commercial purposes since January 1, 1929, without interruption for more than six consecutive months at any one time. The governing authority may, however, provide for the removal of nonconforming signs and billboards, less and except billboards erected in compliance with parish or municipal regulations at the time of erection, provided that it first establish a reasonable amortization time for removal according to a reasonable set of standards and schedules.

In the city of New Orleans the provisions of Subsection B of this Section shall apply only to the area bounded by the Mississippi River, Howard Avenue, the river side of I-10--Claiborne Avenue and the uptown side of Iberville Street.

#### **§ 4722.1. Definitions**

As used in this Part, unless the context otherwise requires:

(1) The development rights of a designated site are the rights granted under applicable local law respecting the permissible bulk and size of immovable property erected thereon. Development rights may be calculated in accordance with such factors as lot area, floor area, floor area ratios, height limitations, or any other criteria set forth under local law for this purpose.

(2) A preservation restriction is a right, whether or not stated in the form of a restriction, predial servitude, covenant or condition, in any act executed by or on behalf of the owner of immovable property or in any order of taking, appropriate to the preservation of areas, places, buildings or structures to forbid or limit acts of demolition, alteration, use or other acts detrimental to the preservation of the areas, places, buildings, or structures.

#### **§ 4723. Purpose of regulations**

The regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the public streets, secure safety from fire, promote health and the general welfare, provide adequate light and air, avoid undue concentration of population, and facilitate adequate transportation, water supply, sewerage, schools, parks, and other public requirements. The regulations shall be made with reasonable consideration of the character of the district and its peculiar suitability for particular uses, and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the municipality.

#### **§ 4724. Public hearing authorized; prohibited rezoning**

The legislative body of a municipality which has provided for a comprehensive zoning plan shall provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established, and enforced and from time to time amended. No regulations or restrictions shall become effective until after a public hearing at which parties in interest have an opportunity to be heard. A public hearing in relation to the regulations may be held by the legislative body of a municipality which has provided for a comprehensive zoning plan. In such a case, notice of the time and place of the hearing shall be published once a week in three different weeks in the official journal of the municipality or, if there be none, in a paper of general circulation therein; at least fifteen days shall elapse between the first publication and the date of the hearing. In municipalities with a population of less than four hundred seventy-five thousand in addition to notice by publication, and at least ten days prior to the hearing, a good faith attempt to notify the owner or owners of record of the properties to be zoned or rezoned in municipal zoning shall be made by the sending of an official notice by regular mail of the time and place of the hearing and subject matter of the regulations and restrictions. Notwithstanding the foregoing, however, when more than ten parcels are to be zoned or rezoned by enactment of a zoning ordinance, the advertisement in the official journal or a paper of general circulation required herein shall be considered adequate notice to the property owners.

#### **§ 4725. Amendment of regulations**

The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified or repealed. In case, however, of a protest against a change duly signed and acknowledged by the owners of twenty percent or more, either of the areas of land (exclusive of streets and alleys) included in a proposed change or within an area determined by lines drawn parallel to and two hundred feet distant from the boundaries of the district proposed to be changed, the amendment shall not become effective except by the favorable vote of a majority of the members of the legislative body of the municipality who are present and voting. The provisions of [R.S. 33:4724](#) relative to public hearing and official notice shall apply equally to all changes or amendments.

Provided that no ordinance shall require a procedure or criteria for amendment any greater than that initially used upon the formation of regulations, restrictions and/or penalties.

##### **§ 4725.1. Zoning of annexed property**

A. Except as provided by Subsection B of this Section, if after August 15, 1999, a municipality annexes property the use of which is governed by a parish zoning ordinance at the time of annexation, and the annexation causes a change in the zoning classification, the parish zoning classification shall remain in effect until the owner of the property has applied for rezoning with the appropriate municipal governing authority, board or commission or for a period of six months, whichever occurs first. The municipality shall notify, by certified mail, the owner of the property of the change in zoning classification within thirty days of the date of the annexation.

B. The owner of property subject to Subsection A of this Section may waive the provisions of Subsection A with respect to his property. Any such waiver shall be in writing and shall be filed in the parish conveyance records. A municipal governing authority may prescribe the form for any such waiver or may authorize a municipal officer, agency, or employee to prescribe such form for the filing of such waivers. A municipal governing authority may adopt additional requirements for the filing of such waivers.

#### **§ 4726. Zoning commission; recommendations; public hearing**

A. In order to avail itself of the powers conferred by [R.S. 33:4721](#) through 4729, the legislative body of the municipality shall appoint a zoning commission whose function it shall be to recommend the boundaries of the various original districts as well as the restrictions and regulations to be enforced therein, and any supplements, changes, or modifications thereof. Before making any recommendation to the legislative body of the municipality, the zoning commission shall hold a public hearing. Notice of the time and place of the hearing shall be published at least three times in the official journal of the municipality, or if there be none, in a paper of general circulation therein, and at least ten days shall elapse between the first publication and date of the hearing. After the hearing has been held by the zoning commission, it shall make a report of its findings and recommendations to the legislative body of the municipality. The legislative body shall not hold its public hearings or take action until it has received the final report of the zoning commission.

B. Notwithstanding the provisions in Subsection A, the governing authority of the city of Lafayette may empower the zoning commission to determine the boundaries of the districts as well as the restrictions and regulations to be enforced therein, and any supplements, changes, and modifications thereof. In such case, public hearing and notification requirements shall be the same as those for zoning commissions operating solely as a recommending board. The zoning commission shall promptly notify the municipal governing authority of any action taken pursuant to such authority as may be granted to it as provided in this Subsection. Any action of the zoning commission may be appealed to the municipal governing authority in accordance with procedures established by such governing authority. Nothing in this Subsection shall prohibit the municipal governing authority from enacting ordinances relating to those matters which it empowers the zoning commission to determine.

C. Where a municipal planning commission exists it shall be the zoning commission.

#### **§ 4727. Board of adjustment; membership; powers and procedures; appeals from decisions**

A. (1) The local legislative body may provide for the appointment of a board of adjustment, and in the regulations and restriction adopted pursuant to the authority of [R.S. 33:4721](#) through [R.S. 33:4729](#) may provide that the board may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules contained therein.

(2) The board of adjustment shall consist of five members, and may include two alternate members, all of whom shall be landowners and qualified voters. The membership of the first board shall serve respectively, one for one year, one for two years, one for three years, one for four years and one for five years. Thereafter members shall be appointed for terms of five years each.

(3) Of the two alternate members first appointed, one alternate member shall be appointed for a term of three years and the other for a term of two years. Thereafter each alternate member shall be appointed for a term of three years. Alternate members shall serve only when called upon to comprise a full five-member board when a quorum is present. When so serving, alternate members shall have all the powers and duties of regular members.

(4) All members shall be removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. The board shall elect its own chairman, who shall serve for one year.

(5) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to [R.S. 33:4721](#) through [33:4729](#); however, any rules adopted by a board of adjustment, zoning administrator, or other official or official body appointed by the governing authority shall not be effective until approved in writing by the governing authority.

B. (1) In the parish of Orleans, effective January 1, 1984, the positions of alternate member are abolished and thereafter the board of adjustment of the parish of Orleans shall consist of seven members, all of whom shall be residents and electors of the parish.

(2) However, the members serving on the effective date of this Subsection shall continue to serve the terms to which they were originally appointed.

(3) The two additional members shall be appointed in the same manner as the initial five members of the board and shall serve respectively, one for four years and one for five years. Thereafter each additional member shall be appointed for a term of five years.

C. (1) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its meetings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact and shall keep records of its examination and other official actions, all of which shall be filed immediately in the office of the board and shall be public records. All testimony, objections thereto, and rulings thereon, shall be taken down by an auditory recording or by a reporter employed by the board for the purpose.

(2)(a) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Appeals shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken, after all transcript costs and all other costs of appeal are paid by the person or entity taking the appeal, the appellant.

(b) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such case proceedings shall not be stayed otherwise than by a restraining order that may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

(c) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the interested parties, and decide the appeal within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(3) The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of [R.S. 33:4721](#) through [R.S. 33:4729](#) or of any ordinance adopted thereto.

(b) To hear and decide all matters referred to it or upon which it is required to pass under the ordinance.

(c) In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to vary or modify the application of any of the regulations or provisions of the ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

D. (1) In exercising the above mentioned powers the board may, in conformity with [R.S. 33:4721](#) through [R.S. 33:4729](#), reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(2) The concurring vote of a majority of the members of the board present and voting shall be necessary to re-

verse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any ordinance, or to effect any variation in the ordinance.

E. (1) Any person or persons jointly or severally aggrieved by any decision by the board of adjustment of any officer, department, board, or bureau of the municipality, may present to the district court of the parish or city in which the property affected is located a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

(2) Upon the presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment and shall be prescribed therein the time within which a return may be made and served upon the relator's attorney, that shall be not less than ten days but which may be extended by the court. The party requesting the appeal or writ shall bear the costs of transcribing the auditory recording of the meeting in which the adverse board of adjustment decision was rendered.

(3) The board of adjustment shall not be required to return the original papers acted upon by it, but may return certified or sworn copies thereof or such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(4) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct, the cost of which shall be borne by the party who initiated the appeal, and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

(5) The court may reverse or confirm, wholly or in part, or may modify the decision brought up for review. Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under this Section shall have preference over all other civil actions and proceedings.

F. In the city of Slidell the positions of alternate members are abolished and hereafter the board of adjustment of the city of Slidell shall consist of seven members, all of whom shall be landowners and qualified voters. The members serving on the effective date of this Subsection shall continue to serve the terms to which they were originally appointed. The two additional members shall be appointed in the same manner as the initial five members of the board and shall serve respectively, one for four years and one for five years. Thereafter each additional member shall be appointed for a term of five years.

#### **§ 4727.1. City of Mandeville; board of adjustment**

In addition to all other powers authorized by the provisions of this Subpart, the board of aldermen of the city of Mandeville may authorize the zoning commission of the city of Mandeville to exercise any or all powers, duties, and responsibilities which may be exercised under the provisions of [R.S. 33:4727](#) by a board of adjustment.

#### **§ 4728. Enforcement of building and zoning regulations; penalty for violations**

In case any building or structure is erected, structurally altered, or maintained, or any building, structure or land is used in violation of [R.S. 33:4721](#) through [R.S. 33:4729](#) or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. The regulations shall be enforced by the city architect or other officer authorized to issue building permits, who is empowered to cause any building, structure, place or premises to be inspected and examined, to order in writing the remedying of any condition found to exist therein in violation of any provision of the regulations made under authority of [R.S. 33:4721](#) through [R.S. 33:4729](#). The owner or general agent of a building or premises where a violation of any regulation has been committed or exists, or the lessee or tenant of an entire building or entire premises where the violation has been committed or exists, or the owner, general agent, lessee or tenant of any part of the building or premises in which the violation has been committed or exists, or the general agent, architect, builder, contractor, or any other person who commits, takes part in, or who assists in any violation or who maintains any building or premises in which any violation exists shall be fined not less than ten dollars and not more than twenty-five dollars or be imprisoned for not more than thirty days for each day that the violation continues.

#### **§ 4729. Conflicting regulations; higher standards to apply**

Wherever the regulations made under authority of [R.S. 33:4721](#) through [R.S. 33:4729](#) require a greater width or size of side yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of [R.S. 33:4721](#) through [R.S. 33:4729](#) shall govern. Wherever the provisions of any other statute, local ordinance, or regulation require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of [R.S. 33:4721](#) through [R.S. 33:4729](#) the provisions of such statute, local ordinance, or regulation shall govern.

#### **§ 4730. Ordinances adopted for authorized purposes; validity**

Whenever any municipality pursuant to an act of the legislature has adopted an ordinance for any of the purposes covered in [R.S. 33:4721](#) through [R.S. 33:4729](#), the ordinance shall be deemed to have been adopted under [R.S. 33:4721](#) through [R.S. 33:4729](#), and it shall not be necessary in such cases for the local legislative body to appoint a zoning commission as herein provided. All such ordinances shall remain in effect, except so far as they are inconsistent with [R.S. 33:4721](#) through [R.S. 33:4729](#), until they shall have been amended, altered or repealed by the legislative body.

#### **§ 4731. Regulating building construction and limiting business areas in municipalities of over 50,000**

The governing authority of municipalities of more than fifty thousand inhabitants may by ordinance define and regulate the kind, style, and manner of construction of buildings and other edifices which may be erected on certain designated streets and thoroughfares and may permit or prohibit the establishment and operation of businesses and trades within designated limits.

#### **§ 4732. Authority to enforce regulations**

Municipalities may enforce the ordinances adopted under [R.S. 33:4731](#) by fine or imprisonment, or both.

#### **§ 4733. [Blank]**

#### **§ 4734. Notification to military installations**

A. (1)(a) The local governing authority considering any action to be taken on an application for a zoning request affecting property within three thousand feet of the boundary of a military installation shall notify the commander of the installation at least ninety days in advance of taking such action.

(b) The local governing authority shall publish notice of its intention to take action on an application for a zoning request pursuant to this Paragraph in the official journal of the local governing authority at least ninety days prior to taking such action.

(2) The local governing authority considering any action to be taken on an application for a variance affecting property within three thousand feet of the boundary of a military installation shall notify the commander of the installation at least thirty days in advance of taking such action.

B. As used in this Section, “military installation” shall include any base, military airport, camp, post, station, yard, center, home port facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense.

