

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 4486

ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: MR. GOULD

PROVIDED BY: COUNCIL ATTORNEY

INTRODUCED BY: _____

SECONDED BY: _____

ON THE 3 DAY OF FEBRUARY, 2011

ORDINANCE TO CREATE A NEW SECTION OF THE PARISH
CODE OF ORDINANCES REGARDING TRANSFERABLE
DEVELOPMENT RIGHTS.

WHEREAS, the St. Tammany Parish Council respects and safeguards a desirable and sustainable quality of life; and

Whereas, the parish council wishes to conserve and respect the natural splendor of our environment while planning for the economies opportunity and housing of the residents of the parish; and

Whereas, to achieve this result requires the wise management, conservation and stewardship of lands such as timberlands, agricultural ands, wetlands, flood plains, watersheds, wildlife habitat areas and historical areas while providing for orderly growth; and

Whereas, the parish council finds that the adoption of a transferable development rights ordinance will provide a viable means of helping achieve its vision and goals of land conservation and preservation while providing the owners of the aforementioned lands with the ability to capture the potential development value of said lands by transferring the development rights to owners of land that will be designated for residential growth.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS AND CREATES A TRANSFERABLE DEVELOPMENT RIGHTS SECTION IN THE CODE OF ORDINANCES, TO WIT:

DEFINITIONS

1. Development Rights: "Development Rights" mean the rights of the owner of a parcel of land, under land development regulations in effect in the Parish, to place that parcel and the structures thereon to a particular use or to develop that land and the structures thereon to a particular density.

2. Receiving District: A "Receiving District" is a district designated by the Parish Council in which the development rights of parcels in the sending district may be used.

3. Receiving Parcel: A "Receiving Parcel" means a parcel of land which, in accordance with the terms of this Section, is receiving development rights from a sending parcel, and on which increased density and/or intensity of use or development is allowed by reason of the transfer of development rights.

4. Sending District: A "Sending District" is a general zoning, planning, or other district designated by this Section from which the development rights of parcels in the district may be designated and transferred for use in one or more receiving districts.

5. Sending Parcel: A "Sending Parcel" is a parcel of land from which, in accordance with the terms of this Section, the owner of the parcel is conveying development rights of the parcel, through which act those rights so conveyed are extinguished forever and future development on the sending parcel is thereby limited.

6. Transfer of Developments Rights: A "Transfer of Development Rights" is the procedure prescribed by this Section through which the owner of a parcel in the sending district may convey development rights to the owner of a parcel in the receiving district whereby the development rights so conveyed are extinguished on the sending parcel and may be exercised on the receiving parcel in addition to the development rights already existing regarding that parcel. The acronym "TDR" is also used to refer to

such a transfer; where in this Section the term "transfer" is used without further modification, it shall be presumed to refer to a Transfer of Development Rights unless the context clearly otherwise suggests.

DESIGNATION OF SENDING DISTRICTS

The St. Tammany Parish Council shall by ordinance designate sending districts that meet the land area characteristics as identified herein.

The following types of land areas may be designated as "sending districts" under this Section:

1. Timberlands;
2. Agricultural lands;
3. Wetlands;
4. Flood plains;
5. Watersheds;
6. Wildlife habitat areas;
7. Historical Areas

DESIGNATION OF RECEIVING DISTRICTS

The St. Tammany Parish Council shall by ordinance designate receiving districts that meet the criteria as identified herein.

The following land areas may be designated as "receiving districts"

1. Areas containing at least fifty percent (50%) of land zoned A-2
2. Areas containing at least fifty percent (50%) of land zoned A-3

DESIGNATION OF SENDING PARCEL

Every landowner who requests a designation of his property as a sending parcel shall be required to submit an application to the Parish Planning Director on an approved form which shall identify such criteria as required to be met by the Parish Planning Director. The parcel size must be a minimum of five (5) acres. A transferable development credit of one-half credit for every acre applied for may be granted by the Planning Director. Transfers of development rights shall only be permitted between sending parcels and receiving parcels located within a five mile radius of one another.

The Planning Director shall review said application and may require the submission of certain documentation . After consultation with the Parish Environmental Service Director, the Parish Engineering Director and the Parish Council Member(s) in whose council district(s) the parcel is located. The Parish Planning Director shall render a decision within ninety (90) days of receipt of said application approving or denying said application.

The Planning Director may charge a nominal fee to cover the cost of the review of the application. Any party aggrieved by a decision of the Planning Director shall have the right to appeal said decision to the Parish Board of Adjustments by filing a Motion to Appeal with the Planning Director on an approved form within ten (10) days of said decision. The decision of the Board of Adjustments may be appealed to the 22nd Judicial District Court for the Parish of St. Tammany withing thirty (30) days of the rendering of said decision.

