



## CHAPTER 12 NUISANCES

### ARTICLES I. & II.

ORDINANCE:

THE ST. MARTIN PARISH POLICE JURY DOES HEREBY ORDAIN THE FOLLOWING ORDINANCE ESTABLISHING GUIDELINES FOR CERTAIN DEVELOPMENTS IN THE UNINCORPORATED AREAS OF THE PARISH

Article I.	In General	Sections 1 to 4
Article II.	Administration and Enforcement	Sections 5 to 10

### ARTICLE I. IN GENERAL

#### Section 1. Purpose.

Pursuant to the authority granted to parish governments under Louisiana Revised Statute 33:1263 (30) the purpose of this Chapter is to authorize and define the procedure for regulating and controlling salvage and/or scrap materials storage located in the unincorporated areas of St. Martin Parish. Salvageable and scrap materials (junk) accumulation and/or storage will be designated as a nuisance when deemed to be in a condition which endangers public health, safety, or welfare; and the St. Martin Parish Police Jury may cause to be removed any such nuisance within the unincorporated areas of St. Martin Parish.

#### Section 2. Definitions.

AGRICULTURAL – Land devoted to the production for sale, in reasonable commercial quantities, of plant and animals, or their products, useful to man, and agricultural land under a contract with a state or federal agency restricting its use to agricultural production.

ASPHALT AND CONCRETE BATCHING PLANT – A legal/licensed site at which asphalt and concrete are mixed and transported.

BORROW PIT – A manmade relatively deep hole in the ground used to extract sand, gravel, clay, or dirt.

BUFFER – A buffer can be part of the development, or can be adjacent land, and are only required between the intended land use and a residence, subdivision, or school. Buffers provide distance between the development and the nearest residence or school. A buffer can be developed (with another land use), be vacant, be barren, be treed, or be agricultural, etc. A buffer is in addition to a greenbelt.

DISPOSAL FACILITIES – The physical components of the disposal system, such as transfer conveyances, transfer stations, processing plants, and landfills.

DUMPING PIT – A legal/licensed land site where solid or liquid waste is disposed of in a manner that does not protect the environment.

HOME MECHANIC (SHADE TREE MECHANIC) – A self employed individual who repairs damaged or inoperative vehicles or machinery at a private residence or at any site zoned for other uses as a part time occupation or for a fee. No more than five (5) vehicles in any stage of repair may be stored at the site any one time.

INCINERATOR – A furnace designed for the volume reduction of solid waste by burning in a firebox with proper controls and temperature range with stack emissions which do not exceed air pollution control limits established by local, state or federal laws and regulations.

JUNK – Any inoperative or discarded or abandoned machinery, equipment, furniture, household appliances or other such manufactured items of any kind; or any discarded or abandoned metal, plastics, wood or other inanimate objects of any kind; or parts thereof, which may be treated or prepared so as to be used again in some form.

LANDFILL – A legal/licensed facility for the disposal of solid waste (excluding hazardous waste) involving the placement of solid waste on or into the land surface, and usually involving compaction and covering of the disposed solid waste and which is not a land spreading or surface impoundment facility.

LOGGING – The legal/licensed work or business of cutting or trimming trees and transporting the logs to a mill.

NUISANCE – Any condition of or the use of any premises or building which:

- (1) Unreasonably causes or tends to cause substantial diminution in the value of the property of others in the neighborhood or vicinity in which such premises or building is located; or
- (2) Is unreasonably offensive to the senses of persons of ordinary sensibility; or
- (3) Is in any way dangerous to the health and safety of others.

PIPE YARD – A legal/licensed site where heavy seamless tubing used to rotate the bit and circulate drilling fluids are cleaned and stocked.

RESIDENCE – Any structure (domicile, house, building, etc.) occupied customarily or most of the time as a dwelling.

RESIDENTIAL PROPERTY – Land which is used for or zoned for residential uses.

SCRAP AND SALVAGE YARD JUNK YARD, CRUSHER YARDS) – A legal/licensed facility for discarded or rejected vehicle, machinery, materials or parts of materials that result from manufacturing operations and are suitable for reprocessing or recycling.