**§ 4735. [Blank]****§ 4741. Fire limits authorized**

All municipalities exceeding five hundred population, the City of New Orleans excepted, may provide for the prevention of fires by establishing fire limits and by prohibiting the construction or relocation or removal of frame buildings within such limits, or the construction of frame additions to buildings therein.

**§ 4742. Thickness of walls of buildings**

Such municipalities may regulate, to such extent as to safeguard against the spread of conflagration, the thickness of the outside or fire walls of all buildings to be constructed within fire limits, and may reasonably regulate partition walls in buildings, where the regulation is proper to prevent the spread of fire.

**§ 4743. Repairing buildings**

Such municipalities may prohibit material repairs to frame buildings within the fire limits, and reasonably regulate repairs on other than frame buildings therein. "Material repairs," as above used, shall mean not only those repairs that increase the fire risk, but also those that appreciably tend to perpetuate it.

**§ 4744. Building permits**

Such municipalities may require building permits and permits for repairs, which permits shall be granted according to uniform rules, and shall never be refused when the application setting forth the character of the building to be constructed, or the natures of the repairs, conforms to the requirements of the ordinances of the municipality passed in pursuance of this Subpart. All applications shall be passed upon by the governing body of the municipality, or the committee designated by it, within ten days after their filing.

**§ 4745. Sub-fire limits**

Such municipalities may establish sub-fire limits adjacent to and outside of fire limits proper, and make reasonable regulations to govern the sub-fire limits.

**§ 4746. Enforcement of ordinances**

Such municipalities may punish the infringement of ordinances passed hereunder within the limits prescribed by their respective charters, and in addition thereto, may remove, at the expense of the owner, the buildings, repairs, or additions built or made contrary to the specifications of the ordinances.

**§ 4751. Construction and repair of buildings and walls**

The governing body of any municipality of one hundred thousand or more inhabitants may adopt ordinances relating to the construction, equipment, alteration, and repair of buildings, structures, walls, and party walls, and provide in the ordinances penalties for their violation. Such ordinances shall supersede any laws existing prior to 1910.

**§ 4752. Removal of dangerous structures; maintenance of property; interest; assistance of national guard**

A. (1) Both the city of New Orleans and the city of Shreveport may adopt ordinances, rules, and regulations in order to condemn and cause to be demolished, removed, or both, any building or other structure, situated within their respective municipal boundaries, which, by reason of its nature or condition, endangers the public welfare or safety.

(2) Both the city of New Orleans and the city of Shreveport may, by ordinance, provide a method of demolishing, removing, or both, buildings or structures and maintaining property in a sanitary condition subsequent to demolition, including grass cutting, weed abatement, and trash and garbage removal, at the expense of the property owner.

(3) Such ordinances shall include provisions for notification of the owner and an opportunity to be heard.

B. (1) Upon failure of the property owner to pay any costs incurred by the respective municipality for demolition, removal, or both, of such structures and for maintenance of property subsequent to demolition, the governing body of the city of New Orleans or the governing body of the city of Shreveport may file a certified copy of an invoice reflecting the amount of such charges with the recorder of mortgages, which shall operate as a lien and privilege in favor of the municipality against the property.

(2) In addition, the ordinances of the respective municipality may provide for interest on this amount, which shall be paid prior to cancellation of the lien.

(3) 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.

C. (1) If within six months after the filing of the lien provided for in Subsection B above, the property owner fails to pay such lien and any interest thereon, the director of finance of the city of New Orleans, or the director of finance of the city of Shreveport, for the benefit of their respective cities, shall have the authority to sell such property for the amount of all public liens operating against the property and any interest thereon.

(2) 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 city taxes, except that the property owner shall not have a right of redemption.

D. Both the city of New Orleans and the city of Shreveport may provide in their respective ordinances for rules and regulations and a penalty for their violation by fine or imprisonment or both.

E. (1) The governing authority may request and the adjutant general may assign, subject to the approval of the governor, national guard personnel and equipment to assist in the removal and demolition of condemned buildings, structures, or public nuisances. The provisions of this Subsection shall be applicable when the budget for the demolition and removal of condemned structures has been expended by the governing authority of a municipality. However, the request must be accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the governing authority.

(2) In the event all procedural protections and substantive restraints have been adhered to by the governing authority, the municipality and their personnel and the national guard and their personnel shall not be liable to the owner of the building, structure, or public nuisance for any damages sustained resulting from the demolition of the building, structure, or public nuisance.

#### **§ 4753. Special liens; municipalities of four hundred thousand or more inhabitants**

A. (1) The governing body of any municipality of four hundred thousand or more inhabitants may adopt ordinances to provide for control of vacant substandard buildings and the recordation of notices of any costs for extraordinary police, fire, sanitation, and health services which the municipality provides to the owners of vacant substandard buildings which have been deemed uninhabitable by the municipality, pursuant to ordinance adopted by the municipality.

(2)(a) Such ordinance shall establish standards for the notification of the owner of said property and an opportunity to be heard.

(b) Such standards shall include but not be limited to the requirement that if the owner is absent from the state or the parish in which the property is located or unrepresented therein, then notice shall be served upon an attorney at law appointed by the governing body of the municipality to represent the absentee.

B. Municipalities may pass ordinances to add costs for extraordinary police, fire, sanitation, and health services which the municipality provides to the owners of vacant substandard buildings which have been deemed uninhabitable by the municipality to the annual ad valorem tax bill of the property involved.

C. (1) Upon failure of any such property owner to pay the charges incurred pursuant to the ordinances author-

ized by this Section, the governing body may file a certified copy of said charges with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the municipality against the property on which a vacant substandard building deemed uninhabitable by the municipality is located.

(2) Such recordation shall constitute a privilege against the uninhabitable property; shall be subordinate in rank to a tax privilege, or a vendor's lien and privilege, or any other prior recorded lien, privilege, or mortgage; and shall not be considered as an ad valorem tax for purposes of the issuance of a tax certificate.

D. If within six months after the filing of the lien provided for in Subsection C of this Section, the property owner fails to pay such lien, the director of finance of the municipality, for the benefit of the municipality, shall have the authority to sell such property for the amount of all public liens operating against the property and any interest thereon. 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 city taxes.

E. (1) For the purposes of this Section, the term “vacant substandard buildings” shall mean residential and commercial buildings which are determined to be:

(a) Unsafe, unsanitary, unfit for human habitation, or not provided with adequate egress;

(b) Which constitute a fire hazard or are otherwise dangerous to human life; or

(c) Which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment for a period in excess of six months.

(2) However, “vacant substandard buildings” shall not be interpreted or construed to mean residential and commercial buildings which are under construction or which are in a substandard condition as a result of a natural disaster, an act of God, force majeure, a catastrophe, or such other occurrence over which the owner or owners have no control.

#### **§ 4753.1. Noxious growths; community service; city of New Orleans**

A. The governing authority of the city of New Orleans may enact ordinances which require that community services be performed by persons who allow weeds, grass, or other noxious growths to accumulate on their property thereby allowing the property to degrade to a deplorable condition which endangers the health and safety of humans and pets.

B. City law enforcement authorities shall have the authority to enforce such ordinances, including the author-

ity to issue summons for violations of such ordinances. The municipal court for the city of New Orleans shall have jurisdiction to hear cases relative to such violations and to impose penalties for such violations in accordance with applicable ordinances.

C. The offender shall be cited for the offense by means of summons as provided by ordinance.

D. Whoever violates the provisions of this Section shall:

(1) Upon first conviction be sentenced to serve ten hours of community service on his property.

(2) Upon second conviction be sentenced to serve twenty hours of community service on his property.

(3) Upon third or subsequent conviction be sentenced to serve fifty hours of community service on his property, or in a work detail as approved by the court, or any combination of the aforementioned penalties.

E. The court may require an individual convicted of a violation of this Section to remove the weeds, grass, or other noxious growths which have accumulated on his property in disregard of the health and safety of others in lieu of or in addition to the penalties prescribed in this Section.

**§ 4754. Liens for removal and securing dangerous structures; maintenance of property; interest; certain parishes and municipalities; assistance of national guard**

A. (1) The governing authority of the parish of Ouachita, Caddo, LaSalle, Grant, Lafourche, Catahoula, Vermilion, Plaquemines, St. Mary, Webster, DeSoto, Washington, Tangipahoa, Iberia, Ascension, St. James, St. John the Baptist, Natchitoches, Assumption, Cameron, Terrebonne, Beauregard, St. Landry, or St. Tammany, the governing authority of any municipality within one of said parishes, the governing authority of the city of Alexandria, Leesville, or Shreveport, and the governing authority of Acadia Parish or Calcasieu Parish may adopt ordinances, rules, and regulations in order to secure or cause to be secured any building or other structure situated within the respective parish or municipality, which, by reason of its nature or condition, endangers the public welfare or safety.

(2) Any governing authority included in Paragraph (1) of this Subsection may adopt ordinances, rules, and regulations in order to condemn and cause to be demolished, removed, or both, any building or other structure situated within the respective municipality or parish, which by reason of its nature or condition endangers the public welfare or safety.

(3) Any governing authority included in Paragraph (1) of this Subsection may by ordinance provide a method for securing, or demolishing or removing, or both, buildings or structures, as well as a method of maintaining

property in a sanitary condition including grass cutting, weed abatement, or trash, debris, refuse, discarded or noxious matter, and garbage removal, at the expense of the property owner.

(4) Any governing authority included in Paragraph (1) of this Subsection may adopt ordinances providing for fines for the failure of any property owner to comply with ordinances adopted pursuant to this Section.

(5) Ordinances adopted pursuant to this Section shall include a provision for notification of the owner or any other party in interest and an opportunity to be heard.

B. (1) Upon failure of the property owner to pay any fine levied as provided by ordinance or any costs incurred by a municipality or parish included in Paragraph (A)(1) of this Section for securing, or demolition or removal, or both, of such structures, and for maintenance of property in a sanitary condition, the governing body of the municipality or parish 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 municipality or parish against the property.

(2) In addition, the ordinances of a parish or municipality included in Paragraph (A)(1) of this Section may provide for interest on costs incurred by the parish or municipality, as the case may be, 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 municipality or parish pursuant to this Section shall include not only the costs provided for in Subsection A of this Section 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 municipality's or 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 municipality's or parish's lien and privilege is perfected, except that the municipality's or parish's lien and privilege will not prime other tax liens against the property.

C. (1)(a) After the municipality or 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. "Equivalent officer" as used in this Subsection shall include the assessor of Terrebonne Parish.

(b)(i) When such amounts are added to an ad valorem tax bill in Calcasieu Parish, the sheriff effecting collection shall be reimbursed by the governing authority for an amount equal to fifteen percent 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.

(ii) In the exercise of the authority granted by this Paragraph to the Calcasieu Parish governing authority, Calcasieu Parish 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.

(2) If within six months after the filing of the lien provided for in Subsection B of this Section, the property owner fails to pay such lien and any interest thereon, the director of finance or equivalent officer of the municipality or 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.

(3) 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.

(4) The amount of any municipal or 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 municipality or parish in order to facilitate the sale or disposition of the property for the unpaid lien.

(5) The provisions of this Section shall not apply to any building or appurtenances on agricultural land when such land is used for agricultural purposes.

D. For the purposes of this Section, the term "secured" 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.

E. (1) The governing authority of a municipality or parish included in Paragraph (A)(1) of this Section may request and the adjutant general may assign, subject to the approval of the governor, national guard personnel and equipment to assist in the removal and demolition of condemned buildings, structures, or public nuisances. The provisions of this Subsection shall be applicable when the budget for the demolition and removal of condemned structures has been expended by the governing authority of the municipality or parish.

However, the request must be accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the governing authority.

(2) In the event all procedural protections and substantive restraints have been adhered to by the governing authority, the respective municipality or parish and its personnel and the national guard and its personnel shall not be liable to the owner of the building, structure, or public nuisance for any damages sustained resulting from the demolition of the building, structure, or public nuisance.

### **§ 4755. Statement of purpose**

It is hereby found and declared that the city of New Orleans contains a great number of vacant substandard buildings which have become unsightly, unsafe, and a liability to the community. Such structures give rise to the spread of disease and crime, impair the economic value of property upon which they are situated, and necessitate excessive and disproportionate expenditures for crime prevention, public health, welfare and safety programs, fire and accident protection, and other services. It is further found that the present system utilized by the city of New Orleans to address this problem of vacant substandard structures in the city is inadequate and that some alternative mechanism is needed to enforce the ordinances and regulations of the city applicable to such properties, including but not limited to the city's building, fire, and zoning codes.

#### **§ 4755.1. Creation; purpose**

A. The New Orleans Housing Commission is hereby created as an administrative agency of the city of New Orleans. However, the New Orleans Housing Commission, hereinafter referred to as "the commission," shall not exercise any of the powers conferred upon it by this Subpart until and unless the governing authority of the city of New Orleans has by resolution authorized the commission to exercise such powers as further provided herein.

B. (1)(a) No later than ninety days after the effective date of this Subpart, the governing authority of the city of New Orleans, hereinafter referred to as "the city governing authority," shall by resolution call a public hearing on the activation of the commission.

(b) Notice of the hearing shall be published at least ten days prior to the date of the hearing in the official journal of the city, and a full opportunity to be heard shall be given to all interested residents of the city at the hearing.

(c) If the city governing authority finds it to be in the public interest to activate the commission, the city governing authority shall adopt a resolution so finding and declaring and shall transmit notice of the resolution to the mayor of the city.

