

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3771

ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR: MR. GOULD

PROVIDED BY: LEGAL COUNSEL

INTRODUCED BY: MR. GOULD

SECONDED BY: MR. BURKHALTER

ON THE 6TH DAY OF MARCH 2008

ORDINANCE TO AMEND ST. TAMMANY PARISH CODE OF ORDINANCES, CHAPTER 7 DRAINAGE AND FLOOD CONTROL, ARTICLE 1 SECTION 7-002.00 USE OF FILL MATERIALS PROHIBITED, TO PROVIDE FOR THE USE OF FILL MATERIALS ON LOTS LESS THAN NINETY FEET ON PROPERTY LOCATED IN CRITICAL DRAINAGE AREAS AND JURISDICTIONAL WETLANDS, AND PROVIDE FOR PROCEDURES WITH RESPECT THERETO.

WHEREAS, in order to further address the potential adverse drainage impacts that are likely to result from the placement of fill on property governed by the provisions of this ordinance, and in order to protect the public health, safety, welfare and property of the residents of unincorporated St. Tammany Parish, it is necessary to provide for comprehensive and uniform standards, regulations and procedures regarding the placement of fill on any property governed by the provisions of this ordinance; and

WHEREAS, in order to provide for such comprehensive and uniform standards, regulations and procedures regarding the placement of fill on property governed by the provisions of this ordinance, it is necessary and appropriate to amend the provisions of the St. Tammany Parish Code of Ordinances, Chapter 7 Drainage and Flood Control, Article 1 Section 7-002.00 Use of Fill Materials Prohibited.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that Chapter 7, Article I Section 7-002.00 Use of Fill Materials Prohibited, is hereby amended and reenacted to prohibit the placement of net fill on those lots and parcels meeting the criteria set forth therein, to provide procedures and requirements for the development of those lots and parcels, to provide penalties for violation thereof and to provide as follows:

ARTICLE I IN GENERAL

SEC. 7-002.00 Use of Fill Materials Prohibited:

A. **ADVERSE DRAINAGE IMPACT:** It shall be prohibited to place fill or construct improvements on any parcel of property so as to cause adverse drainage impacts on any adjacent parcel.

B. PLACEMENT OF FILL MATERIAL:

1. Definitions:

B. (a) Net Fill: For purposes of this ordinance, "net fill" is defined as the placement of any fill material that results in any increase in the surface elevation of property from its natural or pre-development state. ~~Excavation of existing soil and its replacement with fill is permissible, at the site where a proposed structure is to be built, and at the site of a proposed driveway, provided there is no increase in the surface elevation of the land from its natural or pre-development state. Following the adoption of this ordinance, any increase in the surface elevation of the land from its natural or pre-development state is strictly prohibited in the following areas:~~

(b) Critical Drainage Area - A critical drainage area is an area determined by the St. Tammany Parish Department of Engineering, after careful consideration of the available data, to be of critical importance for its role in the conveyance, moderation or storage of storm water. Areas within this designation include, but are not limited to, the following:

1. Areas anticipated to be inundated by a 100-year storm event, including areas adjacent to streams, upland areas, and areas of isolated or permanent flooding.

2. Areas of concentrated storm water flow, including but not limited to concentrated sheet flow, channelized flow, and natural hydrologic features or channels of all types and sizes.

3. Any area designated by FEMA as Flood Hazard Area A, V, or the equivalent, indicating inundation during a 100-year event.

4. Areas included within wetlands as defined by the 1987 U.S. Army Corps of Engineers Wetland Delineation Manual.

5. Those areas that are designated as a Critical Drainage Area on the most current Critical Drainage Area Map that is on file in the office of the St. Tammany Parish Department of Engineering.

c. Critical Drainage Area Map - The official Critical Drainage Area Map is generated and maintained by the Department of Engineering. The map will be periodically revised, based on information and data available at the time, in an effort to provide reasonably updated information to the public regarding the areas of the Parish considered to be Critical Drainage Areas.

d. Approved Development Plan - An approved development plan may be a properly issued building permit, commercial drainage plan approval, subdivision preliminary work order, or a fill plan approved by the Department of Engineering.

e. Natural Ground - Natural Ground is the natural or pre-development elevation of the property, prior to any surface alteration work being performed.

f. Lots and Parcels Ninety (90') Feet or Less in Width - The determination of whether a lot or parcel is ninety (90') feet in width or less is to be made by averaging the measurement of the width of the property at the point of the rear roof line of an existing or proposed principal structure and the measurement of the width of the property at the front boundary line. The rear roof line is the point where the roof is closest to the rear boundary.

