

1 **BY COUNCIL MEMBER VANCE**

2  
3 **PROPOSED ORDINANCE NO. 2017-\_\_\_**  
4

5 **AN ORDINANCE TO AMEND AND RE-ENACT TITLE 12, CHAPTER 1,**  
6 **SECTION 12:2; TO AMEND AND RE-ENACT TITLE 12, CHAPTER 2,**  
7 **SECTION 12:104; TO AMEND AND RE-ENACT TITLE 12, CHAPTER 3A,**  
8 **SECTION 12:255; TO AMEND AND RE-ENACT TITLE 12, CHAPTER 7,**  
9 **SECTION 12:507; TO AMEND, RE-ENACT, AND RE-CODIFY TITLE 12,**  
10 **CHAPTER 12, SECTIONS 12:701, 12:703, 12:705, 12:707, 12:709, 12:711,**  
11 **AND 12:713; and TO RE-CODIFY TITLE 12, CHAPTER 12, SECTION**  
12 **12:715 OF THE CODE OF ORDINANCES OF THE CITY OF CENTRAL**  
13 **RELATIVE TO NUISANCES AND/OR ADMINISTRATIVE**  
14 **PROCEDURES AND TO PROVIDE FOR ALL RELATED MATTERS**  
15

16 WHEREAS, La. R.S. 13:2575.5 provides: "Notwithstanding any other provision of law to  
17 the contrary, in the city of Central, the procedures for administrative adjudication provided in this  
18 Chapter may also be utilized in matters involving licensing and permits and any other ordinance  
19 violations that may be determined by the municipal governing authority."  
20

21 WHEREAS, the Council of the City of Central desires to revise and re-enact certain  
22 provisions in the City's ordinances related to administrative procedure.  
23

24 BE IT ORDAINED by the Council of the City of Central, State of Louisiana as follows:  
25

26 **Section 1:** Title 12, Chapter 1, Section 12:2 of the Code of Ordinances of the City of Central  
27 as enacted by Ordinance No. 2006-11 is hereby amended and re-enacted so as to read as follows:  
28

29 TITLE 12. NUISANCES.  
30

31 Chapter 1. GENERAL PROVISIONS.  
32

33 Section 12:2. Nuisance to be abated.  
34

35 All persons shall be required to remove or abate all nuisances which they have perpetrated  
36 on any of the streets, alleys, sidewalks or wharfs, levees ~~or~~ any public places, or elsewhere  
37 within the city, and every person who shall refuse to do so shall, after a reasonable time for  
38 compliance with this section has elapsed, be subject to a fine ~~of not more than \$500~~ as set  
39 forth in Title 15, Chapter 1.  
40

41 **Section 2:** Title 12, Chapter 12, Section 12:701 of the Code of Ordinances of the City of  
42 Central as enacted by Ordinance No. 2009-23 is hereby amended, re-enacted, and re-codified as  
43 Title 15, Chapter 1, Section 15:101 so as to read as follows:  
44

45 TITLE 15. MISCELLANEOUS  
46

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:101. Administrative hearings.

All Alleged violations of any City of Central ordinances, including, but not limited to, ordinances regulating public health, environment, housing, building regulations codes, and fire codes, nuisances, zoning, licensing, permitting, and animals, of the City of Central may be adjudicated pursuant to the provisions of this chapter.

**Section 3:** Title 12, Chapter 12, Section 12:703 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2009-23 and amended by Ordinance No. 2010-01 is hereby amended, re-enacted, and re-codified as Title 15, Chapter 1, Section 15:103 so as to read as follows:

TITLE 15. MISCELLANEOUS

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:103. Hearing officers.

