

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 4557

ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: GOULD

PROVIDED BY: COUNCIL ATTORNEY

INTRODUCED BY: STEFANCIK

SECONDED BY: BURKHALTER

ON THE 5 DAY OF MAY, 2011

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 ADDITIONAL AREAS OF SPECIAL CONCERN AND REGULATIONS RELATED THERETO.

WHEREAS, Section 7-002.00B(1)(g) of the Drainage and Flood Control regulations sets forth the criteria for defining An Area of Special Concern. The area generally surrounding Eola Street, Jordan Street and Elmer Street and more particularly described herein below is an area that has been determined by the Department of Engineering, after careful consideration of the available data, to be an area that is particularly susceptible to adverse drainage and flooding impacts that are likely to result from continued development and fill; and

WHEREAS, after considering the regulations and the determination of the Department of Engineering, it is in the best interest of the public health, safety and welfare that the aforesaid area, which is more particularly described herein below, be included within the regulations applicable to Areas of Special Concern in order to address the adverse drainage and flooding impacts that are likely to result from continued development and fill within said subdivisions.

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 include the area generally surrounding Eola Street, Jordan Street and Elmer Street and more particularly described herein below within the regulations applicable to Areas of Special Concern, to provide additional criteria applicable to such area, 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:

(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.

(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.

g. An Area of special concern is an area that is experiencing development without an approved hydrological plan for the area and, although it may not be located within a critical drainage area, has been determined by the St. Tammany Parish Department of Engineering, after careful consideration of the available data, to be an area that is particularly susceptible to adverse drainage and flooding impacts that are likely to result from continued development and fill, necessitating the application of specific fill and building regulations to address those impacts.

2. Net fill 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.

(b) A lot or parcel of property shall be deemed to be located in a critical drainage area when any part thereof is located within a critical drainage area. 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.

3. 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.

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4. 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.

5. General Residential 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. Fill may be authorized by the Department of Engineering, in those cases where, due to the size and location of the parcel of property, on-site or off-site mitigation can be provided and the Department of Engineering also determines that there will be no loss of flood plain storage, no loss of stream flow capacity and that the applicant demonstrates that no adverse impacts will occur to adjacent properties, to other properties within the subject watershed, and to the function of the Critical Drainage Area.

6. 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.

7. Non-residential Standards

In cases of commercial, industrial, or institutional development on any lot or parcel of property that has any part thereof located within a Critical Drainage Area, the placement of fill on such lot or parcel may be permitted, in the discretion of the Department of Engineering, provided that:

a. Soil material in a volume equal to the fill material proposed to be placed on the property is excavated and removed from the property, such that the flood storage capacity of the property is maintained for a 100-year frequency flood event; or

b. Off-site mitigation will be provided, and the Department of Engineering also determines that there will be no loss of flood plain storage and no loss of stream flow capacity; and

c. The applicant can demonstrate that no adverse impacts will occur to adjacent properties, to other properties within the subject watershed, and to the function of the Critical Drainage Area; and

d. The proposed development complies with all other applicable drainage regulations.

8. Areas of Special Concern:

a. A certain portion of Tammany Hills and Alexiusville Subdivisions, Ward 3, District 5, located inside the boundaries described immediately below, to-wit:

Beginning at the northeast corner of 9th Avenue and U.S. Highway 190, proceed in a northerly direction along the eastern edge of U. S. Highway 190 to its intersection with Harrison Avenue, then proceed in an easterly direction along Harrison Avenue to its intersection with 11th Street, then proceed in a southerly direction along 11th Street to its intersection with Madison Avenue, then proceed in a westerly direction along Madison Avenue to its intersection with 5th Street, then northerly along the 5th Street right-of-way to its intersection with Quincy Avenue, then westerly along Quincy Avenue to its intersection with K Street, then south on K Street to its intersection with 9th Avenue, then proceed west on 9th Avenue to its intersection with U.S. Highway 190 and the point of beginning, all as shown within the highlighted portion on the attached area map.

b. A certain portion of Cypress Park and Erindale Subdivisions, Ward 7, District 7, located inside the boundaries described immediately below, to-wit:

