

ST. TAMMANY PARISH COUNCIL  
ORDINANCE

ORDINANCE CALENDAR NO. 3990 ORDINANCE COUNCIL SERIES NO. 08-

COUNCIL SPONSOR MR. ARTIGUE PROVIDED BY COUNCIL ATTORNEY

INTRODUCED BY MR. BURKHALTER SECONDED BY MR. STEFANICK

ON THE 4<sup>TH</sup> DAY OF DECEMBER, 2008

ORDINANCE TO AMEND THE "ST. TAMMANY PARISH COASTAL ZONE MANAGEMENT ORDINANCE, ORDINANCE P.J.S. NO. 92-1607, TO PROVIDE FOR CONSISTENT GUIDELINES FOR THE ISSUANCE OF "LETTER OF NO OBJECTION" WITH REGARDS TO STATE LANDS PERMITS, PARTICULARLY LAND RECLAMATION AND AREAS OF SPECIAL CONCERN, AND TO OTHERWISE PROVIDE WITH RESPECT THERETO.

WHEREAS, the Legislature, recognizing that in exercising the right to reclaim or recover land lost through eroding, compaction, subsidence, and sea level rise occurring on or after July 1, 1921, the fixing of the boundaries by the owner may be contested or may be fixed by mutual consent. In this regard, R.S. 41:1702D provides in pertinent part, "In all cases in which a definitive boundary may be arrived at by mutual consent or through the procedures applicable to contested boundaries, the administrator of the State Land Office, as provided in Paragraph (1) of this Subsection, or the secretary of the Department of Natural Resources, as provided in Paragraph (2) of this Subsection, may allow reclamation.(1) The administrator of the State Land Office may issue a permit for the carrying out of the work necessary to implement the recovery of the land lost through erosion, compaction, subsidence, or sea level rise; however, no such permit shall be issued until plans and specifications for such work have been first submitted to the governing authority of the parish in which the proposed project is located, the Department of Transportation and Development, the Department of Wildlife and Fisheries, and the Department of Natural Resources for review and comment not less than sixty days prior to the issuance of such permit;" and

WHEREAS, whenever plans and specifications are submitted to the Parish in furtherance of the hereinabove referened statute, or other statutes and regulations, it is in the best interest of the public health, safety and welfare to establish consistent guidelines for the issuance of a "Letter Of No Objection" with regards to State Lands Permits, particularly reclamation of lands lost through erosion, compaction, subsidence, and sea level rise.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that the St. Tammany Parish Coastal Zone Management Ordinance, Ordinance P.J.S. No. 92-1607, Section II.Guidelines from the SLCRMA, Paragraph K Guidelines for Issuance of "Letter of No Objection" with regards to State Lands Permits, is hereby amended and reenacted to provide as follows:

Ordinance No. 92-1607

COASTAL ZONE MANAGEMENT REGULATIONS  
ST. TAMMANY PARISH, LOUISIANA

SECTION I: GENERAL PROVISIONS

1.1 Title - This Ordinance shall hereafter be known, and cited as the "St. Tammany Parish Coastal Zone Management Ordinance", (hereinafter referred to as the "Ordinance".)

1.2 Purpose

The principal purpose of this regulation is to provide the authorities and procedures for implementing a unified coastal use permitting process. This regulation is based upon the policies, guidelines and procedures set forth in Act 361 of the Louisiana Legislature, in the Final Environmental Impact Statement of the Louisiana Coastal Resources Program, and the St. Tammany Parish Coastal Zone Management Plan.