- (a) The Mayor shall appoint, subject to approval by the Council, one or more hearing officers who have practiced law for at least two (2) years who shall serve at the discretion of the Mayor.
- (b) Prior to assuming office, Aall hearing officers so appointed shall take an oath of office to uphold the constitution and laws of the state and City ordinances, and to abide by the provisions of the Louisiana Code of Governmental Ethics ~~prior to assuming office.~~

**Section 4:** Title 12, Chapter 12, Section 12:705 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2009-23 is hereby amended, re-enacted, and re-codified as Title 15, Chapter 1, Section 15:105 so as to read as follows:

TITLE 15. MISCELLANEOUS

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:105. Powers of hearing officers.

Each hearing officer appointed shall have authority granted by state law R.S. 13:2575, including, but not limited to, the authority to:

- (1) Administer oaths and affirmations.
- (2) Issue orders compelling the attendance of witnesses and defendants and the production of documents.
- (3) For each separate violation, levy fines, fees, penalties, and hearing costs.
- (4) Order violators to correct violations within a stipulated time.

- (5) Take necessary and lawful measures to effect correction of the violation if the violator fails to do so within the time allocated by the hearing officer.
- (6) Record orders, judgments, notices of judgments, or liens in the mortgage records for East Baton Rouge Parish.
- (7) Place liens and privileges upon property as authorized by state law R.S. 13:2575 and this chapter.

**Section 5:** Title 12, Chapter 12, Section 12:707 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2009-23 and amended by Ordinance No. 2012-01 is hereby amended, re-enacted, and re-codified as Title 15, Chapter 1, Section 15:107 so as to read as follows:

TITLE 15. MISCELLANEOUS

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:107. Authority of hearing officers.

- (a) Hearing officers shall have the authority to hear and decide alleged violations of all City of Central ordinances, including but not limited to, ordinances regulating public health, environment, and housing-including, building codes, and fire codes, nuisances, zoning, licensing, permitting, and animals ordinances-involving licensing and permits, ordinances enacted prior to June 28, 2011 and of any other ordinances which the City of Central Council declares to be subject to administrative hearing.
- (b) In accordance with Section 15:105 of this Chapter, the Hhearing officers may take any action or issue any order authorized by Sec. 12:705 and may impose hearing costs of not more than \$250 and may impose a civil fine. Unless established otherwise by the Code of Ordinances, that fine of up to five hundred dollars (\$500) per violation may not exceed twenty-five dollars (\$25.00) per violation. Each day of a violation shall constitute a separate violation.

**Section 6:** Title 12, Chapter 12, Section 12:709 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2009-23 is hereby amended, re-enacted, and re-codified as Title 15, Chapter 1, Section 15:109 so as to read as follows:

TITLE 15. MISCELLANEOUS

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:109. Hearing procedure.

- (a) (i) Prior to holding an administrative hearing pursuant to this Chapter At least fifteen days in advance of an administrative hearing pursuant to this Chapter, the City shall deliver notice to the individual or entity alleged to be in violation notifying them of the alleged violation and of the date, time, and place of the

1 hearing to be conducted ~~at least 15 days in advance of the hearing date.~~ The notice  
2 shall state that if the violation is abated prior to the hearing, the hearing may be  
3 canceled. ~~The notice shall state the time, date, and location of the hearing, and shall~~  
4 ~~describe the alleged violation.~~ The notice shall state that the alleged violator is  
5 entitled to legal representation, shall state the amount or nature of possible  
6 penalties, and provide information to permit the violator to communicate with the  
7 enforcement department prior to the hearing. The notice shall also state that failure  
8 to appear at the hearing shall constitute an admission of the charged violation;  
9 however, the hearing officer may vacate any order issued on the basis of a failure  
10 to appear if in the officer's sound discretion the interest of justice requires a hearing.

11 (ii)(a) Where the hearing is for the determination of blight or abandonment of  
12 property, notice shall be given at least thirty days in advance of the administrative  
13 hearing pursuant to this Chapter, and in addition to the requirements identified in  
14 subsection (i) above, the notice shall include an explanation that the hearing is for  
15 the purpose of making a determination whether the subject property is blighted or  
16 abandoned.

