

ST. TAMMANY PARISH COUNCIL
ORDINANCE

ORDINANCE CALENDAR NO. 4107 ORDINANCE COUNCIL SERIES NO. 09-

COUNCIL SPONSOR MR. ARTIGUE PROVIDED BY COUNCIL OFFICE

INTRODUCED BY _____ SECONDED BY _____

ON THE 2ND DAY OF JULY, 2009.

ORDINANCE TO AMEND ORDINANCE C.S. NO. 09-1997, ADOPTED JANUARY 8, 2009, AND THE ST. TAMMANY PARISH COASTAL ZONE MANAGEMENT ORDINANCE, P.J.S. NO. 92-1607, TO PROVIDE ADDITIONAL GUIDELINES FOR LAND RECLAMATION ACTIVITIES ADJACENT TO LAKEVIEW DRIVE, SLIDELL, WARD 8, DISTRICT 13.

WHEREAS, the administrator of the State Land Office may issue a permit for the carrying out of work necessary to implement the recovery of 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; and

WHEREAS, whenever plans and specifications are submitted to the Parish, 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; and

WHEREAS, it is the policy of St. Tammany Parish Government that a uniform shoreline be maintained along Lake Pontchartrain adjacent to Lakeview Drive in Slidell; while recognizing that maintaining the naturally imperfect shape of the shoreline will require variations to those guidelines, as needed to adhere most closely with said policy.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that Ordinance C.S. No. 09-1997, adopted January 8, 2009, and the St. Tammany Parish Coastal Zone Management Ordinance, P.J.S. No. 92-1607, Section 2 Definitions and Section 3.6 (II)(2)(f) Special Areas of Concern, are hereby amended and reenacted to provide as follows:

COASTAL ZONE MANAGEMENT REGULATIONS
ST. TAMMANY PARISH, LOUISIANA

SECTION 1: 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.

This regulation provides procedures for local government determination of what activities require a coastal use permit, whether the activity is a use of state or local concern, and the process for issuance, denial, modification, suspension and/or revocation of coastal use permits and general coastal use permits for uses of local concern in St. Tammany Parish.

SECTION 2: DEFINITIONS

2.1 Usage

- (1) For the purposes of this Ordinance, certain words, terms, numbers, and abbreviations used herein shall be used, interpreted and defined, as set forth in this section.
- (2) Unless specifically defined in this section, words or phrases used in this Ordinance shall be interpreted to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.
- (3) Words used in the present tense include the future tense; words used in the singular number include the plural, and the plural number includes the singular; the word "shall" is always mandatory; and the word "herein" means "in this Ordinance".

2.2 Words and Terms Defined

- (1) "Activity" shall mean and include any and all lawful acts, projects, uses, developments and construction; public or private; industrial, commercial, residential, or recreational; for profit or not for profit. The term includes both the act of doing and the completed product.
- (2) "After-the Fact Permit" shall mean a coastal use permit which is issued after the commencement of a use. Such a permit may only be issued after all legal issues resulting from the commencement of a use without a coastal use permit have been resolved.
- (3) "Alternative access" shall mean methods of gaining access, ingress, and egress, other than by the dredging of canals into the wetlands for drilling, servicing, work over, or any other production of minerals activity.
- (4) "Alternative access vehicle" shall mean any hover craft, helicopter, air cushion vehicle, or any other vehicle which does not require dredging.
- (5) "Applicant" shall mean the owner of the property for which a CUP is requested or his agent; or someone specifically authorized in writing by owner to make application in connection with the proposed purchase, lease or development of owner's property.
- (6) "Approved Local Program" shall mean a local coastal management program which has been and continues to be approved by the Secretary pursuant to Section 214.28 of the Act.
- (7) "Alterations of Waters Draining in Coastal Waters" shall mean those uses or activities that would alter, change, or introduce polluting substances into runoff and thereby modify the quality of coastal waters. Examples include water control impoundments, upland and water management programs, and drainage projects from urban, agricultural and industrial developments.
- (8) "Best Practical Techniques" shall mean those methods or techniques which would result in the greatest possible minimization of the adverse impacts listed in Guideline 1.7 above, and in specific guidelines applicable to the proposed use. Those methods or techniques shall be the best methods or techniques which are in use in the industry or

trade or among practitioners of the use, and which are feasible and practical for utilization.