3. Waste facilities located in wetlands shall be designed and built to withstand all expectable adverse conditions without releasing pollutants. [Guideline 8.3]
  4. Waste facilities shall be designed and constructed using best practical techniques to prevent leaching, control leaching production, and prevent the movement of leachate away from the facility. [Guideline 8.4]
  5. The use of overland flow systems for non-toxic, biodegradable wastes, and the use of sump lagoons and reservoirs utilizing aquatic vegetation to remove pollutants and nutrients shall be encouraged. [Guideline 8.5]
  6. All waste disposal sites shall be marked and, to the maximum extent practicable, all components of waste shall be identified. [Guideline 8.6]
  7. Waste facilities in wetlands with identifiable pollution problems that are not feasible and practical to correct shall be closed and either removed or sealed, and shall be properly revegetated using the best practical techniques. [Guideline 8.7]
  8. Waste shall be disposed of only at approved disposal sites. [Guideline 8.8]
  9. Radioactive wastes shall not be temporarily or permanently disposed of in the coastal zone. [Guideline 8.9]
- I. Guidelines for Uses that Result in the Alteration of Waters Draining into Coastal Waters
1. Upland and upstream water management programs which affect coastal waters and wetlands shall be designed and constructed to preserve or enhance existing water quality, volume, and rate of flow to the maximum extent practicable. [Guideline 9.1]
  2. Runoff from developed areas shall to the maximum extent practicable be managed to simulate natural water patterns, quantity, quality and rate of flow. [Guideline 9.2]
  3. Runoff and erosion from agricultural lands shall be minimized through the best practical techniques. [Guideline 9.3]
- J. Guidelines for Oil, Gas and Other Mineral Activities
1. Geophysical surveying shall utilize the best practical techniques to minimize disturbance or damage to wetlands, fish and wildlife and other coastal resources. [Guideline 10.1]
  2. To the maximum extent practicable, the number of mineral exploration and production sites in wetland areas requiring floatation access shall be held to the minimum number, consistent with good recovery and conservation practices and the need for energy development by directional drilling, multiple use of existing access canals and other practical techniques. [Guideline 10.3]

3. Exploration, production and refining activities shall, to the maximum extent practicable, be located away from critical wildlife preserves and management areas shall be conducted in strict accordance with the requirements of the wildlife management body. [Guideline 10.3]
4. Mineral exploration and production facilities shall be to the maximum extent practicable designed, constructed and maintained in such a manner to maintain natural water flow regimes, avoid blocking surface drainage, and avoid erosion. [Guideline 10.4]
5. Access routes to mineral exploration, production and refining sites shall be designed and aligned so as to avoid adverse impacts on critical wildlife and vegetation areas to the maximum extent practicable. [Guideline 10.5]
6. Drilling and production sites shall be prepared, constructed, and operated using the best practical techniques to prevent the release of pollutants or toxic substances into the environment. [Guideline 10.6]
7. All drilling activities, supplies, and equipment shall be kept on barges, on drilling rigs, within ring levees, or on the well site. [Guideline 10.7]
8. Drilling ring levees shall to the maximum extent practicable be replaced with small production levees or removed entirely. [Guideline 10.8]
9. All drilling and production equipment, structures, and storage facilities shall be designed and constructed utilizing best practical techniques to withstand all expectable adverse conditions without releasing pollutants. [Guideline 10.9]
10. Mineral exploration, production and refining facilities shall be designed and constructed using best practical techniques to minimize adverse environmental impacts. [Guideline 10.10]
11. Effective environmental protection and emergency or contingency plans shall be developed and complied with for all mineral operations.
12. The use of dispersant, emulsifiers and other similar chemical agents on oil spills is prohibited without the prior approval of the Coast Guard or Environmental Protection Agency on-Scene Coordinator, in accordance with the National Oil and Hazardous Substance Pollution Contingency Plan. [Guideline 10.11]
13. Mineral Exploration and production sites shall be cleared, revegetated, detoxified and other wise restored as near as practicable to their original condition upon termination of operations to the maximum extent practicable. [Guideline 10.12]

K. Guidelines for Issuance of "Letter of No Objection" with regards to State Lands Permits

Individual applicants needing a "Letter of No Objection" shall submit a written request for such to the Local Coastal Management Office, accompanied by a complete Coastal Use Permit application. The applicant must have applied for all necessary permits including but not limited to a **D.O.A. Permit** from the U.S. Army Corps of Engineers, a **Coastal Use Permit** from the Department of Natural Resources, and a **Water Quality Certification** from the Department of Environmental Quality. The design of the proposed project must conform to the

guidelines and standards detailed below to secure a letter of no objection from the local governing authority. Provided that all of the applicable guidelines are met, the letter may be issued administratively by the office that administers the Local Coastal Program.