(+) (2) Net fill shall not be permitted on prohibited:

(a) Net fill shall be strictly prohibited in any Critical Drainage Area and on any lot or parcel ninety (90') feet or less in width, except with an approved development plan or with the express written consent of the Department of Engineering. The procedures and guidelines outlined herein shall apply to any request to place any fill in a Critical Drainage Area or on any lot or parcel ninety (90') feet or less in width. Any undeveloped lot or parcel of property within unincorporated St. Tammany Parish that is located in Flood Zone A, according to an official survey or adjacent to the Bayou Tete L'Ours or within the Bayou Tete L'Ours drainage basin has any part of its boundary located adjacent to, contiguous to, or which encompasses all or any part of a natural or manmade drainage way that is designated by the Department of Engineering on its natural and manmade drainage way list, except with the express written consent of said department. Said drainage way shall extend outward from the center line to the one hundred (100) year storm event bench mark.

(b) Any undeveloped A lot or parcel of property shall be deemed to be located in a critical drainage area when or any part thereof is located within a any critical drainage area, as delineated by the Department of Engineering on the Department's most current Critical Drainage Area Map. (A copy of the current map is attached hereto as Appendix A.) Net fill shall not be placed on any part of such property, except with an approved development plan or with the express written consent of the Department of Engineering.

~~(2) (c) Should the Department of Engineering determine that the placement of fill is authorized, the procedures, guidelines and provisions of Subdivision Regulatory Ordinance 499, Section 40-037.04 and 40-037.05 shall apply.~~

~~C. EXEMPTION: This section shall not apply to subdivisions or developments with an approved drainage plan and hydrological study. However, should the Department of Engineering determine, on the basis of current conditions, that the use of fill would have an adverse impact on drainage in or around a subdivision or development with an approved drainage plan, the Parish shall have the authority to apply this ordinance to ensure the health, welfare and safety of the public.~~

~~D. PROCEDURES AND REQUIREMENTS: Whenever application is made for a building permit to build on property identified in paragraph B of this Section, the following procedures and requirements, in addition to any others, shall be applicable:~~

~~(1) The applicant shall submit to the Department of Engineering an official survey of the property that sets forth all of the information required by the Department of Engineering in the Department's "Existing and Proposed Grade Elevations Form," including the surface elevation of the property in its natural or pre-development state.~~

~~(2) Whenever a concrete slab or any other structural foundation of a permanent nature is to be constructed, the applicant or builder shall certify, after excavation of the site of the foundation and prior to pouring any concrete, or installing any permanent foundation, that the foundation is ready to be installed and that no "net fill" exists at the site of the foundation. The foundation shall not be poured or installed prior to certification and inspection.~~

~~(3) Prior to the issuance of the certificate of occupancy, the applicant or builder shall submit an official survey which confirms that no "net fill" exists on the property; otherwise a certificate of occupancy shall not be issued.~~

3. Procedures

a. Any request for approval to place fill on a lot or parcel governed by this ordinance shall include a detailed description of the fill activity and a completed "Existing and Proposed Grade Elevation Form" prepared by a Licensed Civil Engineer or Land Surveyor. The following information shall be included:

1. volume of fill to be placed.
2. the footprint of the fill work.
3. volume and source location of any excavation work.
4. the location of the ultimate disposition of the spoil being removed
5. the direction of water flow across the site.
6. a profile through the construction footprint showing the natural and finished elevations of the site, and
7. the sediment retention measures proposed for the site.

b. Upon receiving approval to fill by the Department of Engineering, whenever a concrete slab or any other structural foundation of a permanent nature is to be constructed, the applicant or builder shall certify, after excavation of the site and prior to pouring any concrete or installing any permanent foundation, that the foundation is ready to be installed and that all fill work complies with the relevant standards. The foundation shall not be poured or installed prior to certification and inspection.

c. Prior to the issuance of the certificate of occupancy, the applicant or builder shall submit an official survey which confirms compliance with the provisions of this ordinance. A final drainage inspection by the Department of Engineering shall be conducted to verify compliance with these standards, and no certificate of occupancy shall be issued unless and until compliance has been verified.