(2) Upon receipt of the notice of the resolution, the mayor shall appoint, with the approval of the city governing authority, members of the commission as further provided herein. A certificate stating that the city governing authority made the finding and declaration and that the mayor has appointed the initial members of the commission shall be signed by the mayor and the initial members and shall be filed with the secretary of state. Upon such filing, the commission shall be authorized to exercise all powers conferred by this Subpart.

C. The purpose of the commission shall be to enforce those ordinances and regulations of the city applicable to vacant substandard structures, including but not limited to the Building Code of the city of New Orleans, Ordinance No. 17525 C.C.S., as amended, the Comprehensive Zoning Ordinance of the city of New Orleans, Ordinance No. 4264 M.C.S., as amended, Chapters 28, 30, 37, 48, and 54 of the City Code of the city of New Orleans, and the Fire Code of the city of New Orleans, Ordinance No. 4912 M.C.S. It is the intent of this Subpart not to preempt any other mechanism of enforcement of such ordinances and regulations presently utilized by the city but to provide through the commission an alternative method of such enforcement.

#### **§ 4755.2. Commissioners; qualifications; appointment; terms; removal; recusation**

A. The commission shall be composed of seven members who shall be qualified electors of the city of New Orleans residing within the city during their term of office and shall include at least one member from each of the city's councilmanic districts. Such members, hereinafter referred to as "commissioners," shall be appointed by the mayor of the city with the approval of the city governing authority from lists of nominees as follows:

(1) Five commissioners shall be appointed from a list comprised of one nomination submitted by each member of the state legislature representing a district wholly or partially within the city of New Orleans.

(2) Two commissioners shall be appointed from a list comprised of two names submitted by each of the following organizations: the Lower Ninth Ward Housing Development Corporation, the Central City Housing Development Corporation, and the Desire Area Community Housing Development Corporation.

B. The commissioners initially appointed shall serve terms as follows: one commissioner for one year, one commissioner for two years, one commissioner for three years, two commissioners for four years, and two commissioners for five years, as shall be specified by the mayor with the consent of the city governing authority. Commissioners thereafter appointed shall be appointed in the same manner as the original appointment and shall serve terms of five years.

C. A vacancy in the office of any commissioner shall be promptly filled for the remainder of the unexpired term by the mayor in the same manner as that commissioner was originally appointed. With consent of the city governing authority, the mayor may remove a commissioner for inefficiency, neglect of duty, or misconduct in office but only after the commissioner has been given a copy of the charges against him and has had an opportunity to be heard in person or by counsel before the city governing authority.

D. Commissioners shall serve without compensation but shall be reimbursed for all necessary expenses incurred in the performance of their duties.

E. No commissioner shall take part in the deliberations or vote on any matter involving property in which he has a direct or indirect economic interest. Failure to comply with this provision shall constitute misconduct in office and shall be grounds for removal from the commission as herein provided.

### **§ 4755.3. Officers; meetings; quorum; employees; domicile**

A. The commissioners shall at their first meeting and annually thereafter elect from their membership a chairman, a vice chairman, and such other officers as they deem necessary for operation of the business of the commission. The commission shall designate the time and the place within the city of New Orleans for holding regular meetings and shall meet in regular session at least once each month. The commission may also meet upon the call of the chairman, upon the written request of four commissioners, or upon notice by the director of any department of the city of New Orleans as provided herein. A majority of the membership of the commission shall constitute a quorum for the transaction of its business.

B. The commission is authorized to employ an executive director and such other staff as it may deem necessary and shall determine the qualifications and compensation of such employees. However, all departments, commissions, boards, agencies, and officers of the state of Louisiana and the city of New Orleans, in particular the New Orleans Department of Safety and Permits, the New Orleans Department of Health, and the New Orleans Department of Law, shall cooperate with the commission in exercising its powers and carrying out the purposes of this Subpart.

C. The commission shall be domiciled in the city of New Orleans.

### **§ 4755.4. Powers of the commission**

In order to accomplish its purpose as further delineated in [R.S. 33:4755.1\(C\)](#), the commission shall have the power:

(1) To hold adjudicatory hearings in accordance with [R.S. 49:950 et seq.](#) to determine whether a violation of any of the following has occurred:

(a) The Building Code of the city of New Orleans, Ordinance No. 17,525 C.C.S., as amended.

(b) The Comprehensive Zoning Ordinance of the city of New Orleans, Ordinance No. 4264 M.C.S., as amended.

(c) Chapters 28, 30, 37, 48, and 54 of the City Code of the city of New Orleans.

(d) The Fire Code of the city of New Orleans, Ordinance No. 4912 M.C.S.

(e) Any other ordinance or regulation of the city applicable to vacant substandard structures.

(2) To issue and enforce subpoenas in its name requiring attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence as specifically provided in [R.S. 49:956](#).

(3)(a) Upon its finding that such a violation has occurred, to order the owner or other responsible party to remedy the violation by repair or demolition of the structure, to impose any civil penalty, including fines and filing of liens with interest against property in favor of the city, or any combination of the foregoing.

(b) No fine imposed by the commission shall exceed the amount set for such violation of the ordinance.

(c) The rate of interest assessed on any lien 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 the lien is cancelled.

(d) For the purposes of this Subpart, “owner or other responsible party” shall mean the owner, executor, administrator, agent, or other person or persons who may have a vested or contingent interest in the structure.

(4) To institute civil proceedings to hold any person in contempt for failure to comply with any order or decision of the commission or to enforce any order or decision of the commission in the Civil District Court for the parish of Orleans, or both. The commission's petition for civil enforcement may request declaratory relief, temporary or permanent injunctive relief, any other civil remedy provided by law, or any combination of the foregoing.

#### **§ 4755.5. Operations of the commission**

A. The city, through the director of any department of the city, may refer any matter relating to vacant substandard structures to the commission for adjudication when:

(1) The department has found that a structure is in violation of a city ordinance or regulation;

(2) The department has notified the owner or other responsible party at least once of the violation in accordance with the applicable city ordinance; and

(3) The owner or other responsible party has not remedied the violation within thirty days after the latest notice.

B. Upon referral of any matter to the commission, the chairman shall set a date for hearing the matter within thirty days, shall notify the members of the commission, and shall appoint a hearing officer from the staff of the commission or from the city's Department of Law. The commission may schedule and conduct adjudicative proceedings or cause such proceedings to be conducted on more than one matter at any one hearing.

C. The commission shall notify the owner of the structure at least fourteen days prior to the hearing. Such notification shall be by ordinary service of process upon the owner or other responsible party or upon an attorney appointed by the chairman of the commission to represent such person in the event that he is absent from the state or unrepresented. It shall be sufficient to notify one party in the event that there are multiple owners or other responsible parties.

D. (1) The commission shall make a determination by majority vote, based upon evidence presented, whether there has been the violation alleged by the city department.

(2) Upon its determination that a violation has occurred, the commission shall issue an order which may include the imposition of a penalty as provided in [R.S. 33:4755.4\(C\)](#).

(3) The final determination and order, if any, shall be in writing and the determination of any commissioner which differs from that of the commission shall also be issued based on the record of the hearing.

E. Any person aggrieved by the final determination or order in the commission's adjudication proceedings shall be entitled to judicial review as further provided in [R.S. 49:964](#).

#### **§ 4761. Condemnation of buildings by all parishes and municipalities**

The governing authority of any parish or municipality may condemn and cause to be demolished or removed any building or structure within the parish or municipality when it is in a dilapidated and dangerous condition which endangers the public welfare.

#### **§ 4762. Notice to owner; hearing; notice filed with recorder of mortgages binds transferees**

A. Before the parish or municipal governing authority may condemn any building or structure, there must be submitted to it a written report recommending the demolition or removal of the building signed by some parish or city official or other person authorized to act in such matters for the parish or municipality. The parish president, police jury, mayor, or chief executive shall thereupon serve notice on the owner of the building or

structure requiring him to show cause at a meeting of the governing authority, regular or special, why the building or structure should not be condemned. The date and hour of the meeting shall be stated in the notice which shall be served at least ten days prior to the date of the hearing, except in 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 his last known address. The notice may also be served by the marshal of the municipality or by any sheriff or deputy sheriff or constable having jurisdiction and power to serve legal process where the owner of the building or structure is found in the state of Louisiana, and the officer shall make return of the service as in ordinary cases.

B. If the owner is absent from the state or unrepresented therein, then the notice shall be served upon the occupant of the condemned building or structure, if any, and also upon an attorney at law appointed by the parish president, police jury, mayor, or chief executive to represent the absentee. Domiciliary service may be made as in ordinary cases.

C. In case of grave public emergency where the condition of the building is such as to cause possible immediate loss or damage to person or property, the parish or municipal governing authority may condemn the building after twenty-four hours notice served upon the owner or his agent or the occupant and attorney at law appointed to represent the absentee owner.

D. Any notice served pursuant to this Section shall be filed by the appropriate parish or municipal governing authority with the recorder of mortgages where the property is located. Once filed, said notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.

#### **§ 4763. Decision of parish or municipal governing authority; order to demolish or repair**

A. After the hearing, if, in the opinion of the parish or municipal governing authority the facts justify it, an order shall be entered condemning the building and ordering that it be demolished or removed within a certain delay. If repairs will correct the dilapidated, dangerous, or unsafe condition, the parish or municipal governing authority 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 governing body.

B. The decision and order of the parish or municipal governing authority shall be in writing and shall be final unless appealed from within five days as hereinafter provided.

#### **§ 4764. Appeal from decision**

A. The owner, occupant, agent, or other representative of the owner may appeal from the decision of the par-

ish or municipal governing authority to the district court having jurisdiction over the property. The appeal shall be made by the filing of a suit against the parish or municipality, setting forth the reasons why the decision or order of the governing body is illegal or improper, and the issue shall be tried de novo and by preference in the district court. Where a grave public emergency has been declared by the parish or municipal governing authority, the owner of the building who desires to prevent the demolition or removal thereof must file his petition within forty-eight 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 that might be caused by the condition of the building.

B. Either party may appeal from the judgment of the district court as in other cases.

**§ 4765. Compliance with decision; demolition by parish or municipality where owner fails to comply; notice; assistance of national guard**

A. The owner or his designated agent may proceed to demolish and remove the building, or have it repaired, in accordance with the order of the governing authority of the parish or municipality, provided the owner or his agent executes a contract in writing obligating himself to have the work done within the required time and files with the parish president, police jury, mayor, or chief executive a copy of the contract, together with a bond to guarantee performance.

B. In the event the owner or occupant of the building or structure fails or refuses to comply with the decision of the governing authority of the parish or municipality and fails to appeal therefrom within the legal delays provided herein, then, in that event, the mayor or chief executive may proceed with the demolition or removal of the condemned building, structure, or public nuisance, in which case neither the parish president, police jury, or mayor nor the parish or municipality shall be liable in damages.

C. Prior to the demolition or removal of the building or structure by the parish or municipality, the parish president, police jury, mayor, or some official designated by the appropriate authority shall serve notice on the owner, or his agent, and on the occupant of the building, if any there be, or upon the attorney at law appointed to represent the minor, interdict, or absentee owner, giving the time when work will begin upon the demolition or removal of the building, structure, or public nuisance.

D. The parish or municipal governing authority may request and the adjutant general may assign, subject to the approval of the governor, national guard personnel and equipment to assist in the removal and demolition of condemned buildings, structures, or public nuisances. The provisions of this Subsection shall be applicable when the budget for the demolition and removal of condemned structures has been expended by a governing authority of a parish or municipality. However, the request must be accompanied by documentation that all procedural protections and substantive restraints have been adhered to by the parish or governing authority.

E. In the event all procedural protections and substantive restraints have been adhered to by the parish or mu-

municipal governing authority, the parish or municipality and their personnel and the national guard and their personnel shall not be liable to the owner of the building, structure, or public nuisance for any damages sustained resulting from the demolition of the building, structure, or public nuisance.

**§ 4766. Lien and privilege for cost of demolition, removal, and maintenance by parish or municipality; interest; attorney fees**

A. The parish or municipality has a privilege and lien upon an immovable and its improvements, and the owner is personally liable for:

(1) The cost to the parish or municipality of maintenance of the immovable or improvements; and

(2) The cost to the parish or municipality of demolishing or removing, or both, a building or other structure situated upon the immovable or improvements, and all attorney fees incurred by the parish or municipality in connection with such demolition or removal.

B. "Maintenance" shall include but not be limited to grass cutting, weed abatement, and trash and garbage removal.

C. The privilege and lien shall be preserved and enforced only after the owner has refused, after notification by the parish or municipality and reasonable opportunity to be heard, to pay the costs incurred by the parish or municipality.

D. The privilege and lien shall be preserved by the filing and recording of an affidavit signed by the parish president, police jury, mayor of the municipality, or his designee in the mortgage office of the parish in which the immovable is situated. The affidavit shall include a description of the property sufficient to reasonably identify the immovable and a statement of facts listing the approximate cost or costs incurred by the parish or municipality.

E. (1) The privilege and lien shall be enforced by ordinary process in the district court having jurisdiction of the immovable within three years after it is 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, to be enforced and collected as any ordinary property tax lien to be assessed against the 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 or municipality has incurred such costs as constitute the lien and privilege on the property, the parish president, police jury, mayor, or any director of any community development department of the parish or municipality may send an attested bill of said costs and expenses which constitute the lien and privilege to the director of administration, who shall add the amount of said bill to the next tax bill of the owner. The lien obtained by the parish or municipality pursuant to proper notification and filing

shall include not only the costs provided for in Subsection A of this Section but shall include all attorney fees and all costs of court incurred in the locating of the owner, the notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements.

