

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3100 ORDINANCE COUNCIL SERIES NO. _____

SPONSOR STEFANCIK/PRESIDENT DEPARTMENT ENGINEERING

INTRODUCED BY _____, SECONDED BY _____ ON THE _____

DAY OF _____, 2005.

ORDINANCE TO AMEND ORDINANCE CAL. NO. 92-1607 (LOCAL COASTAL PROGRAM) TO PROVIDE CONSISTENCY WITH THE STATE COASTAL ZONE MANAGEMENT ACT REGARDING APPEALS AND COMPENSATORY MITIGATION.

WHEREAS, the Coastal Zone Management Act of 1978 authorizes the State of Louisiana to enact regulations, consistent with that program, addressing activities within the Louisiana Coastal Zone; and

WHEREAS, the State of Louisiana Coastal Zone Management Act, pursuant to its authority conferred by the federal Act, authorizes St. Tammany Parish to enact its own regulations, consistent with the State program, concerning activities within the St. Tammany Parish Coastal Zone; and

WHEREAS, the St. Tammany Parish program, due to changes in law and policy at the State level, has been determined inconsistent with the State program in the provisions governing appeals and compensatory mitigation; and

WHEREAS, the Louisiana Department of Natural Resources, Coastal Management Division has informed St. Tammany Parish that the following changes will render the Parish program again consistent with the State Coastal Zone Management Act, and also requested that the changes be enacted,

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that the St. Tammany Parish Local Coastal Program, Ord. Cal. No. 92-1607, be amended to reflect the following changes:

First: Section 3.6 shall be amended as follows:

3.6 Criteria for Coastal Use Permit Approval

I. General Consideration

- A. A Local Coastal Use Permit shall be approved by the LCP Administrator only after a full and fair consideration of all information contained in the record ~~and after consultation with the St. Tammany Parish Planning Commission~~. The decision will be consistent with the SLCRMA, the regulations, the Guidelines and the Coastal Zone Management Plan; and will represent a balancing of social, environmental and economic factors. The LCP Administrator shall prepare a concise and clear statement describing the rationale for the decision and include one copy in the parish records, send one copy to the State Director, and one copy to the applicant. This document shall be dated and signed by the LCP Administrator.
- B. Activities proposed on or near water bodies shall, to the maximum extent practicable, be water dependent.
- C. *The St. Tammany Parish Local Coastal Program shall require mitigation for all wetland losses caused by permitted activities, consistent with the requirements of the Louisiana Coastal Resources Program (LCRP) and attendant regulations and guidelines; and the determination of mitigation requirements for permitted activities as well as the appropriateness of mitigation proposals to offset losses, will be based on losses and gains of wetland habitat values, measured by the same method utilized by the Louisiana Department of Natural Resources.*

Definitions:

- a. **"Compensatory Mitigation"** means replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses of those values caused by a permitted activity.
- b. **"Ecological Value"** means the ability of an area to support vegetation and fish and wildlife populations.
- c. **"Mitigation"** means all actions taken by a permittee to avoid, minimize, restore, and compensate for ecological values lost due to a permitted activity.

Second: Section 3.9 shall be amended as follows:

3.9 Appeals

- (1) Any interested person shall first appeal to the St. Tammany Parish ~~Police Jury Council~~ the decision of the LCP Administrator to issue, or not, a Local Coastal Use Permit. Said appeal shall be made within ten (10) days from the date of the written statement prepared by the LCP Administrator required by section ~~3-9-A~~ **3.6, I, A** hereof, shall be in writing, shall set forth the factual and, if applicable, the legal basis for the appeal, and shall be signed by the person initiating the appeal. The act of signing the appeal shall constitute a certification that said appeal has been made in good faith, with just cause, and not for the purpose of delay.
- (2) A hearing on the appeal shall be held ~~within fifteen (15) days of the date that the written appeal, proper form, is filed:~~ **at the first available Parish Council meeting affording adequate time to meet all public notice requirements, subsequent to the filing of a valid appeal in proper form.** Notice of the date and time of the appeal hearing shall be sent, at least ten (10) days in advance of the hearing to the applicant and all interested persons. Notice of the appeal hearing shall be given by publication in the official journal of the parish not less than five (5) days prior to the hearing. The hearing shall be conducted in accordance with the procedure established by the ~~Police Jury Parish Council~~ for other such appeal hearings. The decision of the LCP Administrator may be reversed, or modified, only by the affirmative vote of 2/3 of the ~~police jurors~~ **members** present at the meeting. Written notice of the decision shall be sent within seven (7) days of the hearing to the applicant and party appealing, if different than the applicant, by certified mail return receipt requested and published one time in the official journal of the Parish.
- ~~(3) The decision of the LCP Administrator, as affirmed, modified, or reversed by the St. Tammany Parish Police Jury, may be appealed to the Secretary if a petition for reconsideration is filed in writing with the Secretary within ten (10) days following publication in the official journal of the Police Jury's decision, or receipt of the written notice of decision provided for in subsection (2) hereof. The grounds for reconsideration of the local decision and the content of the petition shall conform to the requirements of R.S. 49:214.35.~~

Note: ~~Strikeouts~~ represent deletions, **boldface** represents additions

REPEAL: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not effect other provisions herein which can be given effect without the invalid provision and to this end are hereby declared to be severable.