4. General Fill Standards

The placement of fill material on any lot or parcel located within any Critical Drainage Area shall be permitted only after a development plan has been submitted and approved by the Department of Engineering. In the event that the Department of Engineering determines that fill work is permitted on the particular parcel, the fill work must comply with the following specific standards:

a. In some cases, subject to the discretion of the Department of Engineering, excavation of existing soil and its replacement with fill is permissible at the site provided it can be demonstrated to have no increase in the natural ground elevation and no net impact on the function of the Critical Drainage Area.

b. Fill shall be limited to the roof shed area of the proposed primary structure and access to the site and shall not exceed that which is necessary to prepare an adequate building footprint.

c. Site improvements (roads, structures, fill, etc.) shall not impede natural drainage pathways or parish road or drainage easements, servitudes, or rights-of-way.

d. Fill for driveways must not exceed 6 inches above natural ground elevation except where fill is part of the foundation for the main residence, carport, or garage. Fill may also be placed to soften the transition between elevations to a slope not less than four horizontal feet to every one vertical foot.

e. All fill/excavation activities within jurisdictional wetlands shall secure all necessary permits from the US Army Corps of Engineers and any other relevant local, state, or federal agencies before such activities are commenced.

5. Lots Ninety (90') Feet or Less in Width

The placement of fill material on any lot or parcel ninety (90') feet or less in width shall be permitted only when a development plan has been submitted and approved by the Department of Engineering regardless of its location or critical drainage area status. If it is located in a critical drainage area, the provisions of this section governing fill in a critical drainage area apply. If not in a critical drainage area, the fill work proposed must comply with the following standards:

a. Fill shall be limited to the roof-shed area of the lot or parcel's primary structure and shall not exceed the volume required to prepare an adequate building footprint.

b. A concrete slab shall be permitted under the primary structure provided that the finished surface or footing does not exceed an average of 24 inches above natural ground grade. Fill for a slab with a finished surface less than 24 inches above natural ground shall taper out from the slab at a slope of two horizontal feet for one vertical foot.

c. Construction shall be accomplished using pier or piling construction according to applicable building codes for finished elevations above 24 inches above natural ground.

d. Site improvements shall not impede natural drainage pathways or parish road or drainage easements, servitudes, or rights-of-way.

e. There shall be no net change in the average elevation of the natural grade of the lot or parcel outside of the roof-shed area of the primary structure.

f. Fill for driveways must not exceed 12 inches above natural ground grade except where fill is part of the transition from the foundation for the primary structure, carport, or garage. Fill may also be placed adjacent to the driveway to soften the transition between elevations to a slope not steeper than four horizontal feet for every one vertical foot.

g. The placement of fill may not encroach into the required side yard setbacks, except as otherwise permitted in this ordinance.

h. Fill for non-contiguous landscaping areas within the front and rear yards resulting in the finished ground elevation up to an average of 6 inches above natural ground for each such area is permitted, provided that an equal volume of fill is removed from the lot.

i. All fill/excavation activities within jurisdictional wetlands shall secure all necessary permits from the US Army Corps of Engineers and any other relevant local, state, or federal agencies before such activities are commenced.

6. Sub-surface Drainage

It shall be unlawful for any owner, contractor, builder or subdivider to use, employ or apply fill in and/or on any lot situated within a subdivision located in the unincorporated limits of the Parish wherein subsurface drainage is installed unless this material is contained within the perimeter of the lot in an adequate manner to prevent run-off of the sand, fill, clay or mixture thereof onto sidewalks, streets or into culverts or onto the property of abutting property owners. (Ord. No. 80-21, adopted 08/21/80, amended by Ord. No. 04-0862, adopted 04/01/2004, amended by Ord. No. 04-0886, adopted 05/06/2004)

7. Administration

This ordinance shall be administered by the St. Tammany Parish Department of Engineering with the assistance of any other Parish personnel or agency that are deemed necessary by the Parish and/or its regulations.