(2) If authorized by parish or municipal ordinance, the parish or municipality may also recover interest on the amounts secured by the lien. The interest shall not exceed the rate of legal interest provided in [R.S. 9:3500](#) and shall be computed from the date of recordation of the lien until paid. The privilege and lien of the parish or municipality shall prime all other liens or privileges against the property filed after the notice to the owner to show cause is filed with the recorder of mortgages pursuant to [R.S. 33:4762\(D\)](#), regardless of the date on which the lien and privilege of the parish or municipality is perfected, except that the lien and privilege of the parish or municipality will not prime other tax liens against the property.

F. The lien of the parish or municipality shall not be cancelled until after payment of all amounts, including costs, attorney fees, and interest.

G. In addition to the lien and enforcement procedures authorized under this Section, the parish or municipality has a cause of action against the owner personally for the costs incurred by the parish or municipality, if such owner is not indigent and has the ability to pay a judgment obtained by the parish or municipality. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.

H. (1) If property, which may be subject to a lien and privilege granted in favor of a parish or municipality under this Section, is owned in 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 or municipality, then the parish or municipality shall notify each owner in indivision of his liability under this Section.

(2) Upon failure of each owner in indivision to pay his 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 or municipality 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 his proportionate share listed on the ad valorem tax roll for the parish or municipality of the charges, attorney fees, and interest incurred under this Section, and after certification of such proportionate interest by the 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 this Section are added to the annual ad valorem tax bill, the proportionate payment by the paying owner in indivision shall be reflected on the bill, and his interest in the property free of such charge shall be distinguished on the tax bill.

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

**§ 4766.1. Lien and privilege; order to repair; village of Grand Cane**

A. (1) Notwithstanding any other provision of law to the contrary, if the owner or occupant of a building in the village of Grand Cane fails or refuses to comply with the decision of the governing authority ordering the repair of the structure and fails to appeal therefrom within the legal delays as provided in [R.S. 33:4763](#), the village of Grand Cane shall have a lien and privilege upon the immovable, its improvements, and contents, and the owner is personally liable for the approximate estimated cost of repairs, as provided in a written report signed by a city official or other person authorized to act in such matters on behalf of the village, a ten percent penalty, and all attorney fees incurred by the village in connection with obtaining such repair order and the demolition or removal order provided for in [R.S. 33:4763](#).

(2) The privilege and lien shall be preserved and enforced as provided in [R.S. 33:4766](#) and 4767.

B. In addition to the lien and enforcement procedures authorized by this Section, the village shall have a cause of action against the owner personally for the costs incurred by the village, if such owner is not indigent and has the ability to pay a judgment obtained by the village. Such action may be brought by ordinary proceeding in any court of competent jurisdiction.

C. (1) If the property owner fails to pay the lien authorized by this Section, the village may cause to be seized and subsequently conveyed by sheriff's sale the immovable, its improvements, and contents.

(2) Should the immovable, its improvements, and contents be sold, the governing authority of the village in its discretion may, after deducting costs, expenses, and penalties to which the village is entitled under law:

(a) Have the obligation of repair made an obligation of the purchaser following the sale, with the general nature or extent of the repairs to be made, the time thereof, and the defects to be corrected specified as part of the sale and deed transferring title.

(b)(i) Obtain the estimated cost of repairs as a deduction from the sales proceeds and make the necessary repairs prior to the permitted occupancy by the purchaser following the sale, in which case neither the mayor nor the village shall be liable for damages resulting from the repairs either to the owner or the purchaser following the sale.

(ii) The village is entitled to recover the entire cost of repairs from the sale proceeds, and the sheriff shall hold the remaining sales proceeds in escrow pending certification by the village that its entire cost of repairs has been satisfied from the proceeds.

(iii) Prior to the time the governing authority of the village makes any repairs pursuant to this Subparagraph, the mayor or his designee shall serve notice on the owner, or his agent, and on the occupant of the building, if

any, and upon any attorney at law appointed to represent any other party in interest or absentee owner. Such notice shall include the time when work will begin upon the repair of the building or structure.

**§ 4767. Attorney to represent absentee, minor, or interdict**

In the event the building or structure is unoccupied and its owner is absent 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, the parish president, police jury, or mayor shall appoint an attorney at law to represent the absentee, minor, or interdict upon whom the notices and other proceedings provided in this Subpart may be served. The attorney shall be paid a reasonable fee to be taxed as cost.

**§ 4768. Alternative to demolition; repair by municipality or parish**

A. (1) Notwithstanding any other provision of law to the contrary, the parish or municipal governing authority, as an alternative to demolition or removal, may make the repairs necessary to correct the defects in a condemned structure within its jurisdiction.

(2) The parish or municipal governing authority may take such action only after a demolition or removal order has been issued and the delay for a legal appeal has run, or an appeal has been denied, and when in the discretion of the parish or municipal governing authority such action will restore the structure to a state of usefulness to the community.

(3) The decision of the parish or municipal governing authority to repair the structure may be appealed in the same manner as provided in [R.S. 33:4764](#).

B. The costs of repairs made pursuant to Subsection A and a ten percent penalty thereon shall be reimbursed by the owner of the condemned property, and such costs and penalty shall operate as a lien and privilege on the property in favor of the parish or municipality. Until such time as the costs and penalty have been paid, the parish or municipal governing authority may lease such property and apply all revenue received to the amount owed by the owner and to the necessary maintenance of the structure.

**§ 4769. State funding; lien; enforcement**

A. Any parish or municipality may obtain funding from the Louisiana Blighted Property Reclamation Revolving Loan Fund, as created by [R.S. 33:4770](#), for the purposes of maintenance, repair, removal, or demolition of dangerous structures pursuant to the purposes and provisions of this Subpart.

B. If the parish or municipality receives funding from the Louisiana Blighted Property Reclamation Revolving

Loan Fund for the purposes of maintenance, repair, removal, or demolition of a dangerous structure pursuant to this Subpart, then the privilege and lien established pursuant to [R.S. 33:4766](#) shall be in favor of the Louisiana Housing Finance Agency as administrator of the fund. The Louisiana Housing Finance Agency is authorized to charge an administrative fee of no more than one-half of one percent of each loan.

C. The parish or municipality shall enforce the privileges and liens established in favor of the Louisiana Housing Finance Agency pursuant to the provisions of this Subpart. Any funds recovered from the enforcement of a privilege and lien in favor of the Louisiana Housing Finance Agency shall be refunded to the Louisiana Blighted Property Reclamation Revolving Loan Fund.

**§ 4770. Creation of the Louisiana Blighted Property Reclamation Revolving Loan Fund; administration of fund**

A. There is hereby established in the state treasury, as a special fund, the Louisiana Blighted Property Reclamation Revolving Loan Fund, hereafter referred to as the “fund”, which shall be maintained and operated by the Louisiana Housing Finance Agency.

B. (1) The source of monies deposited into the fund shall be any monies appropriated annually by the legislature including federal funds, donations, gifts, loan payments, or grants and other monies which may be provided by law. The monies in the fund shall be appropriated, administered, and used solely for the purposes of maintenance, repair, removal, or demolition of dangerous structures in Louisiana pursuant to the provisions of this Subpart. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. Monies in the fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of monies shall be credited to the fund.

(2) Money in, credited to the account of, or to be received by the fund may be used:

(a) To make loans from the fund at or below market interest rates.

(b) To provide assistance to parishes or municipalities.

(c) To fund other programmatic activities of the agency to develop and operate the revolving loan program.

C. On the first day of July of each year, the agency shall determine the balance of monies in the fund which are available for the making of loans during that fiscal year. Such monies shall be allocated as follows:

(1) An amount equal to one-third of the total monies available that fiscal year shall be reserved for the making of loans to municipalities with a population greater than or equal to thirty thousand and to parishes with a pop-

ulation greater than or equal to one hundred thousand.

(2) An amount of money equal to one-third of the total monies available that fiscal year shall be reserved for the making of loans to municipalities with a population greater than five thousand but less than thirty thousand and parishes with a population greater than thirty thousand but less than one hundred thousand.

(3) An amount of money equal to one-third of the total monies available that fiscal year shall be reserved for the making of loans to municipalities with a population less than or equal to five thousand and to parishes with a population less than or equal to thirty thousand.

D. The fund shall be administered by the agency, which is authorized to enter into contracts and other agreements in connection with the operation of the fund. The agency shall maintain full authority for the operation of the fund in accordance with applicable federal and state law.

E. Prior to making a loan, the agency shall determine that the applicant has the ability to repay the loan. Further, the agency may require security for loans made pursuant to this Subpart.

F. The agency is authorized to adopt rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Subpart. These rules shall include but not be limited to:

- (1) Eligibility requirements of the entity and properties.
- (2) Criteria for ranking and selecting applicants.
- (3) Procedures for making and repaying loans.
- (4) Requirement of security for loans to eligible applicants.
- (5) Establishment of procedures for interest rates on loans.

#### **§ 4770.1. Purpose**

It is hereby found and declared that the city of Monroe contains great numbers of unsightly and unsafe properties and dilapidated structures which have become a liability to the community. Such conditions give rise to the spread of disease and crime, impair the economic value of property upon which they are situated, and necessitate excessive and disproportionate expenditures for crime prevention, public health, welfare and safety programs, fire and accident protection, and other services. As a result of the conditions of dilapidated struc-

tures and noxious matters within the city, the city finds it has a compelling interest and purpose in the abatement of these nuisances, which are not exclusive. It is further found that the present system utilized by the city to address these problems of unsightly and unsafe properties and dilapidated structures, is in need of additional authority to enforce the ordinances and regulations of the city applicable to such properties, including but not limited to the city's building, fire, and zoning codes.

#### **§ 4770.2. Authority to abate nuisances**

A. The city of Monroe may abate nuisances in accordance with the procedures set forth in this Subpart and any other state law or city ordinance.

B. Part I of Chapter 32 of Title 13 of the Louisiana Revised Statutes of 1950 shall specifically be included in the authority to abate nuisances provided to the city of Monroe in this Subpart. In the case abatement is sought under such provisions, and there is a conflict with the provisions of this Subpart, the provisions of such Part in Title 13 shall control.

#### **§ 4770.3. Dilapidated structures; ad valorem tax bill; construction, repair and removal of buildings and walls**

A. The governing authority may adopt ordinances to provide for control of dilapidated buildings and the cordation of notices of any costs for extraordinary police, fire and sanitation, which the city provides to the owners of such buildings which have been condemned by the city, pursuant to adopted ordinances.

B. The governing authority may pass ordinances to add costs for extraordinary police, fire, sanitation, and health services which the municipality provides to the owners of dilapidated buildings which have been deemed uninhabitable by the city to the annual ad valorem tax bill of the property involved.

C. The governing body may adopt ordinances relating to the construction, equipment, alteration, repair or rehabilitation, condemnation and demolition or removal of buildings, structures, walls, and party walls, and provide in the ordinances penalties for their violation.

#### **§ 4770.4. Determinations; governing authority**

A. The governing authority of the city of Monroe shall be responsible for determining if a building is a dilapidated structure in accordance with the definition listed in this Subpart.

B. The governing authority shall be authorized to make final determination of whether a building has been repaired or rehabilitated according to adopted regulations. Said determination shall be subject to subsequent re-

inspections of the building and a written report by the office of code enforcement.

#### **§ 4770.5. Reporting system; assistance by fire and police personnel**

The governing authority may develop, or assign the duty of developing, a reporting system that will establish and maintain records needed for reporting buildings or sites which may be in violation of this Subpart. Such reports shall be submitted to the office of code enforcement or the office of building inspector as determined by the governing authority. The governing authority may require any additional assistance, information or data from law enforcement and fire personnel which are reasonable and available and which will assist in the performance of this Subpart.

#### **§ 4770.6. Definitions**

For purposes of this Subpart, unless the context clearly states otherwise, the following definitions shall apply:

(1) “Abandonment” shall mean giving up with the intent of never again claiming a right or interest in; to leave without intending to return.

(2) “Abatement” may include but shall not be limited to removal, cleaning, cutting, mowing, securing, boarding unoccupied buildings or structures, removing dangerous portions of buildings or structures and demolitions of dilapidated structures or abandoned buildings.

(3) “Building”, when combined with other words or used alone, shall refer to any type of building, structure, residence or dwelling. “Building” shall not be interpreted or construed to mean residential and commercial structures which are under construction or which are in a substandard condition as a result of a natural disaster, an act of God, force majeure, a catastrophe, or such other occurrence over which the owner or owners have no control, except as set forth in [R.S. 33:4770.7](#).

(4) “Dilapidated building” shall mean any building:

(a) Which is unsafe, unsanitary, unfit for human habitation, deemed uninhabitable or not provided with adequate egress.

(b) Which constitutes a fire hazard or may otherwise be dangerous to human life.

(c) Which in relation to its condition constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment for a period in excess of six months.

(d) Which through neglect and injury, which exceeds the ordinary, usual, or expected maintenance of a building, lacks necessary repairs which constitutes a hazardous building.

(e) Which has been declared to constitute a public nuisance by a court of competent jurisdiction.

(5) “Party wall” or common wall shall be applied as set forth in [Civil Code Article 675](#).

(6) “Secured building” shall mean the closing of any building by means of placing or attaching boards or other materials over doors, windows, and other entry points in order to prohibit persons from entering the building and in order to maintain it in its present condition without further damage to such building or danger to the public welfare and safety.

(7) “Unsafe building” shall mean any building which meets any or all of the following criteria:

(a) The building is likely to partially or completely collapse because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other causes.