DESIGNATION OF RECEIVING PARCEL

Every landowner who requests a designation of his property as a receiving area shall make an application to the Parish in an approved form and subject to the same rules and regulations as prescribed by the applicable Parish planning and zoning ordinances.

Said receiving parcels shall be a minimum of five (5) acres. Upon approval of the application by the zoning commission and the Parish Council, the applicant will have the right to increase the density of residential properties in only A-2 and A-3 zoned properties by applying one transferable development credit per acre. Said approval will permit the density of a receiving parcel to potentially double thereby

changing the zoning in the receiving parcel from A-2 to A-3 or A-3 to A-4. Any decision which would permit a transfer and increase in density shall require the approval of the Parish Zoning Commission and Parish Council.

Any party aggrieved by a decision of the Zoning Commission shall have the right to appeal said decision to the Parish Council withing 10 days of said decision.

Any party aggrieved by a decision of the Parish Council shall have thirty (30) days from the date of the decision to appeal to the 22nd Judicial District Court for the Parish of St. Tammany.

DETERMINATION OF DEVELOPMENT RIGHTS; ISSUANCE OF CERTIFICATE

1. The Parish Planning Director shall be responsible for:

a. determining, upon application by a transferor, the development rights that have been approved and that may be transferred from a property in a sending district to a property in a receiving district and issuing a transfer of development rights certificate upon application by the transferor.

b. maintaining a map designating all sending districts, receiving districts, sending parcels and receiving parcels.

c. maintaining permanent records of all certificates issue deed restrictions and covenants recorded, and development rights retired or otherwise extinguished, and transferred to specific properties; and

d. making available forms on which to apply for transfer of development rights certificate after said transfer has been approved.

2. An application for a transfer of development rights certificate shall contain:

a. a certificate of title for the sending parcel, prepared by an attorney licensed to practice law in the State of Louisiana;

b. five (5) copies of a plat of the proposed sending parcel and a legal description of the sending parcel prepared by a licensed or registered land surveyor;

c. a statement of the number of development rights in terms of density being transferred from the sending parcel, and calculations showing their determinations.

d. applicable fees;

e. a copy of the proposed deed restriction on the sending parcel; and

f. such additional information required by the Parish Planing Director as necessary to determine the number of development rights that qualify for transfer.

3. A transfer of development rights certificate shall identify:

a. the transferor;

b. the transferee, if known;

c. a legal description of the sending parcel on which the calculation of development rights is based;

d. a statement of the number of development rights in dwelling units per net acre eligible for transfer;

e. if only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights in credits remaining on the sending property;

f. the date of issuance;

g. the signature of the Parish Planning Director; and

h. a serial number assigned by the Parish Planning Director.

4. No transfer of development rights under this ordinance shall be recognized by the Parish of St. Tammany as valid unless the instrument of transfer contains the Planning Director's certification.

INSTRUMENTS OF TRANSFER

1. An instrument of transfer shall conform to the requirements of this Section.

2. Any instrument of transfer shall contain:

a. the names of the transferor and the transferee;

b. a certificate of title for the rights to be transferred prepared by an attorney licensed to practice law in the State of Louisiana

c. a covenant and title restriction whereby the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors, and assigns a specific number of development rights from the sending parcel to the receiving parcel; and

d. a covenant and title restriction by which the transferor acknowledges that he has no further use or right of use with respect to the development rights being transferred;

e. a legal description and plat of the sending parcel prepared by a licensed surveyor named in the instrument;

f. the transfer of development rights certificate described above.

g. a covenant and title restriction excluding the sending parcel from any further development and stating the sending parcel may not be subdivided or developed to a greater density or intensity than permitted by its current use.

h. a covenant and title restriction that all provisions of the instruments of transfer shall run with and bind the sending parcel and may be enforced by the Parish of St. Tammany, denigrated nonprofit conservation organizations and adjoining property owners; and

3. The Planning Director and Council Attorney shall review and approve as to the form and legal sufficiency of all the instruments required herein, in order to affect a transfer of development rights to a receiving parcel.

Upon such approval, the Council Attorney shall notify the transferor or his or her agent, who shall record the instruments with the St. Tammany Parish Clerk of Court and shall provide a copy to the Parish Assessor and the Parish Planning Director. Such instruments shall be recorded prior to release of development permits, including building permits, for the receiving parcel.

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 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.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

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

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 3 DAY OF March, 2011; AND BECOMES ORDINANCE COUNCIL SERIES NO _____.

MARTIN W. GOULD, JR., COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published Introduction: December 30, 2010

Published Adoption: _____, 2011

Delivered to Parish President: _____, 2011 at _____

Returned to Council Clerk: _____, 2011 at _____