8. Exemptions

a. Subdivisions approved after June 30, 2004 which establish to the satisfaction of the Parish Engineer that, at the time of preliminary approval, such subdivision development and fill associated with lot development will not result in a reduction in the 100 year flood-plain storage capacity, should be found to comply with these standards.

b. These standards shall not apply to lots in subdivisions or developments with an approved drainage plan and hydrological study. However, should the Department of Engineering determine, on the basis of current conditions, that the use of fill on any particular site within an otherwise exempt development would have an adverse impact on drainage, the Parish shall have the authority to apply this ordinance as needed to ensure the health, welfare, and safety of the public by restricting fill work.

c. Areas enclosed by levees under forced drainage shall be exempt from this ordinance.

C. REVIEW OF DECISIONS. Any person or persons jointly or severally aggrieved by any decision of the Department of Engineering relative to the placement of fill on property governed by the provisions of this ordinance may appeal to the Board of Adjustment. Such appeal shall be taken within ten (10) days of the decision of the Department of Engineering, by filing with the Department and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Department shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

~~E. CONFLICTS: In the event of a conflict with any other ordinance or regulation, the more restrictive ordinance or regulation governing the placement and the amount of fill shall apply. Furthermore, in any event, there must be an application and approved drainage plan.~~

F. D. PENALTIES: A violation of this Section shall constitute a misdemeanor punishable by a fine of not less than ONE HUNDRED (\$100.00) DOLLARS nor more than FIVE HUNDRED (\$500.00) DOLLARS, or by imprisonment for not more than thirty (30) days, or both such fines and imprisonment. Each day that a violation continues shall constitute a separate offense. In lieu of, or in addition to, the issuance of a misdemeanor summons, violations of the provisions of this chapter may be enforced by imposition of civil penalties and injunctive relief in accordance with the following: Each day that the violation remains shall constitute a separate offense and a civil penalty of not less than ONE HUNDRED (\$100.00) DOLLARS nor more than FIVE HUNDRED (\$500.00) DOLLARS per day shall be imposed. In addition to penalties provided by the Code, any violation hereof shall also be subject to an action for abatement and removal of any offending fill work and/or ground surface alteration. Further, whenever the Department of Engineering has approved any application or drainage plan that contains materially false or erroneous information, the applicant shall be responsible for all costs and expenses associated with the correction of said application and plan, and the correction of any adverse consequences resulting therefrom, including the fees of an engineering consultant to review and revise said plan.

~~G. UNLAWFUL: It shall be unlawful for any owner, contractor, builder or subdivider to use, employ or apply fill in and/or on any lot situated within a subdivision located in the unincorporated limits of the Parish wherein subsurface drainage is installed unless this material is contained within the perimeter of the lot in an adequate manner to prevent run-off of the sand, fill, clay or mixture thereof onto sidewalks, streets or into culverts or onto the property of abutting property owners. (Ord. No. 80-21, adopted 08/21/80)~~

BE IT FURTHER ORDAINED that this Ordinance shall be effective immediately upon final adoption.

~~REPEAL: In the event of a conflict with This ordinance is intended to supercede any other ordinance or regulation the more restrictive ordinance or regulation, governing that may govern the placement and the amount of fill on any property that is intended to be governed by the provisions of this ordinance, including the provisions of Subdivision Regulatory Ordinance 499, Sections 40-037.04 and 40-037.05 shall apply. Furthermore, in any event there must be an application and approved drainage plan.~~

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

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED ADOPTED AT A REGULAR MEETING OF THE
PARISH COUNCIL ON THE _____ DAY OF _____ 2008 AND BECOMES ORDINANCE
COUNCIL SERIES NO. _____.

JERRY BINDER, COUNCIL CHAIRMAN

ATTEST:

DIANE HUESCHEN, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published introduction: February 28, 2008
Published adoption on: _____, 2008

Delivered to Parish President: _____, 2008 @ _____
Returned to Council Clerk: _____, 2008 @ _____