(b) The building is likely to cause sickness or disease when sought to be used for its intended purpose because of dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise is determined by any code enforcement officer or the building inspector or his assignee to be unsanitary or unfit for human habitation.

(c) It has been determined by the fire marshal or fire chief that the building is a fire hazard because of obsolescence, dilapidated conditions, deterioration, damage, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus or other causes.

(d) It has been determined that any portion of the building remaining on a site, after the demolition or destruction of such building, or whenever an unsecured building has been abandoned for a period of six months so as to constitute the building or portion thereof an attractive nuisance or hazard to the public.

(e) The building or any portion, any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty-five miles per hour.

(f) The building or any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially become less resistant to winds or other natural occurrences such as is

required in the case of similar new construction.

(g) The building's exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb (perpendicular) line passing through the center of gravity does not fall inside the middle one-third of the base.

(h) Whenever the building, exclusive of the foundation, shows thirty- three percent or more damage or deterioration of its supporting member or members, or fifty percent or more of damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(i) Whenever the building has been so damaged by fire, wind, flood or other natural occurrence, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or (iii) as to enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

(j) Whenever any building is in such a condition as to be deemed or declared a public nuisance by a court of competent jurisdiction.

(k) Whenever an owner keeps the doors and windows of a vacant building open or the building is deficient and lacking the appropriate number of walls in such a manner as to allow unauthorized entry.

(l) Whenever any building lacks illumination, ventilation or sanitation facilities adequate to protect the health or safety of the occupants or the public.

(m) Whenever a building has been unsecured for more than twelve consecutive months.

(8) "Unsecured building" shall mean any building which is not occupied by a legal or equitable owner thereof, or by a lessee of a legal or equitable owner, and into which there are one or more unsecured openings such as broken or unlocked windows, broken or unlocked doors, holes in exterior walls or roof, broken basement or cellar hatchways or other similar unsecured openings which would facilitate an unauthorized entry into the building.

#### **§ 4770.7. Building; exterior walls; roofs; party walls**

A. (1) Buildings destroyed by natural or other occurrences, acts of God, force majeure or catastrophe shall not remain in their destructive state in excess of three months after the appropriate law enforcement agency releases the property.

(2) Such buildings shall be classified as dilapidated buildings if no reasonable and substantive efforts are made by the owner or owners to repair or to rehabilitate such building.

(3) Buildings destroyed by natural or other occurrences, acts of God, force majeure or catastrophe and which have been in a destructive state in excess of three months, as set forth in Paragraph (A)(1) of this Section, shall be subject to the uniform procedures of condemnation and demolition previously established by state statutes, city ordinances and other governing authorities.

B. All unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation or by condemnation, demolition or removal in accordance with the procedure specified in this Subpart or in existing state and local laws.

C. Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, and any other condition which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All siding materials shall be kept in repair.

D. (1) Roofs shall be maintained in a safe manner and have no defects which might admit rain or cause dampness in the walls or interior portion of the building.

(2) No portion of the roof shall display signs of deterioration, abuse or improper installation that could be constructed to affect the purpose of that item or cause damage to the immediate area or roof structure, that could allow dampness or admit rain to the interior of that building.

E. If a building with a party or common wall is ordered to be demolished, then the party or common wall itself shall remain intact to maintain the adjoining building, if any.

#### **§ 4770.8. Maintenance**

All buildings, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required in a building when erected, altered or repaired shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of the building.

#### **§ 4770.9. Notice to owner; hearing; notice filed with recorder of mortgages binds transferees**

A. Before the governing authority may condemn any building, there must be submitted to it a written report recommending the demolition or removal of the building signed by some city official or other person authorized to act in such matters for the city. The mayor or chief executive shall thereupon serve notice on the owner

and occupant, if any, of the building requiring him to show cause at a meeting of the governing authority, regular or special, why the building should not be condemned. The date and hour of the meeting shall be stated in the notice which shall be served at least ten days prior to the date of the hearing, except in case of grave public emergency as hereinafter provided. The notice may be served by registered or certified mail, postage prepaid, addressed to the owner and occupant, if any, at his last known address. The notice may also be served by any sheriff or deputy sheriff having jurisdiction and power to serve legal process where the owner of the building is found in the state of Louisiana, and the officer shall make return of the service as in ordinary cases.

B. (1) The tax assessor shall require an alternate agent for service of process in the event that the owner of the property cannot be located or otherwise properly identifiable.

(2) If the owner is absent from the state or unrepresented therein, or in the event the building is owned by a minor who has no tutor or an interdict who has no curator, then the notice shall be served upon the occupant of the condemned building or structure, if any, and also upon an attorney at law appointed by the major to represent the absentee, minor, or interdict. Domiciliary service may be made as in ordinary cases.

C. In case of grave public emergency where the condition of the building is such as to cause possible immediate loss or damage to person or property, the governing authority may condemn the building after twenty- four hours notice served upon the owner or his agent and/or the occupant and attorney at law appointed to represent the absentee owner.

D. Any notice served pursuant to this Section shall be filed with the recorder of mortgages. Once filed, said notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.

E. Nothing in this Section shall be construed to deprive property owners of their property without due process of law.

#### **§ 4770.10. Special lien**

A. Upon failure of any such property owner to pay the charges incurred pursuant to the ordinances authorized by this Subpart, the governing body may file a certified copy of said charges with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the city against the property on which the charges were incurred pursuant to this Subpart.

B. Such recordation shall constitute a privilege and lien against the immovable as a tax against the immovable, to be enforced and collected as any ordinary property tax lien to be assessed against the 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 city has incurred such costs as constitute the lien and privilege on the

property, the mayor or any director of any community development department of the city may send an attested bill of said costs and expenses which constitute the lien and privilege to the director of administration, who shall add the amount of said bill to the next tax bill of the owner. The lien obtained by the city pursuant to proper notification and filing shall include not only the costs provided for in Subsection A of this Section but shall include all attorney fees and costs of court incurred in the locating of the owner, the notification of the owner, and the enforcement and collection of the amount secured by the lien against the immovable and the improvements. If authorized by municipal ordinance, the municipality may also recover interest on the amounts secured by the lien. The interest shall not exceed the rate of legal interest provided in [R.S. 9:3500](#) and shall be computed from the date of recordation of the lien until paid. The city's privilege and lien shall prime all other liens or privileges against the property filed after the notice to the owner to show cause is filed with the recorder of mortgages pursuant to [R.S. 33:4762\(D\)](#), regardless of the date on which the city's lien and privilege is perfected, except that the city's lien and privilege will not prime other tax liens against the property.

C. If within six months after the filing of the lien provided for in Subsection A of this Section, the property owner fails to pay such lien, the director of finance of the city, for the benefit of the city, shall have the authority to sell such property for the amount of all public liens operating against the property and any interest thereon. 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 city taxes.

D. Any notice served pursuant to this Subpart shall be filed with the recorder of mortgages where the property is located. Once filed, said notice shall be deemed notice to all subsequent transferees. Any transferee of such property takes the property subject to all recorded liens, mortgages, and notices thereunto pertaining.

#### **§ 4770.11. Noxious matters; community service**

A. The governing authority may enact ordinances which require that community services be performed by persons who allow weeds, grass, or other noxious matters to accumulate on their property thereby allowing the property to degrade to a deplorable condition which endangers the health and safety of humans and pets.

B. City law enforcement authorities shall have the authority to enforce such ordinances, including the authority to issue summons for violations of such ordinances. The city court shall have jurisdiction to hear cases relative to such violations and to impose penalties for such violations in accordance with applicable ordinances.

C. The offender shall be cited for the offense by means of summons as provided by ordinance.

D. Whoever violates the provisions of this Section shall:

(1) Upon first conviction be ordered to bring the property into compliance with city ordinances.

(2) Upon second conviction be ordered to bring the property into compliance and be sentenced to ten hours of community service.

(3) Upon third or subsequent conviction be ordered to serve fifty hours of community service or in a work detail, as approved by the court, or any combination of the aforementioned penalties.

E. The court may require an individual convicted of a violation of this Section to remove the weeds, grass, or other noxious matters which have accumulated on his property in disregard of the health and safety of others in lieu of or in addition to the penalties prescribed in this Section.

**§ 4770.12. Grass and weed cutting; abutting owner's liability; notice; waiver of notice**

A. The governing authority may enact ordinances requiring that property be maintained in a safe and sanitary condition, including ordinances providing for the cutting, destruction, or removal of noxious weeds or grass or other deleterious, unhealthful, or noxious matters on any sidewalks or banquettes and on any lot, place, or area within the city. The charges, costs, and expenses incurred by the city in enforcing such ordinances, shall, to the extent of the actual cost thereof be a charge, cost, or expense of the property abutting the sidewalk or banquette or of the lot, place, or area, and the owner thereof.

B. If an owner of property fails to cut, destroy, or remove such grass or other matter from his property or from any abutting sidewalk or banquette, the city shall notify the property owner of its intent to perform such work after ten days and to charge the property owner for the work. Such notice shall be given by registered mail, addressed in accordance with the tax rolls of the city, or served on the property owner, by domiciliary or personal service, by a representative of the city.

C. The city may undertake the cutting, destruction, or removal of noxious weeds or grass or other deleterious, unhealthful, or noxious matters on any property within its jurisdiction on a monthly basis without the notice required in Subsection B of this Section if the property owner liable has been notified pursuant to said Subsection at any time during the immediately preceding twelve months and has failed to do the work himself after opportunity to do so. However, prior to undertaking such work, the city shall file and record an affidavit, signed by the mayor or his designee, at the administrative office. Such affidavit shall include the following:

(1) A description of the property sufficient to reasonably identify it.

(2) A photograph of the property sufficient to reasonably identify its unsafe or unsanitary conditions and to justify the necessity for cutting, destroying, or removing weeds, grass, or other noxious matters.

(3) A statement that the property owner liable has within the past twelve months failed to do such work after

notification and opportunity to do so pursuant to Subsection B of this Section.

D. Once the city has undertaken such actions, pursuant to Subsection A of this Section, it shall have the bill for the work delivered by registered mail, addressed in accordance with the tax rolls of the municipality, or served on the property owner, by domiciliary or personal service, by a representative of the city.

E. Upon failure of the property owner to pay the charges within thirty days of receipt of the bill, the city may file a certified copy of said charges with the recorder of mortgages, and the same, when so filed and recorded, shall operate as a lien and privilege in favor of the city against the property on which the work was done or against the property abutting the sidewalk or banquette on which the work was done. The lien and privilege granted under this Subsection shall have the same ranking as an ad valorem tax lien on immovable property as provided in [R.S. 9:4821\(1\)](#).

#### **§ 4770.13. Stagnant water and unsanitary conditions**

Upon adoption of ordinances by the governing authority the city courts are empowered to order the owner of lots and other real property to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place, or condition which might become a breeding place for mosquitoes, flies, vermin, and germs harmful to the health of the community. The city council may require the re-inspection of such premises.

#### **§ 4770.14. Liability**

Any officer or employee, or any member of the Monroe City Council, charged with the enforcement of these provisions, shall not thereby render himself liable personally, and is hereby relieved from all personal liability for any damages that may accrue to persons or property as a result of any act required or permitted in the discharge of these duties. Any suit brought shall be against the city of Monroe, or the governing authority.

#### **§ 4770.15. Conflicting regulations; higher standards to apply**

Whenever the regulations made under authority of this Subpart impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Subpart shall govern. Whenever the provisions of any other statute or regulation impose higher standards than are required by the regulations made under authority of this Subpart, the provisions of such statute or regulation shall govern.

#### **§ 4770.16. Intent of powers**

Nothing contained in this Subpart is or shall be construed as a restriction or a limitation upon any other

powers had and possessed by the city or any of its departments. This Subpart is cumulative and in addition to any such powers. This Subpart does and shall be construed to provide a complete and additional method for the performance of things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, including those for nuisance abatement as set forth in Part I of Chapter 32 of Title 13 of the Louisiana Revised Statutes of 1950.

#### **§ 4771. Definitions**

For purposes of this Subpart, the following definitions shall apply unless the context clearly requires a different definition:

- (1) “Building” means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels, or property of any kind, including any part or component of such a structure.
- (2) “Building code” means any building, mechanical, plumbing, electrical, fire prevention, or other regulatory code or ordinance adopted by a political subdivision which establishes minimum standards for the use, occupancy, design, planning, engineering, construction, alteration, installation, repair, maintenance, location, removal, or demolition of any building, structure, or improvement to immovable property or for the quality of materials or equipment used in connection therewith.
- (3) “Construction” means performance of any work, rendering of services, furnishing of labor or materials, or controlling, using, operating, or installing equipment by any person in connection with the design, planning, engineering, construction, erection, alteration, installation, repair, maintenance, location, removal, or demolition of any building, structure, or improvement to immovable property, including but not limited to land surveying, landscaping, excavation, or other services preparatory thereto and any undertaking by any person to supervise, superintend, inspect, observe, oversee, direct, or in any manner assume charge thereof.
- (4) “Enforcement agency” means the agency or other governmental entity with authority to issue permits, make inspections of buildings, and otherwise enforce building codes or perform enforcement procedures.
- (5) “Enforcement procedure” means any act, action, or failure to take action by a public servant or enforcement agency in connection with the implementation of any provision of a building code, including but not limited to the examination or review of any plan, drawing, or specifications, the conducting or completion of any inspection, the issuance, denial, or revocation of any permit, permission, license, or certificate, and the granting of any approval of construction.
- (6) “Governmental entity” means any department, office, division, agency, commission, board, committee, or other organizational unit of a political subdivision.