17 (b) For purposes of this section, the term "blight" shall be defined as commercial  
18 or residential premises, including lots, which are vacant, uninhabitable, and  
19 hazardous and because of their physical condition, are considered hazardous to  
20 persons or property, or have been declared or certified blighted, and have been  
21 declared to be a public nuisance by a court of competent jurisdiction or by an  
22 administrative hearing officer acting pursuant to competent jurisdiction or by an  
23 administrative hearing officer acting pursuant to R.S. 13:2575 et seq., or any other  
24 applicable law.

25 (b) (i) For hearings conducted pursuant to subsection (a)(i) of this Section, the notice  
26 shall be sent by certified or registered United States mail to the violator or  
27 personally served on the violator at the address listed in the assessor's office for  
28 East Baton Rouge Parish.

29 (ii) For hearings conducted pursuant to subsection (a)(ii) of this Section, the notice  
30 shall be sent by certified or registered United States mail or personally served on  
31 the property owner at the address listed in the assessor's office for East Baton  
32 Rouge Parish and on each mortgagee of record at the address provided in the  
33 recorded mortgage served upon the alleged violator, and where applicable, upon  
34 the owner of the property, by certified mail or registered mail, addressed to the  
35 alleged violator, and where relevant, to the owner at the address listed in the  
36 assessor's office, or may be personally served upon the alleged violator or the owner  
37 of the property. The date of the postmark shall be deemed to be the date of delivery.  
38 Any notification so sent and returned by the United States Postal Service shall be  
39 considered as having fulfilled the notification requirement. The failure of any  
40 person charged with a violation to appear at the hearing shall be considered an  
41 admission of liability for the charged violation.

42 (c) Administrative hearings shall be conducted in accordance with the rules of evidence  
43 of the Louisiana Administrative Procedure Act. Testimony by any person shall be  
44 under oath. The person charged with the violation may present any relevant  
45 evidence and may be represented by an attorney at law. However, the alleged  
46 violator's physical presence shall not be required at the hearing if documentary

evidence, duly verified by such person, is submitted to the hearing officer prior to the date of the hearing. Evidence on behalf of the City shall be presented by the City Attorney or his/her designee. Any order compelling the attendance of witnesses or the production of documents may be enforced by the ~~City of Central Mayor's court~~ or the district court having jurisdiction over the witness. The burden of proof shall be upon the City, and a finding that the alleged violator did violate the ordinance as charged must be based upon a preponderance of the evidence. Where finding of a violation is based upon the alleged violator's failure to appear at the hearing, the decision shall be based upon a prima facie showing of violation.

(d) The hearing officer shall issue a written order within thirty days, excluding legal holidays, of the hearing stating whether or not the person charged is liable for the violation, the amount of any civil fine, penalty, costs, or fees assessed, and a date by which the violation shall be corrected, if applicable. The order may be served upon the violator either by personal service or by regular mail, ~~or if the violator has counsel of record, by mailing or delivering the order to counsel. If the order requires that the violation be corrected, this order shall be an interlocutory order. If the order does not require abatement of the violation, this shall be the final order. If final, the order shall specify the penalties, costs, fees, and fines assessed, and shall notify the violator of his right to appeal.~~

(e) Notwithstanding subsection (d) of this Section, where the hearing is for the purpose of determining whether a property is blighted or abandoned, the hearing officer shall issue a written order within thirty days, excluding legal holidays, of the hearing, stating whether the property was determined to be blighted or abandoned and the amount of any civil fine, penalty, costs, or fees assessed. The hearing officer shall send the notice by certified or registered United States mail or have the order personally served on the property owner at the address listed in the assessor's office for East Baton Rouge Parish and on each mortgagee of record at the address provided in the recorded mortgage.