SCRAP YARD OWNER/OPERATOR (JUNK DEALER) – The owner and or manager of an establishment or business who possesses the appropriate State or local licenses or permits to engage in and who engages in the retail and/or wholesale of salvaged materials on a site or premises that is properly zoned by the St. Martin Parish Police Jury for such use.

WASTE PICKUP STATIONS – A legal/licensed site at which solid waste is assembled and temporarily deposited after collection and from which it is transported to a different location for processing and/or disposal.

WRECKER YARD – A legal/licensed site or building at which damaged vehicles or machinery are stored and whose purpose is to sell vehicle or machinery parts, or whose primary business is to store damaged vehicles or machinery.

### **Section 3. Developments Governed**

- A. The following developments are governed by this ordinance: logging, asphalt and concrete batching plants, any type of borrow pit (sand, gravel, clay, dirt), dumping pits, scrap and salvage yards (junk yards, crusher yards), landfills, waste transfer station, waste pickup station, disposal facilities, incinerators, wrecker yard, and pipe yards.
- B. Land used solely for agricultural purposes as defined in Section 2 is specifically exempted from this Ordinance.

### **Section 4. Requirements and Restrictions**

The developers governed by this Ordinance shall comply with all of the following

- A. Category “A” requirements will apply if the development is within on half (1/2) mile of an approved residential subdivision or within one quarter (1/4) mile of a residence not located in an approved subdivision, or within on (1) mile of a school.

Category “B” requirements will apply if the development is located outside of these distances, i.e., more than one half (1/2) mile from an approved residential subdivision, more than one quarter (1/4) mile from a residence, or more than one (1) mile from a school. The distance is to be measured from property line to property line.

- B. Owners and developers of the types of developments defined in Section 2 herein above shall have the following greenbelts as a part of their development tracks.

**GREENBELTS**

	Category A	Category B
Asphalt & Concrete Batching Plant	20 Feet	10 Feet
Borrow Pits	25 Feet	20 Feet
Disposal Facility	50 Feet	25 Feet
Dumping Pit	50 Feet	25 Feet
Incinerators	100 Feet	50 Feet
Landfills	100 Feet	50 Feet
Logging	25 Feet	10 Feet
Pipe Yards	20 Feet	10 Feet
Scrap & Salvage Yards	20 Feet	10 Feet
Waste Pickup Stations	20 Feet	10 Feet
Waste Transfer Stations	20 Feet	10 Feet
Wrecker Yard	20 Feet	10 Feet

- C. Owners and developers of the types of developments defined in Section 2 shall be prohibited from constructing and operating their developments within the following buffer zones from a school, approved residential subdivision and/or residence. (See exception "I-1." In this section)

**BUFFER**

	Category A	Category B
Asphalt & Concrete Batching Plant	150 Feet	-0- Feet
Borrow Pit	200 Feet	100 Feet
Disposal Facility	250 Feet	125 Feet
Dumping Pit	250 Feet	125 Feet
Incinerators	200 Feet	125 Feet
Landfills	300 Feet	200 Feet
Logging	150 Feet	-0- Feet
Pipe Yard	100 Feet	-0- Feet
Scrap & Salvage Yard	150 Feet	-0- Feet
Waste Pickup Station	100 Feet	-0- Feet
Waste Transfer Station	150 Feet	-0- Feet
Wrecker Yard	100 Feet	-0- Feet

- D. For all scrap yards, salvage yards, waste pick-up or transfer station, and wrecker yards in Category A and category B type development, the developer must provide a substantial nontransparent fence, or wall not less than seven (7) feet nor more than ten (10) feet high at the inside perimeter of the greenbelt visible from and or fronting on any public road or waterway. The fence wall shall not contain any poster or advertising of any kind, except one sign of the owner, lessee, operator or licensee of said premises on each street frontage, not exceeding 100 square feet in size. The fence in itself, shall not create a nuisance and will be constructed of wood and or metal, the color of which shall be white or of earth

tones (gray, brown, green, etc.) and shall be the same for the entire fence. Said fencing shall remain in well maintained condition at all times and be able to withstand at least 50 mile per hour winds. (See Exception "I-3." In this section)