(7) “Improvement” means any permanent alteration, addition, embellishment, or betterment of immovable property or any modification of land by man, including but not limited to roads, pipelines, sewerage facilities, grating, drainage facilities, levees, or other flood control facilities.

(8) “Person” means any natural person, individual, firm, joint venture, partnership, corporation, association, other legal entity, or group thereof other than a political subdivision, governmental entity, or public servant performing official duties.

(9) “Political subdivision” means any parish or municipality which has authority to adopt and enforce a building code pursuant to this Part, [R.S. 33:1236](#), any other general or special law, any charter or home rule plan of government, or any other authority or grant of power.

(10) “Public servant” means any elected or appointed official or any public employee of a political subdivision or governmental entity.

(11) “Structure” means anything constructed or erected, the use of which requires a location on the ground or which is attached to something having a location on the ground.

#### **§ 4772. Legislative purpose; governmental duty**

The legislature hereby finds and declares that:

(1) The policy, purpose, and intent for the promulgation and adoption of a building code by a political subdivision is to promote the safety, health, morals, and general welfare of the community.

(2) The policy, purpose, and intent of the enforcement of a building code by an enforcement agency is the reasonable protection of the safety, health, morals, and general welfare of the public.

(3) Nothing contained in this Subpart or in any building code shall be construed as establishing or imposing upon a political subdivision a duty, special or otherwise, to or for the benefit of any individual person or group of persons.

#### **§ 4773. Scope of building codes**

A. The provisions of any building code shall supplement any and all laws of the state of Louisiana relating to buildings, structures, and improvements to immovable property. If the provisions of a building code adopted by a political subdivision are more stringent than such state laws or require additional standards of compet-

ency and proficiency for licenses or inspection personnel, the more restrictive standards shall govern within the area under the jurisdiction of the political subdivision.

B. The provisions of any building code may be divided and classified into a number of segments as determined by the political subdivision, including but not limited to building, mechanical, electrical, plumbing, or fire prevention codes, or by such other titles as are deemed proper by the political subdivision.

C. Nothing contained in this Subpart or in any building code shall be construed as depriving, nullifying, or divesting appropriate federal, state, or local agencies of the authority or power to make inspections or enforce laws or regulations within their respective areas of jurisdiction or as waiving any additional requirements by such agencies.

D. In connection with the construction of any building, structure, or other improvement to immovable property, neither the performance of any enforcement procedure nor any provision of a building code shall constitute or be construed as a warranty or guarantee by an enforcement agency as to durability or fitness, or as a warranty or guarantee by an enforcement agency that said building, structure, or other improvement to immovable property or any material, equipment, or method or type of construction used therein is or will be free from defects, will perform in a particular manner, is fit for a particular purpose, or will last in any particular way.

E. The Louisiana Department of Transportation and Development shall be exempt from the provisions of building codes of political subdivisions in connection with the installation or repair of any traffic signs or signals located on state property.

#### **§ 4774. Civil action**

Nothing contained in any building code shall relieve, lessen, or otherwise diminish the responsibility, liability, or duty of any person engaged in the construction of any building, structure, or improvement to immovable property for damage to property or injury to another caused by or resulting from any defects of any nature in any work performed or acts done by said person.

#### **§ 4775. Mobile homes and manufactured housing**

Nothing contained in this Subpart shall be construed to allow the provisions of a building code to supersede the provisions of the Uniform Standards Code for Mobile Homes and Manufactured Housing ([R.S. 51:911.21 et seq.](#)).

#### **§ 4776. St. Tammany Parish; enforcement of building and zoning ordinances and regulations; penalty for**

## violations

A. In case any building or structure is erected, structurally altered, or maintained, or any building, structure, or land is used in violation of any St. Tammany Parish building code ordinance, any parish land use regulation zoning ordinance, any parish subdivision regulatory ordinance, or any ordinance or regulation made under the authority of Act 518 of the 1954 Regular Session of the Legislature of Louisiana, the St. Tammany Parish Police Jury, in addition to other remedies, may institute any appropriate action or proceedings, including but not limited to the issuance of misdemeanor summons or citations, to prevent such unlawful erection, structural alteration, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

B. The regulations shall be enforced by officers commissioned and designated by the St. Tammany Parish Police Jury, who are empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provision of the regulations and ordinances referred to in this Section.

C. The owner or general agent of a building or premises where a violation of any regulation has been committed or exists, the lessee or tenant of an entire building or entire premises where the violation has been committed or exists, the owner, general agent, lessee, or tenant of any part of the building or premises in which the violation has been committed or exists, the general agent, architect, builder, contractor, or any other person who commits, takes part in, or who assists in any violation or who maintains any building or premises in which any violation exists shall, upon conviction thereof, be fined not more than five hundred dollars or be imprisoned for not more than thirty days for each day that the violation continues.

### **§ 4777. Exemption from local building codes and inspections; indemnity of local government authority**

Owners of immovable property may receive an exemption from local building codes and inspections for uninhabited structures located on private property, if the owner indemnifies the local government agency or municipality charged with enforcement of building codes and regulations by signing a hold-harmless agreement with the local government agency or municipality; however, the uninhabited structures must comply with established subdivision restrictions or other deed restrictions.

### **§§ 4778 to 4780. [Blank]**

### **§§ 4778 to 4780. [Blank]**

#### **§ 4780.1. Regulation authorized**

For the purpose of promoting the health, safety, morals, or general welfare of the community, the governing authority of St. Helena Parish is hereby authorized to regulate and restrict the height, number of stories, and size of structures; the percentage of lots that may be occupied; courts and other open spaces; the density of

population; and the location and use of the buildings, structures, and land for trade, industry, residence, or other purposes. However, the zoning ordinances enacted by said governing authority and the acts of its zoning commission, board of adjustment, or zoning administrator shall be subject to judicial review on the grounds of abuse of discretion, unreasonable exercise of police powers, excessive use of the power herein granted, or the denial of the right of due process. However, the right of judicial review of a zoning ordinance shall not be limited by the foregoing.

#### **§ 4780.2. Creation of districts; powers of authority; uniform regulations within district**

For any and all of the purposes set forth in [R.S. 33:4780.1](#), the governing authority of St. Helena Parish may divide the parish into districts of such number, shape, and area as may be deemed best suited to carry out such purposes. Within the districts so created, said governing authority may regulate and restrict the erection, construction, alteration, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of land and structure throughout each district; however, the regulations of one district may differ from those in other districts.

#### **§ 4780.3. Purpose of regulations**

Regulations adopted pursuant to this Subpart shall be made in accordance with a comprehensive plan and designed to lessen congestion in the public streets, secure safety from fire, promote health and the general welfare, provide adequate light and air, avoid undue concentration of population, facilitate adequate transportation, water supply, sewerage, schools, parks, and meet other public requirements. Such regulations shall be made with reasonable consideration of the character of a district and its peculiar suitability for particular uses and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the parish.

#### **§ 4780.4. Public hearing authorized; prohibited rezoning**

The governing authority of St. Helena Parish shall, in accordance with the comprehensive plan required by [R.S. 33:4780.3](#), provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established, enforced, and, from time to time, amended. No regulations or restrictions shall become effective until after a public hearing held by said governing authority at which parties in interest have had an opportunity to be heard. Notice of the time and place of the hearing shall be published once a week in three different weeks in the official journal of the parish, and at least fifteen days shall elapse between the first publication and the date of the hearing. In addition to notice by publication, and at least ten days prior to the hearing, a good faith attempt to notify the owner or owners of record of the properties to be zoned or rezoned shall be made by the sending of an official notice by regular mail of the time and place of the hearing and subject matter of the regulations and restrictions. Notwithstanding the foregoing, when more than ten parcels are to be zoned or rezoned by enactment of a zoning ordinance, the advertisement in the official journal required herein shall be considered adequate notice to the property owners.

#### **§ 4780.5. Amendment of regulations**

Regulations, restrictions, and boundaries established pursuant to this Subpart may, from time to time, be amended, supplemented, changed, modified, or repealed. However, in the event of a protest against a change duly signed and acknowledged by the owners of twenty percent or more, either of the areas of land, exclusive of streets and alleys, included in a proposed change or within an area determined by lines drawn parallel to and two hundred feet distant from the boundaries of the district proposed to be changed, the amendment shall not become effective except by the favorable vote of a majority of the members of the governing authority of St. Helena Parish who are present and voting. The provisions of [R.S. 33:4780.4](#) relative to public hearing and official notice shall apply equally to all changes or amendments; however, no ordinance shall require a procedure or criteria for amendment any greater than that initially used in establishing such regulations, restrictions, or penalties.

#### **§ 4780.6. Zoning commission; recommendations; public hearing**

The governing authority of St. Helena Parish may appoint a zoning commission whose function it shall be to recommend the boundaries of the various original districts, the restrictions and regulations to be enforced therein, and any supplements, changes, or modifications thereof. Before making any recommendation to said governing authority, the zoning commission shall hold a public hearing. Notice of the time and place of the hearing shall be published at least three times in the official journal of the parish, and at least ten days shall elapse between the first publication and date of the hearing. After the hearing has been held by the zoning commission, it shall make a report of its findings and recommendations to the governing authority of St. Helena Parish. If a zoning commission is appointed, said governing authority shall not hold its public hearings or take action until it has received the final report of the zoning commission.

#### **§ 4780.7. Board of adjustment; membership; powers and procedures; appeals from decisions**

A. (1) The governing authority of St. Helena Parish may provide for the appointment of a board of adjustment and, in the regulations and restrictions adopted pursuant to this Subpart, may provide that the board may determine and vary the application of such regulations and restrictions in harmony with their general purpose and intent and in accordance with general or specific rules contained therein.

(2) The board of adjustment shall consist of five members and may include two alternate members, all of whom shall be landowners and qualified voters of St. Helena Parish. The members of the first board shall serve terms as follows: one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter, members shall be appointed for terms of five years each.

(3) Of the two alternate members first appointed, one alternate member shall be appointed for a term of three years and the other for a term of two years. Thereafter, each alternate member shall be appointed for a term of three years. Alternate members shall serve only when called upon to form a quorum and when so serving shall

have all the powers and duties of regular members.

(4) All members shall be removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant. The board shall elect its own chairman, who shall serve for one year.

(5) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Subpart. However, no rules adopted by a board of adjustment, zoning administrator, or other official or official body appointed by the governing authority shall be effective until approved in writing by the governing authority.

B. (1) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its meetings, showing the vote of each member upon each question, or, if the member is absent or fails to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be public records. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the board for the purpose.

(2)(a) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the parish affected by any decision of the administrative officer. An appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

(c) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the interested parties, and decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing.

(3) The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the provisions of this Subpart or of any ordinance adopted pursuant thereto.

(b) To hear and decide all matters referred to it or upon which it is required to pass pursuant to ordinance.

(c) In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of an ordinance, to vary or modify the application of any of the regulations or provisions of an ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

C. (1) In exercising its powers, the board may, in conformity with the provisions of this Subpart, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(2) The concurring vote of a majority of the members of the board present and voting shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, to decide in favor of the applicant on any matter upon which the board is required to pass pursuant to ordinance, or to effect any variation in the ordinance.

#### **§ 4780.8. Judicial review**

A. Any person or persons jointly or severally aggrieved by any decision by the board of adjustment relative to any officer, department, board, or bureau of the parish may present a petition to the district court of the parish or city in which the property affected is located. Such petition shall be duly verified, set forth that the decision is illegal, in whole or in part, and specify the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

B. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment and there shall be prescribed therein the period of time within which a return may be made and served upon the relator's attorney. Such period shall be not less than ten days but may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; however, the court may, on application after notice to the board and on due cause shown, grant a restraining order.

C. The board of adjustment shall not be required to return the original papers acted upon by it, but may return certified or sworn copies thereof or such portions thereof as may be called for by the writ. The return shall

concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

D. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take additional evidence or appoint a referee to take such evidence as it may direct. Such referee shall report the same to the court with his findings of fact and conclusions of law, and his report shall constitute a part of the proceedings upon which the determination of the court shall be made.

E. The court may reverse or confirm, wholly or in part, or may modify the decision brought up for review. Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from. All issues in any proceedings under this Section shall have preference over all other civil actions and proceedings.

#### **§ 4780.9. Enforcement of building and zoning regulations; penalty for violations**

In case any building or structure is erected, structurally altered, or maintained, or any building, structure, or land is used in violation of this Subpart or of any ordinance or other regulation made under authority conferred by this Subpart, the proper local authorities of St. Helena Parish, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises. The regulations shall be enforced by the officer authorized to issue building permits, who is empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provision of the regulations made under authority of this Subpart. The owner or general agent of a building or premises where a violation of any regulation has been committed or exists, the lessee or tenant of an entire building or entire premises where the violation has been committed or exists, the owner, general agent, lessee, or tenant of any part of the building or premises in which the violation has been committed or exists, the general agent, architect, builder, contractor, or any other person who commits, takes part in, or who assists in any violation or who maintains any building or premises in which any violation exists shall be fined not less than ten dollars and not more than twenty-five dollars or be imprisoned for not more than thirty days for each day that the violation continues.

#### **§ 4780.10. Conflicting regulations; higher standards to apply**

Whenever the regulations made under authority of this Subpart impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Subpart shall govern. Whenever the provisions of any other statute, local ordinance, or regulation impose higher standards than are required by the regulations made under authority of this Subpart, the provisions of such statute, local ordinance, or regulation shall govern.