The following guidelines are mandatory and not advisory in nature:

1. Piers

- A. The pier shall be determined by the U.S. Coast Guard, or other appropriate agency, not to pose any threat to safe navigation and shall be properly marked.
- B. The pier, and any structure built in relation to it, shall be similar in design and length to those in the general vicinity.
- C. The pier and its use shall be consistent with the uses allowed under Ordinance 532 (the Zoning Ordinance) for the supporting land parcel. (Example: no commercial use shall be allowed for a pier encountering the land in a residentially zoned area)
- D. Other individual requirements may be placed on any project relative to site specific concerns.

2. Land Reclamation

- A. Applicant must furnish a copy of the survey establishing past private property ownership of the piece of ground to be reclaimed.
- B. Vertical face, hard surface bulkheads shall be positioned so that the base of the bulkhead where it encounters the ground is above the average high water mark. Areas shoreward of the bulkhead shall be filled as shown on the application drawings. Reclamation activities adjacent to already reclaimed property may be required by the LCP Administrator to tie into such property in order to promote a consistent and uniform shoreline and avoid sharp angles that might intensify or focus wave energy. Where reclamation work abuts older existing shorelines (un-reclaimed), special attention must be paid to how the project ties into that shoreline. The applicant must demonstrate how his project will avoid adverse impacts to those existing shorelines.
- C. Reclamation seaward of the bulkhead shall be accomplished using softer, less damaging methods of soil retention such as vegetative planting, rip rap, concrete block revetment, or geo-textile materials. Wooden or similar structures will be allowed to provide for access to the water over the shoreline protection. Reclamation using "soft" shoreline modification such as rip-rap may be required by the LCP Administrator. Where less beneficial "hard" shoreline modification is shown to be necessary, the plan may be required to include buffering the entire length of the structure with rip-rap or other energy absorbing techniques.
- D. A 20' public access easement will be provided in writing and shown on permit application drawings along the actual lakeshore as it exists after project completion when deemed applicable by Office

of State Lands. No impediment to public access shall be placed across this easement. This easement shall be provided seaward of any proposed bulkhead structure and shall provide for public access across the entire project.

- E. The project shall not result in any alteration of existing drainage patterns without the express authorization of the Director of the Department of Engineering or his designee. Fill for reclamation purposes shall be placed in all cases to avoid shedding water on adjacent properties or roadways.
  - F. If the project consists of repairing or replacing an existing bulkhead in disrepair, the new bulkhead will be placed parallel to and no further than 2 feet outside of the existing one. Any encroachment into the water in excess of 2 feet will be treated as a new land reclamation proposal and will be subject to the standards set forth in this section.
  - G. Development projects other than single-family residential must obtain all applicable land use approvals for the proposed activities/uses (i.e. zoning, conditional use) and must complete all local Department of Engineering, Department of Planning, and Department of Environmental Services reviews prior to requesting a Letter of No Objection.
  - G:II. Other individual requirements may be placed on any project relative to site specific concerns.
  - I. Special areas of concern:
    - (1) Lakeview Drive, Slidell: Any land reclamation activity shall extend a distance of two hundred (200') feet seaward of the property line adjacent to the Lakeview Drive right-of-way.
  - J. Reclamation work done without the necessary permits and approvals from federal, state, and local regulatory agencies must be brought into compliance with these standards before St. Tammany Parish will issue a Letter of No Objection for after-the-fact approvals.
3. Shoreline Stabilization (no land reclamation)
- A. The use of hard surface methods (bulkheading and retaining wall construction) is strongly discouraged as a means of shoreline stabilization.
  - B. The base of any bulkhead or hard-surface structure shall be located above the average high water mark. Stabilization activities on the water side of the bulkhead shall incorporate softer methods such as vegetative planting, rip rap, concrete block revetment, or geotextiles.
  - C. Shoreline stabilization activities shall not result in the significant reduction in flood water storage capacity of the site or impediment to flood water flow. Existing drainage patterns shall not be altered without the written approval of the Director of Engineering or his designee.