Beginning at the intersection of U.S. Highway 190 and Anchorage Drive, the point of beginning, proceed along the eastern edge of Anchorage Drive in a northerly direction to its intersection with Berry Todd Road, thence proceed along the southern edge of Berry Todd Road in an easterly direction to its intersection with Graci Avenue, thence follow an imaginary line due south from said intersection to the northern most point of Emerald Drive, thence proceed along the western edge of Emerald Drive south to its intersection with U.S. Highway 190, thence proceed along the northern edge of U.S. Highway 190 west northwest to its intersection with Anchorage Drive, the point of beginning. All as indicated on the map attached hereto.

c. All that property situated within a re-subdivided portion of Tammany Forest Subdivision, Ward 7, District 7, all as more particularly described immediately below, to-wit:

Any and all squares and lots of record within the re-subdivided portion of Tammany Forest Subdivision, located within Section 43, Township 8 South, Range 13 East and as more fully described on the finalized subdivision plat dated August 7, 1985 by NRW & Associates, Inc.

d. A certain portion of the subdivision known as Dove Park, Ward 4, District 5, Section 26, Township 7 South, Range 11 East, located within the boundaries described immediately below, to-wit:

Any lot or parcel of ground between Dove Park Road and the proposed Judge Tanner Boulevard (formerly the proposed E. Fairway Drive Extension) that abuts or has access to Swallow Street, Egret Street, Partridge Street or Sparrow Street.

e. Any undeveloped lot or parcel of ground situated in the area generally surrounding Eola Street, Jordan Street and Elmer Street, which area is more particularly depicted on the attached aerial and described immediately below, to-wit:

A CERTAIN PIECE OR PORTION OF GROUND situated in Section 6, Township 8 South, Range 12 East, St. Tammany Parish, Louisiana, and more fully described as follows:

Parcel 1

From the Quarter Section Corner common to Section 6, Township 8 South, Range 12 East and Section 1, Township 8 South, Range 11 East, go South 89 degrees 51 minutes 30 seconds East a distance of 330.0 feet to a point; said point being the Point of Beginning.

From the Point of Beginning proceed North 89 degrees, 18 minutes, 18 seconds East a distance of 1357.15 feet to a point; Thence proceed North 01 degrees, 51 minutes, 49 seconds West a distance of 947.44 feet to a point at the intersection of the western right of way of Soult Drive and the southern right of way of Highway 1088; Thence proceed in a westerly direction along the southern right of way line of Highway 1088 a distance of 1875 feet to a point; Thence proceed South 00 degrees, 00 minutes, 00 seconds West a distance of 266.71 feet to a point Thence proceed North 89 degrees, 43 minutes, 43 seconds East a distance of 395.84 feet to a point, said point being the Point of Beginning.

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Parcel 2

From the Quarter Section Corner common to Section 6, Township 8 South, Range 12 East and Section 1, Township 8 South, Range 11 East, proceed South 89 degrees 51 minutes 30 seconds East a distance of 330.0 feet to a point, Thence proceed North 89 degrees, 18 minutes, 18 seconds East a distance of 1357.15 feet to a point; Thence proceed North 01 degrees, 51 minutes, 49 seconds West a distance of 1011 feet to a point at the intersection of the western right of way of Soult Drive and the northern right of way of Highway 1088; said point being the Point of Beginning.

From the Point of Beginning proceed North 01 degrees, 51 minutes, 49 seconds West a distance of 345.28 feet to a point; Thence proceed South 89 degrees, 0 minutes, 48 seconds West a distance of 965 feet to a point; Thence proceed South 00 degrees, 52 minutes, 25 seconds West a distance of 157.57 feet to a point; Thence proceed South 88 degrees, 55 minutes, 22 seconds West a distance of 304.04 feet to a point located at the southwest corner of Lot of Lot 1, Square 26 of the Mandeville Annex Subdivision; Thence proceed North 62 degrees, 57 minutes, 19 seconds East a distance of 23.69 feet to a point located at the southeast corner of Lot 11 of the Grande Terre Subdivision; Thence go North 73 degrees, 26 minutes, 16 seconds West a distance of 159.21 feet to a point; Thence proceed in a southwesterly direction along the eastern right of way of Frenchman Drive to a point formed by the intersection of western right of way of Frenchman Drive and the northern right of way of Highway 1088; Thence proceed along the northern right of way line of Highway 1088 in a northwesterly direction distance of 1875 feet to a point, said point being the Point of Beginning.