- E. The storage of scrap, salvageable materials, vehicles, equipment, and/or machinery with the development shall be limited in height so that the required fencing or hedge row effectively screens the stored materials from view at a distance of at least 500 feet from the required fence or hedge row outside of the development.
- F. It shall be unlawful to store, place, leave or abandon any of the items or substance or engage in any activity defined hereinabove on the right-of-way of any public road, drainage or any other public right-of-way within St. Martin Parish.
- G. Any proposed development must also meet any and all other applicable federal, state and local laws, statutes, ordinances, rules and/or regulations which are then in effect and which may pertain to such development.
- H. Any development which is classified and defined as an activity governed by this Ordinance and which was in operation as of the effective date of this Ordinance, shall be given two (2) years from the date of this Ordinance to comply with the provisions of this Ordinance.
- I. Exceptions:
  - 1. For legal/licensed pre-existing developments/activities governed by this Ordinance where adherence to the buffer zone distances and/or greenbelt site requirements are not feasible due to land availability (insufficient on site or adjacent land area), the buffer zone and greenbelt requirements may be waived, however, the requirements for a non-transparent fence or wall requirements shall be adhered to and shall not be waived.
  - 2. Pre-existing licensed development owner/operators shall not be required to acquire or otherwise purchase adjacent land satisfy the buffer or greenbelt requirements of this ordinance. Subsequent to the acceptance of this ordinance, any development of undeveloped land adjacent to a pre-existing development governed by this ordinance, the burden to conform with the requirements for a buffer zone, greenbelt, or screening fence, wall, or hedge row shall be borne by the new development.
  - 3. A substantial hedge row cultivated and maintained (evergreen bushes, shrubs, etc.) may be substituted for the fence or wall requirements as long as it effectively screens the development from view from any public roads, waterway, and/or pre-existing category "A" adjacent land uses.

## **ARTICLE II. ADMINISTRATION AND ENFORCEMENT**

### **Section 5. Authority of St. Martin Parish Police Jury to Enter Property.**

- A. The St. Martin Parish Police Jury is hereby authorized to enter property found by the Police Jury to be in violation of this Ordinance and to rid said property of nuisances, provided that no such work shall be undertaken by the St. Martin Parish Police Jury until owner of said property shall have been notified as provided herein.
- B. The St. Martin Parish Police Jury may also pursue legal action in order to enjoin or restrain the construction and/or operation of any development, which is in violation of any provision of this Ordinance.

### **Section 6. Order of Notice to Remove.**

- A. The St. Martin Parish Police Jury shall serve notice on the owner of the property declared as a nuisance as defined hereinabove. Notice shall be served by either delivery by law enforcement agent, by registered or certified letter (return receipt requested) or by publication in the official journal in accordance with the requirements of sixty (60) days to either (1) remove the nuisance or (2) at a public hearing of the St. Martin Parish Police Jury show cause not to remove or request additional time for compliance.
- B. The St. Martin Parish Police Jury has authority to grant extensions of the time required for compliance with this Ordinance. No extensions may exceed an additional sixty (60) day. The extension shall be in writing and shall be final unless appealed within five (5) days as hereinafter provided.
- C. If, in the opinion of the St. Martin Parish Police Jury, the facts justify that a nuisance as defined hereinabove actually does exist, and that a time extension is not warranted, the property owner shall abate the nuisance within (30) days of the hearing.
- D. The owner, or representative of the owner, may appeal the decision of the St. Martin Parish Police Jury to the District Court having jurisdiction over the property. The appeal shall be made by filing suit against the St. Martin Parish Police Jury, setting forth the reasons why the decision or order of the St. Martin Parish Police Jury is illegal or improper and the issue shall be tried de novo and by preference in the District Court.
- E. If the nuisance is not removed and/or abated in the sixty (60) days allowed by the notice, or the time allowed by any extension given, then the St. Martin Parish Police Jury shall cause a work order to be issued to remove the nuisance and the property owner shall be charged for all costs involved, including administrative costs and attorney's fees, in accordance with the requirements of this ordinance. Further, neither the St. Martin

Parish Police Jury or any employee/contractor thereof shall be liable for any damages on said property.