### **§ 4780.21. Legislative findings and declarations**

The Legislature of Louisiana finds and declares that:

(1) The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development to the consumer, and discourage investment in and commitment to comprehensive planning which would make maximum efficient utilization of resources at the least economic cost to the public.

(2) Assurance to the applicant for a development project that, upon approval of the project, the applicant may proceed with the project in accordance with existing policies, rules, and regulations, subject to conditions of approval, will strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic costs of development.

(3) The lack of public facilities, including but not limited to streets, sewerage, transportation, drinking water, school, and utility facilities, is a serious impediment to the development of new housing. Whenever possible, applicants and local governments may include provisions in development agreements whereby applicants are reimbursed over time for financing public facilities.

### **§ 4780.22. Authorizations, procedures, and requirements**

A. Any parish or municipality may enter into a development agreement with any person having a legal or equitable interest in real property for the development of such property as provided in this Subpart.

B. Any parish or municipality may, upon request of an applicant, by resolution or ordinance, establish procedures and requirements for the consideration of development agreements upon application by or on behalf of the property owner or other person having a legal or equitable interest in the property.

### **§ 4780.23. Periodic review; termination or modification of agreement**

Procedures established pursuant to [R.S. 33:4780.22](#) shall include provisions requiring periodic review at least every twelve months, at which time the applicant or his successor in interest thereto shall be required to demonstrate good faith compliance with the terms of the agreement. If, as a result of such periodic review, the municipality or parish finds and determines, on the basis of substantial evidence, that the applicant or successor in interest thereto has not complied in good faith with terms or conditions of the agreement, the municipality or parish may terminate or modify the agreement.

### **§ 4780.24. Contents**

A development agreement shall specify the duration of the agreement, the permitted uses of the property, the density or intensity of use, the maximum height and size of proposed buildings, and provisions for reservation or dedication of land for public purposes. The development agreement may include conditions, terms, restrictions, and requirements for subsequent discretionary actions, provided that such conditions, terms, restrictions, and requirements for subsequent discretionary actions shall not prevent development of the land for the uses and to the density or intensity of development set forth in the agreement. The agreement may provide that construction shall be commenced within a specified time and that the project or any phase thereof be completed within a specified time. The agreement may also include terms and conditions relating to financing of necessary public facilities by the applicant and subsequent reimbursement of the applicant over time.

**§ 4780.25. Newly incorporated municipality; validity of development agreement entered into prior to incorporation; duration of validity; modification of agreement**

A. Except as otherwise provided in [R.S. 33:4780.30](#) and [4780.32](#), notwithstanding any other provision of law to the contrary, if a newly incorporated municipality comprises territory that was formerly unincorporated, any development agreement entered into by the parish prior to the effective date of the incorporation shall remain valid within the newly incorporated municipality for the duration of the agreement, or eight years from the effective date of the incorporation, whichever is earlier. The holder of the development agreement and the newly incorporated municipality may agree that the development agreement shall remain valid for more than eight years, provided that the longer period shall not exceed fifteen years from the effective date of the incorporation. The holder of the development agreement and the newly incorporated municipality shall have the same rights and obligations with respect to each other as if the property had remained in the unincorporated territory of the parish.

B. The newly incorporated municipality may modify or suspend the provisions of the development agreement if the municipality determines that the failure of the municipality to do so would place the residents of the territory subject to the development agreement or the residents of the municipality, or both, in a condition dangerous to their health or safety, or both.

C. Except as otherwise provided in Subsection D of this Section, this Section shall apply to any development agreement which meets both of the following requirements:

(1) The application for the agreement is submitted to the parish prior to the date that the first signature was affixed to the petition for incorporation pursuant to [R.S. 33:1](#).

(2) The parish enters into the agreement with the applicant prior to the date of the special election on the question of incorporation conducted pursuant to [R.S. 33:3](#).

D. This Section shall not apply to any territory subject to a development agreement if that territory is incor-

porated and the effective date of the incorporation is prior to January 1, 1989.

#### **§ 4780.26. Enforcement**

Unless amended or cancelled pursuant to [R.S. 33:4780.30](#) or modified or suspended pursuant to [R.S. 33:4780.31](#) or 4780.25(B), a development agreement shall be enforceable by any party thereto notwithstanding any change in any applicable general or specific plan, zoning subdivision, or building regulation adopted by the municipality or parish entering the agreement which alters or amends the rules, regulations, or policies specified in [R.S. 33:4780.27](#).

#### **§ 4780.27. Rules, regulations, and official policies**

Unless otherwise provided by the development agreement, the rules, regulations, and official policies governing permitted uses of the land, governing density, and governing design, improvement, and construction standards and specifications applicable to development of the property subject to a development agreement shall be those rules, regulations, and official policies in force at the time of execution of the agreement. A development agreement shall not prevent a municipality or parish, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor shall a development agreement prevent a municipality or parish from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations, and policies.

#### **§ 4780.28. Public hearing; notice of intention to consider adoption**

A public hearing on an application for a development agreement shall be held by the planning agency, if any, and by the governing authority of the municipality or parish. Notice of intention to consider adoption of a development agreement shall be published at least three times in the official journal of the municipality or parish and at least ten days shall elapse between the first publication and the date of the hearing.

#### **§ 4780.29. Approval by ordinance**

A development agreement shall be approved by ordinance of the governing authority of the parish or municipality.

#### **§ 4780.30. Amendment or cancellation; notice of intent**

A development agreement may be amended or cancelled in whole or in part by mutual consent of the parties to the agreement or their successors in interest. Notice of intention to amend or cancel any portion of the

agreement shall be given in the manner provided by R.S. 33:4780.28. An amendment to an agreement shall be subject to the provisions of R.S. 33:4780.29.

#### **§ 4780.31. Recording copy of agreement; effect**

No later than ten days after a municipality or parish enters into a development agreement, the clerk of the municipal or parish governing authority shall record in the mortgage office of the parish a copy of the agreement, which shall describe the land subject thereto. From and after the time of such recordation, the agreement shall impart such notice thereof to all persons as is afforded by the recording laws of the state. The burdens of the agreement shall be binding upon and the benefits of the agreement shall inure to all successors in interest to the parties to the agreement.

#### **§ 4780.32. Modification or suspension to comply with state or federal laws or regulations**

In the event that state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, such provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

#### **§ 4780.33. Restrictions on authority**

Nothing in this Subpart shall be construed to authorize property use contrary to existing zoning classifications or to authorize the reclassification of such zones.

#### **§ 4780.40. Regulation authorized**

For the purpose of promoting the health, safety, morals, or general welfare of the community, the governing authorities of parishes, other than the parishes of Rapides, Jefferson, Sabine, and Webster, or their duly created boards of adjustment are hereby authorized to regulate and restrict the height, number of stories, and size of structures; the percentage of lots that may be occupied; courts and other open spaces; the density of population; and the location and use of the buildings, structures, and land for trade, industry, residence, or other purposes. However, the zoning ordinances enacted by said governing authority and the acts of its zoning commission, board of adjustment, or zoning administrator shall be subject to judicial review on the grounds of abuse of discretion, unreasonable exercise of police powers, excessive use of the power herein granted, or the denial of the right of due process. However, the right of judicial review of a zoning ordinance shall not be limited by the provisions of this Section.

#### **§ 4780.41. Creation of districts; powers of authority; uniform regulations within district**

For any and all of the purposes set forth in [R.S. 33:4780.40](#), the governing authority of a parish may divide the parish into districts of such number, shape, and area as may be deemed best suited to carry out such purposes. Within the districts so created, said governing authority may regulate and restrict the erection, construction, alteration, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of land and structure throughout each district; however, the regulations of one district may differ from those in other districts.

#### **§ 4780.42. Purpose of regulations**

Regulations adopted pursuant to this Subpart shall be made in accordance with a comprehensive plan and designed to lessen congestion in the public streets, secure safety from fire, promote health and the general welfare, provide adequate light, avoid undue concentration of population, facilitate adequate transportation, water supply, sewerage, schools, parks, and meet other public requirements. Such regulations shall be made with reasonable consideration of the character of a district and its peculiar suitability for particular uses and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the parish.

#### **§ 4780.43. Public hearing authorized; prohibited rezoning**

The governing authority of the parish shall, in accordance with the comprehensive plan required by [R.S. 33:4780.42](#), provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established, enforced, and from time to time, amended. No regulations or restrictions shall become effective until after a public hearing held by said governing authority at which parties in interest have had an opportunity to be heard. Notice of the time and place of the hearing shall be published once a week in three different weeks in the official journal of the parish, and at least fifteen days shall elapse between the first publication and the date of the hearing. In addition to notice by publication, and at least ten days prior to the hearing, a good faith attempt to notify the owner or owners of record of the properties to be zoned or rezoned shall be made by the sending of an official notice by certified mail of the time and place of the hearing and subject matter of the regulations and restrictions. Notwithstanding the foregoing, when more than ten parcels are to be zoned or rezoned by enactment of a zoning ordinance, the advertisement in the official journal required herein shall be considered adequate notice to the property owners.

#### **§ 4780.44. Amendment of regulations**

Regulations, restrictions, and boundaries established pursuant to this Subpart may, from time to time, be amended, supplemented, changed, modified, or repealed. However, in the event of a protest against a change duly signed and acknowledged by the owners of twenty percent or more, either of the areas of land, exclusive of streets and alleys, included in a proposed change or within an area determined by lines drawn parallel to and two hundred feet distant from the boundaries of the district proposed to be changed, the amendment shall not become effective except by the favorable vote of a majority of the members of the governing authority of

the parish. The provisions of [R.S. 33:4780.43](#) relative to public hearing and official notice shall apply equally to all changes or amendments; however, no ordinance shall require a procedure or criteria for amendment any greater than that initially used in establishing such regulations, restrictions, or penalties.

#### **§ 4780.45. Zoning commission; recommendations; public hearing**

In order to avail itself of the powers conferred by this Subpart, the governing authority of the parish shall appoint a zoning commission whose function it shall be to recommend the boundaries of the various original districts, the restrictions and regulations to be enforced therein, and any supplements, changes, or modifications thereof. Before making any recommendation to said governing authority, the zoning commission shall hold a public hearing. Notice of the time and place of the hearing shall be published at least three times in the official journal of the parish, and at least ten days shall elapse between the first publication and date of the hearing. After the hearing has been held by the zoning commission, it shall make a report of its findings and recommendations to the governing authority of the parish. Said governing authority shall not hold its public hearings or take action until it has received the final report of the zoning commission.

#### **§ 4780.46. Board of adjustment; membership; powers and procedures; appeals from decisions**

A. (1) The governing authority of the parish may provide for the appointment of a board of adjustment and, in the regulations and restrictions adopted pursuant to this Subpart, may provide that the board may determine and vary the application of such regulations and restrictions in harmony with their general purpose and intent and in accordance with general or specific rules contained therein and otherwise prescribe quasi judicial duties and responsibilities for the board of adjustment.

(2) The board of adjustment shall consist of five members and may include two alternate members, all of whom shall be landowners and qualified voters of the parish. The members of the first board shall serve terms as follows: one for one year, one for two years, one for three years, one for four years, and one for five years. Thereafter, members shall be appointed for terms of five years each.

(3) Of the two alternate members first appointed, one alternate member shall be appointed for a term of three years and the other for a term of two years. Alternate members shall serve only when called upon to form a quorum and when so serving shall have all the powers and duties of regular members.

(4) All members shall be removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant. The board shall elect its own chairman, who shall serve for one year.

(5) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Subpart. However, no rules adopted by a board of adjustment, zoning administrator, or other official or offi-

cial body appointed by the governing authority shall be effective until approved in writing by the governing authority.

B. (1) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board may be open to the public when exercising its quasi judicial duties and responsibilities, and in all other situations shall be open to the public. The board shall keep minutes of its meetings, showing the vote of each member upon each question, or, if the member is absent or fails to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be public records. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the board for the purpose.

(2)(a) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the parish affected by any decision of the administrative officer. An appeal shall be taken within thirty days, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

(c) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the interested parties, and decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing.

(3) The board of adjustment shall have the following powers:

(a) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the provisions of this Subpart or of any ordinance adopted pursuant thereto.

(b) To hear and decide all matters referred to it or upon which it is required to pass pursuant to ordinance.

(c) In passing upon appeals, where there are practical difficulties or unnecessary hardships in the way of car-

rying out the strict letter of an ordinance, to vary or modify the application of any of the regulations or provisions of an ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

C. (1) In exercising its powers, the board may, in conformity with the provisions of this Subpart, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(2) The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, to decide in favor of the applicant on any matter upon which the board is required to pass pursuant to the ordinance, or to effect any variation in the ordinance.

#### **§ 4780.47. Judicial review**

A. Any person or persons jointly or severally aggrieved by any decision by the board of adjustment relative to any officer, department, board, or bureau of the parish may present a petition to the district court of the parish in which the property affected is located. Such petition shall be duly verified, set forth that the decision is illegal, in whole or in part, and specify the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

B. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment and there shall be prescribed therein the period of time within which a return may be made and served upon the relator's attorney. Such period shall be not less than ten days but may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; however, the court may, on application after notice to the board and on due cause shown, grant a restraining order.

C. The board of adjustment shall not be required to return the original papers acted upon by it, but may return certified or sworn copies thereof or such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

D. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take additional evidence or appoint a referee to take such evidence as it may direct. Such referee shall report the same to the court with his findings of fact and conclusions of law, and his report shall constitute a part of the proceedings upon which the determination of the court shall be made.