~~(e) In addition to the enforcement procedure and authority set forth in this Chapter, the City Attorney is authorized to file a civil action in the 19th Judicial District Court to enforce the orders of the hearing officer if the violator fails to comply with any order assessing a penalty, cost or fee or fails to correct the violation as ordered by the hearing officer.~~

(f) Where the violator fails to abate the violation after being ordered to do so by the hearing officer, the City may undertake to correct the violation, and the cost of such ~~shall~~may be made available to the hearing officer who may impose that amount upon the violator as a cost, and who shall issue an additional final ~~an additional final~~ order which shall set out all penalties, fees and any additional costs imposed. That order shall be served upon the alleged violator in the same manner as set forth in subsections (d) and (e) above.

(g) In addition to the enforcement procedure and authority set forth in this chapter, the City Attorney is authorized to file a civil action in the 19th Judicial District Court to enforce the orders of the hearing officer if the violator fails to comply with any order assessing a fine, penalty, cost, or fee or fails to correct the violation as ordered by the hearing officer.

(g) ~~The final order shall be served upon the alleged violator in the same manner in which the notice was served.~~

(h) Fines, penalties, costs, and fees ~~and costs~~ may be collected or enforced by the City in any manner authorized by law. Any such fines, penalties, costs, and fees shall be directed to the City's city-services provider for inclusion in the City's general fund.

(i) The hearing officer, for good cause, may suspend all or a portion of his ~~final~~ order(s) and may make any suspension contingent on the fulfillment of some reasonable condition.

**Section 7:** Title 12, Chapter 12, Section 12:711 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2009-23 is hereby amended, re-enacted, and re-codified as Title 15, Chapter 1, Section 15:111 so as to read as follows:

TITLE 15. MISCELLANEOUS

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:111. Appeal.

An appeal of a hearing officer's order shall be filed pursuant to state law R.S. 13:2575(H).  
The agency of the City of Central designated to accept the payments of any security required by state law shall be the City's city-services provider.

**Section 8:** Title 12, Chapter 12, Section 12:713 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2009-23 is hereby amended, re-enacted, and re-codified as Title 15, Chapter 1, Section 15:113 so as to read as follows:

TITLE 15. MISCELLANEOUS

Chapter 1. ADMINISTRATIVE PROCEDURE

Section 15:113. Remedy.

(a) The City shall have a lien and privilege against the immovable property in or in which the violation occurred. The lien and privilege shall secure all penalties, fees, fines, and costs assessed in accordance with this ~~Section~~ Chapter and described in the order, judgment, notice of judgment, or lien. For the lien and privilege to arise and exist, the City Attorney or the hearing officer shall record in the mortgage records of East Baton Rouge Parish a certified copy of an ~~final~~ order imposing any fines, costs, penalties, or other charges. Any liens placed against such immovable property shall be included in the next annual ad valorem tax bill and shall be paid along with such taxes, subject however, to any valid homestead exemption.

(b) The remedies provided for herein are nonexclusive and may be pursued independently of each other and in addition to other remedies provided by law. In addition to the lien or privilege, the recordation shall have the effect of a judicial mortgage against the immovable property on which the violation occurred and may

1 be enforced against the immovable property upon application to the Nineteenth  
2 Judicial District Court for issuance of a writ in accordance with Louisiana Code of  
3 Civil Procedure Article 2253.  
4

5 **Section 9:** Title 12, Chapter 12, Section 12:715 of the Code of Ordinances of the City of  
6 Central as enacted by Ordinance No. 2009-23 is hereby re-codified as Title 15, Chapter 1, Section  
7 15:115 so as to read as follows:  
8

9 TITLE 15. MISCELLANEOUS

10 Chapter 1. ADMINISTRATIVE PROCEDURE

11 Section 15:115. Records.  
12

13 A copy of the notice of violation, the order or orders issued by the hearing officer, and all  
14 documentary evidence at the hearing shall be maintained by the City.  
15

16  
17 **Section 10:** Title 12, Chapter 2, Section 12:104 of the Code of Ordinances of the City of Central  
18 as enacted by Ordinance No. 2006-11 and amended by Ordinance No. 2012-22 is hereby amended  
19 and re-enacted so as to read as follows:  
20