9. Fill in Areas of Special Concern

(a). No fill shall be placed on any lot or parcel within the above described boundaries prior to the submission of a development plan to the Department of Engineering detailing any proposed grade work. The development plan shall provide the elevation at the four corners of the lot, at the center of the proposed primary structure, and any other elevations deemed necessary by the Department of Engineering for review of the development plan.

(b). If any fill is placed on the property following the adoption of this ordinance and prior to the submission of a development plan, the owner may be required to remove the fill material back down to native soils and pre-fill elevations.

(c). No fill shall be permitted on parcels within this area that would raise or increase the surface elevation of any part of the parcel above its natural or pre-development elevation. Fill required for minor grading, to level and drain the surface at the proposed site of the primary structure and driveway, may be authorized.

(d). The lowest finished floor of the primary structure shall be situated at least twenty-four (24") inches above the crown of the road surface directly adjacent to and in front of the parcel.

(e). Based on available data, the Department of Engineering may require a higher finished floor elevation on pier construction above the FEMA base flood elevation provided on the applicable FIRM Map.

10. 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)

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11. Relocation of Open Drainage Ditches, Drainage Channels and Similar Drainage Features:

(a) For purposes of this Section and subparagraph 10, relocation means changing the location of all or any part of an open drainage ditch, drainage channel or similar drainage feature that is partially located on, or which traverses, a lot or parcel of property.

(b) The provisions of paragraph 10 of this Section shall be applicable to any lot or parcel of property, regardless of the size of the lot or parcel and whether or not it is located in a Critical Drainage Area or Area of Special Concern.

(c) Whenever the owner of any lot or parcel of property proposes to fill in an existing drainage ditch, drainage channel or similar drainage feature that is partially located on, or which traverses, the owner's property in order to relocate the ditch, drainage channel or similar drainage feature to another location on the property, in addition to complying with all other applicable provisions of this Section, the owner shall provide a plan for the proposed relocation that is prepared by a Licensed Civil Engineer. The proposed relocation plan may be included in the "Existing and Proposed Grade Elevation Form", provided it is prepared by a Licensed Civil Engineer.

(d) If the proposed relocation results in all or any part of the relocated drainage ditch, drainage channel or similar drainage feature being within twenty (20) feet of the foundation of an existing or proposed structure, the relocation of the drainage ditch, drainage channel or similar drainage feature must be accomplished by subsurface installation. If no part of the drainage ditch, drainage channel or similar drainage feature is to be within twenty (20) feet of the foundation of an existing or proposed structure, the Department of Engineering shall determine, considering best engineering practices and the issue of maintenance of drainage, whether subsurface installation is required for all or any part of the relocated drainage ditch, drainage channel or similar drainage feature.

(e) The requirement of subsurface installation for a relocated drainage ditch, drainage channel or similar drainage feature may be waived by the Department of Engineering provided that: (i) the property owner, and Licensed Civil Engineer engaged by the owner, have independently determined that the relocated drainage ditch, drainage channel or similar drainage feature, if relocated without subsurface drainage, will not undermine the foundation or otherwise cause any damage to the property or structure; and (ii) the Department of Engineering determines that the relocation will not impede drainage or interfere with the proper maintenance thereof.

(f) The herein above provisions of subparagraph 10 of this Section shall not be construed as being applicable to any roadside ditch or to any property that is publically owned and maintained by St. Tammany Parish or any political subdivision thereof.

12. 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.

13. 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.

d. Coastal areas, which are those areas that are determined by the Department of Engineering to be subject to flooding only because of tidal inundation.

C. CONFLICTS. If a lot or parcel of property may be governed by more than one provision or subsection of this ordinance, or in the event of a conflict in the applicability of any provision, the more restrictive or specific provision shall apply.

D. 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 thirty (30) 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. 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.

REPEAL: This ordinance is intended to supercede any ordinance or regulation that may govern the placement 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. 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.

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

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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 2 DAY OF June, 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: APRIL 28, 2011

Published Adoption: _____, 2011

Delivered to Parish President: _____, 2011 at _____

Returned to Council Clerk: _____, 2011 at _____