E. The court may reverse or confirm, wholly or in part, or may modify the decision brought up for review. All issues in any proceedings under this Section shall have preference over all other civil actions and proceedings. The appellant and any opponent before the board shall be parties in such civil action and proceeding and any interested or aggrieved party may join such action; the board of adjustment shall not be a party to such civil action and proceeding.

#### **§ 4780.48. Enforcement of building and zoning regulations; penalty for violations**

In case any building or structure is erected, structurally altered, or maintained, or any building, structure, or land is used in violation of this Subpart or of any ordinance or other regulation made under authority conferred by this Subpart, the proper local authorities of the parish, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises. The regulations shall be enforced by the officer authorized to issue building permits, who is empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provision of the regulations made under authority of this Subpart. The owner or general agent of a building or premises where a violation of any regulation has been committed or exists, the lessee or tenant of an entire building or entire premises where the violation has been committed or exists, the owner, general agent, lessee, or tenant of any part of the building or premises in which the violation has been committed or exists, the general agent, architect, builder, contractor, or any other person who commits, takes part in, or who assists in any violation or who maintains any building or premises in which any violation exists shall be fined not less than ten dollars and not more than twenty-five dollars or be imprisoned for not more than thirty days for each day that the violation continues.

#### **§ 4780.49. Conflicting regulations; higher standards to apply**

Whenever the regulations made under authority of this Subpart impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Subpart shall govern. Whenever the provisions of any other statute, local ordinance, or regulation impose higher standards than are required by the regulations made under authority of this Subpart, the provisions of such statute, local ordinance, or regulation shall govern. However, no local governing authority shall restrict, conflict with, interfere with, or supersede the powers of the state through its agencies to regulate, permit, or enforce environmental laws and regulations nor shall they restrict, conflict with, interfere with, or supersede activities operating in accordance with authorized state or federal permits, laws, or regulations. Nothing in this Subpart shall supersede the provisions of [R.S. 3:3607](#).

#### **§ 4780.50. Intent**

A. The provisions of this Subpart are designed and intended to supplement existing law; accordingly, nothing

in this Subpart shall be construed to limit, supersede, or repeal any grant of zoning authority heretofore granted to any parish, or parish governing authority either by statute or home rule charter.

B. In addition, the provisions of this Subpart shall not affect municipalities unless the municipal governing authority adopts by ordinance the parish zoning regulations.

C. In accordance with [Article VI, Section 6 of the Constitution of Louisiana](#), the provisions of this Subpart shall not apply to, nor otherwise be construed to change or affect the structure and organization or the particular distribution and redistribution of the powers and functions of any parish, parish governing authority, zoning commission, board of adjustments, or other board or commission of any parish which operates under a home rule charter, including but not limited to the term of office of any members, or their duties and responsibilities.

#### **§ 4780.51. Notification of area legislators; zoning; hazardous material**

A. Notwithstanding any other law to the contrary, the local governing authority of a parish with a population of four hundred fifty thousand to four hundred sixty thousand shall notify each member of the state Senate and House of Representatives who represents any portion of the parish no less than thirty days in advance of any action to be taken on an application for a zoning request or zoning variance to build or enhance any storage facility housing hazardous material, as defined in [R.S. 30:2363\(7\)](#).

B. For the purposes of this Section, “notify” shall mean notification via facsimile, certified mail or electronic mail.

#### **§ 4780.52. Notification to military installations**

A. (1)(a) The governing authority of any parish considering any action to be taken on an application for a zoning request affecting property within three thousand feet of the boundary of a military installation shall notify the commander of the installation at least ninety days in advance of taking such action.

(b) The governing authority of any parish shall publish notice of its intention to take action on an application for a zoning request pursuant to this Paragraph in the official journal of the parish at least ninety days prior to taking such action.

(2) The governing authority of any parish considering any action to be taken on an application for a variance affecting property within three thousand feet of the boundary of a military installation shall notify the commander of the installation at least thirty days in advance of taking such action.

B. As used in this Section, “military installation” shall include any base, military airport, camp, post, station, yard, center, home port facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense.

#### **§ 4780.61. Regulation authorized**

A. For the purpose of promoting the health, safety, morals, or general welfare of the community, the governing authority of the parish of East Feliciana, referred to in this Subpart as the “parish governing authority”, is hereby authorized to regulate and restrict the height, number of stories, and size of structures; the percentage of lots that may be occupied; courts and other open spaces; the density of population; and the location and use of the buildings, structures, and land for trade, industry, residence, or other purposes.

B. (1) However, the zoning ordinances enacted by the parish governing authority and the acts of its zoning commission, board of adjustment, or zoning administrator shall be subject to judicial review on the grounds of abuse of discretion, unreasonable exercise of police powers, excessive use of the power granted pursuant to this Subpart, or the denial of the right of due process.

(2) However, the right of judicial review of a zoning ordinance shall not be limited by the provisions of this Subsection.

#### **§ 4780.62. Creation of districts; powers of authority; uniform regulations within district**

A. For any and all of the purposes set forth in [R.S. 33:4780.61](#), the parish governing authority may divide the parish into districts of such number, shape, and area as may be deemed best suited to carry out such purposes.

B. Within the districts so created, the parish governing authority may regulate and restrict the erection, construction, alteration, or use of buildings, structures, or land.

C. All such regulations shall be uniform for each class or kind of land and structure throughout each district; however, the regulations of one district may differ from those in other districts.

#### **§ 4780.63. Purpose of regulations**

A. Regulations adopted pursuant to this Subpart shall be made in accordance with a comprehensive plan and designed to lessen congestion in the public streets, secure safety from fire, promote health and the general welfare, provide adequate light and air, avoid undue concentration of population, facilitate adequate transportation, water supply, sewerage, schools, and parks, and meet other public requirements.

B. Such regulations shall be made with reasonable consideration of the character of a district and its peculiar suitability for particular uses and with a view to conserving the values of buildings and encouraging the most appropriate use of land throughout the parish.

**§ 4780.64. Public hearing authorized; prohibited rezoning**

A. The parish governing authority shall, in accordance with the comprehensive plan required by [R.S. 33:4780.63](#), provide for the manner in which the regulations and restrictions and the boundaries of the districts shall be determined, established, enforced, and, from time to time, amended.

B. (1) No regulations or restrictions shall become effective until after a public hearing held by the parish governing authority at which parties in interest have had an opportunity to be heard.

(2) Notice of the time and place of the hearing shall be published once a week in three different weeks in the official journal of the parish, and at least fifteen days shall elapse between the first publication and the date of the hearing.

C. In addition to notice by publication, and at least ten days prior to the hearing, a good faith attempt to notify the owner or owners of record of the properties to be zoned or rezoned shall be made by the sending of an official notice by regular mail of the time and place of the hearing and subject matter of the regulations and restrictions.

D. Notwithstanding any other provision of this Section to the contrary, when more than ten parcels are to be zoned or rezoned by enactment of a zoning ordinance, the advertisement in the official journal required by Paragraph (B)(2) of this Section shall be considered adequate notice to the property owners.

**§ 4780.65. Amendment of regulations**

A. Regulations, restrictions, and boundaries established pursuant to this Subpart may, from time to time, be amended, supplemented, changed, modified, or repealed.

B. However, in the event of a protest against a change duly signed and acknowledged by the owners of twenty percent or more, either of the areas of land, exclusive of streets and alleys, included in a proposed change or within an area determined by lines drawn parallel to and two hundred feet distant from the boundaries of the district proposed to be changed, the amendment shall not become effective except by the favorable vote of a majority of the members of the parish governing authority who are present and voting.

C. The provisions of [R.S. 33:4780.64](#) relative to public hearing and official notice shall apply equally to all

changes or amendments; however, no ordinance shall require a procedure or criteria for amendment any greater than that initially used in establishing such regulations, restrictions, or penalties.

**§ 4780.66. Zoning commission; recommendations; public hearing**

A. The parish governing authority may appoint a zoning commission whose function it shall be to recommend the boundaries of the various original districts, the restrictions and regulations to be enforced therein, and any supplements, changes, or modifications thereof.

B. (1) Before making any recommendation to the parish governing authority, the zoning commission shall hold a public hearing.

(2) Notice of the time and place of the hearing shall be published at least three times in the official journal of the parish, and at least ten days shall elapse between the first publication and date of the hearing.

C. After the hearing has been held by the zoning commission, it shall make a report of its findings and recommendations to the parish governing authority.

D. If a zoning commission is appointed, the parish governing authority shall not hold its public hearings or take action until it has received the final report of the zoning commission.

**§ 4780.67. Board of adjustment; membership; powers and procedures; appeals from decisions**

A. The parish governing authority may provide for the appointment of a board of adjustment and, in the regulations and restrictions adopted pursuant to this Subpart, may provide that the board may determine and vary the application of such regulations and restrictions in harmony with their general purpose and intent and in accordance with general or specific rules contained therein.

B. (1) The board of adjustment shall consist of five members and may include two alternate members, all of whom shall be landowners and qualified voters of the parish of East Feliciana.

(2)(a) The members of the first board shall serve terms as follows: one for one year, one for two years, one for three years, one for four years, and one for five years.

(b) Thereafter, members shall be appointed for terms of five years each.

(3)(a) Of the two alternate members first appointed, one alternate member shall be appointed for a term of

three years and the other for a term of two years.

(b)(i) Thereafter, each alternate member shall be appointed for a term of three years.

(ii) Alternate members shall serve only when called upon to form a quorum and when so serving shall have all the powers and duties of regular members.

(4) All members shall be removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant. The board shall elect its own chairman, who shall serve for one year.

(5) The board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Subpart. However, no rules adopted by a board of adjustment, zoning administrator, or other official or official body appointed by the parish governing authority shall be effective until approved in writing by the parish governing authority.

C. (1) Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.

(2) All meetings of the board shall be open to the public. The board shall keep minutes of its meetings, showing the vote of each member upon each question, or, if the member is absent or fails to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be public records.

(3) All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the board for the purpose.

D. (1) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the parish affected by any decision of the administrative officer.

(2) An appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof.

(3) The officer from whom the appeal is taken shall transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(4)(a) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

(b) In such case, proceedings shall not be stayed otherwise than by a restraining order that may be granted by the board of adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

(5) The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the interested parties, and decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing.

E. The board of adjustment shall have the following powers:

(1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the provisions of this Subpart or of any ordinance adopted pursuant thereto.

(2) To hear and decide all matters referred to it or upon which it is required to pass pursuant to ordinance.

(3) In passing upon appeals, when there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of an ordinance, to vary or modify the application of any of the regulations or provisions of an ordinance relating to the use, construction, or alteration of buildings or structures or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

F. (1) In exercising its powers, the board may, in conformity with the provisions of this Subpart, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(2) The concurring vote of a majority of the members of the board present and voting shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, to decide in favor of the applicant on any matter upon which the board is required to pass pursuant to ordinance, or to effect any variation in the ordinance.

#### **§ 4780.68. Judicial review**

A. (1) Any person or persons jointly or severally aggrieved by any decision by the board of adjustment relative to any officer, department, board, or bureau of the parish may present a petition to the district court of the parish or municipality in which the property affected is located.

(2) Such petition shall be duly verified, set forth that the decision is illegal, in whole or in part, and specify the grounds of the illegality.

(3) The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

B. Upon the presentation of such petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment, and there shall be prescribed therein the period of time within which a return may be made and served upon the relator's attorney. Such period shall be not less than ten days but may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from; however, the court may, on application after notice to the board and on due cause shown, grant a restraining order.

C. (1) The board of adjustment shall not be required to return the original papers acted upon by it, but may return certified or sworn copies thereof or such portions thereof as may be called for by the writ.

(2) The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

D. (1) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, the court may take additional evidence or appoint a referee to take such evidence as it may direct.

(2) Such referee shall report the same to the court with his findings of fact and conclusions of law, and his report shall constitute a part of the proceedings upon which the determination of the court shall be made.

E. The court may reverse or confirm, wholly or in part, or may modify the decision brought up for review. Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

F. All issues in any proceedings pursuant to this Section shall have preference over all other civil actions and proceedings.

#### **§ 4780.69. Enforcement of building and zoning regulations; penalty for violations**

A. In case any building or structure is erected, structurally altered, or maintained, or any building, structure, or land is used in violation of this Subpart or of any ordinance or other regulation made pursuant to authority conferred by this Subpart, the proper local authorities of the parish of East Feliciana, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, structural alteration, maintenance, or use; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about such premises.

B. The regulations shall be enforced by the officer authorized to issue building permits, who is empowered to cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein in violation of any provision of the regulations made pursuant to authority of this Subpart.

C. The owner or general agent of a building or premises where a violation of any regulation has been committed or exists; the lessee or tenant of an entire building or entire premises where the violation has been committed or exists; the owner, general agent, lessee, or tenant of any part of the building or premises in which the violation has been committed or exists; the general agent, architect, builder, contractor, or any other person who commits, takes part in, or who assists in any violation or who maintains any building or premises in which any violation exists shall be fined not less than ten dollars and not more than twenty-five dollars or be imprisoned for not more than thirty days for each day that the violation continues.

**§ 4780.70. Conflicting regulations; higher standards to apply**

A. Whenever the regulations made pursuant to authority of this Subpart impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made pursuant to authority of this Subpart shall govern.

B. Whenever the provisions of any other statute, local ordinance, or regulation impose higher standards than are required by the regulations made pursuant to authority of this Subpart, the provisions of such statute, local ordinance, or regulation shall govern.

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