- F. SPECIAL MANAGEMENT AREAS - Areas within the Coastal Zone which have unique and valuable characteristics, such as beaches, barrier islands, shell deposits, salt domes, or formations containing deposits of oil, gas or other minerals; historical or archaeological sites; corridors for transportation; industrialization or urbanization, and other such characteristics, all as more particularly set forth in R.S. 49:214.29 A, may require special management procedures. Such areas may be designated as special management areas in accordance with the procedure established by the Secretary and the Coastal Zone Management Plan, and when so designated shall mandate special considerations for the issuance of the CUP therein.

### 3.7 Term of Permits

- (1) Permits issued under this section shall remain in effect for a period of one (1) year from the date of issuance. If the designated use has not been initiated within the time period, the permit shall automatically be voided. If the designated use involves construction, and said construction is commenced within the one (1) year period, it must be completed not later than three (3) years from the date the permit was issued.
- (2) A local coastal use permit may be renewed if the LCP Administrator is satisfied that substantial progress has been made on said project or that the permittee has been precluded from acting by non self-induced litigation, material shortages, labor problems, or other events beyond the permittee's control.

### 3.8 Conditions of Permit

- (1) By accepting the Local Coastal Use Permit, the Applicant agrees to:
  - a. carry out or perform the use in accordance with the plans and specifications approved by the LCP Administrator.
  - b. comply with any permit conditions imposed by the LCP Administrator.
  - c. adjust, alter, or remove any structure or other physical evidence of the permitted use if, in the opinion of the LCP Administrator, it proves to be beyond the scope of the use as approved, or is abandoned;
  - d. provide, if required by the LCP Administrator, an acceptable surety bond in an appropriate amount to ensure adjustment, alteration, or removal should the permitting body determine it necessary;
  - e. hold and save the State of Louisiana, the St. Tammany Parish Police Jury and police jurors individually, government, the Department of Development, the LCP Administrator and their officers and employees harmless from any damage to persons or property which might result from construction, maintenance, and operation of the permitted use.
  - f. certify that any permitted construction has been completed in an acceptable and satisfactory manner and in accordance with the plans and specifications approved by the LCP Administrator. The LCP Administrator may, when appropriate, require such certification be given by a registered professional engineer.
- (2) The LCP Administrator may place such other conditions on the permit as are appropriate to ensure compliance with the Coastal Zone Management Plan.

### 3.9 Appeals

- (1) Any interested person shall first appeal to the St. Tammany Parish Police Jury 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 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, in proper form, is filed. 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 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 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.

### 3.10 Modifications

- (1) The terms of conditions of a permit may be modified to allow changes in the permitted use, in the plans and specifications for that use, in the methods by which the use is being implemented, or to assure that the use will be in conformity with the coastal management program. Changes which would significantly increase the impacts of a permitted activity shall be processed as new applications for permits pursuant to Section 3.3, not as a modification.
- (2) A permit may be modified upon request of the permittee:
  - a. if mutual agreement can be reached on a modification, written notice of the modification will be given to the permittee.
  - b. if mutual agreement cannot be reached, a permittee's request for a modification shall be considered denied.

- 3.11 Monitoring - The LCP Administrator shall be responsible for monitoring progress of all permitted uses and compliance with regulations accompanying permit approval. In addition, the LCP Administrator shall be responsible for monitoring all activities within the coastal zone for compliance with this Ordinance. This will include on-site inspections to verify compliance, and following up reports for each permitted project.