- F. If attempts by law enforcement agents or the U.S. Post Office via certified mail to deliver the notice are not satisfactory, then a legal notice will be published one a week for three (3) consecutive weeks in the official journal of the St. Martin Parish, giving the owner public notice that, following the third publication, they shall be allowed sixty (60) days to remove and/or abate the nuisance, or the St. Martin Parish Police Jury shall cause a work order to be issued to immediately remove and/or abate the nuisance and the property owner shall be billed as described in this ordinance.

**Section 7. Costs.**

- A. Whenever the parish has removed or abated, or caused to be removed or abated, such nuisance as prohibited by this Ordinance, the cost thereof shall be charged to the owner of such property. Said cost shall include all labor, material and equipment cost to remove or abate the nuisance including all administrative cost, engineering fees, attorney's fees, etc.
- B. All charges are to be paid in full within thirty (30) days of receipt of notice of charges. If the charges are not paid, the St. Martin Parish Police Jury shall file a certified copy of the invoice with the Tax Assessor and the Tax Collector and the charges shall be added to the annual ad valorem tax bill of the property involved, including expenses incurred for filing and canceling of a property lien, all pursuant to the provisions of Louisiana Revised Statutes 33:1236 (21) (a); 33:1236 (30) (a) (iv); and 33:1236 (49) (b) (iv).
- C. In the event that such ordinances are enacted, the tax collector effecting collection shall be reimbursed by the governing authority for an amount equal to fifteen percent (15%) of the amount of such charges actually collected from the property owner. This collection charge shall be in the addition to such charges and shall also be added to the ad valorem tax bill of the property involved.
- D. In the exercise of the authority herein granted, the Parish of St. Martin shall be the sole and proper defendant in any action, authorized by law, to contest the addition of such charges to the ad valorem tax bill of the property involved.

**Section 8. Additional Fines and Penalties**

- A. Any owner, tenant, occupant or other person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof in a court of competent jurisdiction be punished as follows:

- (a) For a first conviction, such person shall be fined not more than \$100.00 or imprisoned not more than six (6) months or both;
- (b) For a second and subsequent convictions, such person shall be fined not more than \$500.00 or imprisoned not more than six (6) months or both.

The penalties shall be in addition to any fees incurred by the Parish for the removal and/or abatement of nuisance.

**Section 9. Enforcement and Presumptions Created.**

- A. The St. Martin Parish Police Jury is hereby authorized to carry out and enforce the provisions of this Ordinance.
- B. Partial compliance, with the notice given, by the owner, occupant or tenant, or the failure or refusal of an owner, occupant or tenant or agent thereof, to completely remove and/or abate the nuisance located upon the owner's property within the time provided for herein shall be deemed a failure of such owner to comply with the requirements of this Ordinance.
- C. Unless the owner, occupant or tenant objects or responds in writing within thirty (30) days of the date of the notice as provided herein, it shall be presumed that the nuisance located on such property is, in fact, a nuisance, or a threat to public health and safety.
- D. The Parish may enforce any of the provisions of this Ordinance upon motion or petition by the Parish in summary proceedings or ordinary proceedings in any court of competent jurisdiction. Nothing contained herein shall be constructed as prohibiting or preventing the Parish from enforcing the prohibiting or preventing the Parish from enforcing the provisions of this Ordinance through ordinary proceedings.

**Section 10. Savings Clause.**

Each section, part and/or provision of this Ordinance shall be considered severable. If, for any reason, any section, part or provision is determined to be invalid or contrary to any law or regulation, such determination shall not impair the operation of or have any other effect upon the remaining sections, portions or provisions of this Ordinance and any such portion or provisions not so invalidated shall be given full force and effect and the invalid part or provision shall be deemed not to be part of this Ordinance.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: Fred Foti, Jr., Thomas Nelson, Odell Trahan, Mike Huval, Lloyd Higginbotham, Pat Cluse, James Hebert, and Chad Hardy.

NAYS: None.

ABSENT: None.

And the Ordinance was declared adopted this 6<sup>th</sup> day of August, 1996.

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