21 TITLE 12. NUISANCES.  
22

23 Chapter 2. NOISE.  
24

25 Section 12:104. Enforcement and penalty.  
26

- 27  
28 (a) Violations of any provision of this ~~title~~Chapter may be enforced by the City  
29 pursuant to the administrative procedures set forth in Chapter 12 of Title 12 ~~15~~  
30 of the Code of Ordinances for the City of Central Code or by a court of  
31 competent jurisdiction.  
32 (b) Any person violating any of the provisions of this Chapter shall be assessed a  
33 civil fine of not less than \$200 nor more than \$500. Each ~~incident~~day of the  
34 violation shall constitute a separate violation.  
35

36 **Section 11:** Title 12, Chapter 3A, Section 12:255 of the Code of Ordinances of the City of  
37 Central as enacted by Ordinance No. 2012-07 is hereby amended and re-enacted so as to read as  
38 follows:  
39

40 TITLE 12. NUISANCES.  
41

42 Chapter 3A. ITINERANT VENDORS.  
43

44 Section 12:255. Penalty.  
45

- (a) Violations of any provision of this ~~title~~Chapter may be enforced by the City pursuant to the administrative procedures set forth in Chapter 12 of ~~this title~~ Title 15 of the Code of Ordinances for the City of Central or by a court of competent jurisdiction.
- (b) Any person violating any provision of this ~~title~~Chapter shall be fined not more than \$500 per violation. Each day of the violation shall constitute a separate violation.

**Section 12:** Title 12, Chapter 7, Section 12:505 of the Code of Ordinances of the City of Central as enacted by Ordinance No. 2006-11 is hereby amended and re-enacted so as to read as follows:

**TITLE 12. NUISANCES.**

**Chapter 7. ABANDONED, INOPERATIVE MOTOR VEHICLES ON PRIVATE PROPERTY**

**Section 12:507. Failure or refusal to comply.**

The failure or refusal to comply with the provisions of this Chapter shall constitute a violation, and the violator shall be subject to a fine up to \$500. Each day of the violation shall ~~be considered~~ constitute a separate ~~offense~~ violation. Violations of any provision of this Chapter may be enforced by the City pursuant to the ~~Administrative Procedures Ordinance, set forth in~~ Chapter 12 of Title ~~12~~ 15 of the Code of Ordinances for the City of Central ~~Code~~ or ~~in~~ by a court of competent jurisdiction.

**Section 13: Conflicts**

The specific terms and conditions of this Ordinance shall prevail against prior ordinances of the City to the extent that there may be any conflict.

**Section 14: Severability**

If any section, subsection, sentence, clause or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such declaration of invalidity shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part declared invalid. The remainder of the Ordinance shall not be affected by the declaration of invalidity and shall remain in force and effect.

**Section 15: Effective Date**

This Ordinance shall be effective upon publication.

Introduced before the Council on this \_\_\_\_ day of \_\_\_\_\_, 2017.

Notice of the public hearing was published in The Advocate on the \_\_\_\_ day of \_\_\_\_\_, 2017.



1  
2 This Ordinance having been submitted to a vote, the vote thereon is as follows:

3  
4 For:

5 Against:

6 Absent:

7  
8 Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

9  
10 Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

11  
12 Delivered to Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, 2017:

13  
14 \_\_\_\_\_  
15 Mark Miley, City Clerk

16  
17 Approved:

18  
19 \_\_\_\_\_  
20 I.M. Shelton, Jr., Mayor

21  
22 Received from Mayor on the \_\_\_\_\_ day of \_\_\_\_\_, 2017:

23  
24 \_\_\_\_\_  
25 Mark Miley, City Clerk

26  
27 Adopted Ordinance published in The Advocate on the \_\_\_\_\_ day of \_\_\_\_\_, 2017.