- (9) "Coastal use permit" or "CUP" shall mean the permits required by R.S. 49:214.30 and shall not mean or refer to, and shall be in addition to, any other permit or approval required or established pursuant to any other constitutional provision or statute.
- (10) "Coastal Water Dependent Uses" shall mean those which must be carried out on, in or adjacent to coastal water areas or wetlands because the use requires access to the water body or wetland or requires the consumption, harvesting or other direct use of coastal resources, or requires the use of coastal water in the manufacturing or transportation of goods. Examples include surface and subsurface mineral extraction, fishing, ports and necessary supporting commercial and industrial facilities, facilities for the construction, repair and maintenance of vessels, navigation projects, and fishery processing plants.
- (11) "Coastal water" shall mean bays, lakes, inlets, estuaries, rivers, bayous, and other bodies of water within the boundaries of the coastal zone which have measurable seawater content (under normal weather conditions over a period of years).
- (12) "Coastal Zone" shall mean the coastal waters and adjacent shorelands within the boundaries of the coastal zone established in R.S. 49:214.24, which are strongly influenced by each other, and in proximity of the shorelines and uses of which have a direct and significant impact on coastal waters.
- (13) "Coastal Zone Management Plan" shall mean the goals, objectives and policies set forth in the document prepared by Rod E. Emmer, Ph.D in cooperation with the St. Tammany Parish Department of Development, Gibb Farrish, Director of Planning, entitled "St. Tammany Parish Local Coastal Zone Program, Volume 1, dated May, 1992.
- (14) **"Concave" shall mean a surface curved like the interior of a circle or sphere.**
- (15) "Contaminant" shall mean an element causing pollution of the environment that would have detrimental effects on air or water quality or on native floral or faunal species.
- (16) "Cumulative Impacts" shall mean impacts increasing in significance due to the collective effects of a number of activities.
- (17) "Department" shall mean the Department of Natural Resources.
- (18) "Development Levees" shall mean those levees and associated water control structures whose purpose is to allow control of water levels within the area enclosed by the levees to facilitate drainage or development within the leveed areas. Such levee systems also commonly serve for hurricane or flood protection, but are not so defined for purposes of these guidelines.
- (19) "Direct and Significant Impact" shall mean an impact which is a direct and significant modification or alteration in the physical or biological characteristics of coastal waters which results from an action or series of actions caused by man.
- (20) "Endangered Species" shall mean any species which is in danger of extinction throughout all or a significant portion of its range.
- (21) "Environmental Assessment Data Form" shall mean the form prepared and distributed by the St. Tammany Parish Department of Development for the purpose of obtaining environmental information and data.
- (22) "Environmental Management Unit" shall mean an area which is distinguished by certain common physical and cultural characteristics, such as geology, vegetation, drainage patterns, and uses. Each of these EMUs can be considered individually when setting

- 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. 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 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.

H. 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 lakeward of the property line adjacent to the Lakeview Drive right-of-way.

a. Exceptions: Due to the naturally concave shape of the shoreline of Lake Pontchartrain, land reclamation activity on the following parcels shall extend the distance lakeward as indicated for each parcel in order to maintain a uniform shoreline:

i. Pontchartrain Bridge Sites Subdivision

- Lot 8 shall extend three hundred and thirty feet (330') lakeward at its western boundary line and three hundred and seventeen feet (317') at its eastern boundary line.

- Lot 9 shall extend three hundred and seventeen feet (317') lakeward at its western boundary line and three hundred and four feet (304') at its eastern boundary line.

- Lot 10 shall extend three hundred and four feet (304') lakeward at its western boundary line and two hundred and ninety feet (290') at its eastern boundary line.

- Lot 11 shall extend two hundred and ninety feet (290') lakeward at its western boundary line and two hundred and seventy-seven feet (277') at its eastern boundary line.

- Lot 12 shall extend two hundred and Seventy-seven feet (277') lakeward at its western boundary line and two hundred and sixty-four feet (264') at its eastern boundary line.

- Lot 13 shall extend two hundred and sixty-four feet (264') lakeward at its western boundary line and two hundred and fifty feet (250') at its eastern boundary line.

- Lot 14 shall extend two hundred and fifty feet (250') lakeward at its western boundary line and two hundred and thirty-seven feet (237') at its eastern boundary line.

- Lot 15 shall extend two hundred and thirty-seven feet (237') lakeward at its western boundary line and two hundred and twenty-four feet (224') at its eastern boundary line.

- Lot 16 shall extend two hundred and twenty-four feet (224') lakeward at its western boundary line and two hundred and eleven feet (211') at its eastern boundary line.

- Lot 17 shall extend two hundred and eleven feet (211') lakeward at its western boundary line and two hundred feet (200') at its eastern boundary line.

- 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 geo-textiles.
- 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.
- D. Bulkhead repair or replacement shall not extend more than 2 feet seaward of the existing bulkhead in disrepair. (If existing bulkhead is abandoned and not currently functional as designed or if shore area behind structure is exposed to open water, this item does not apply.)

- E. Other individual requirements may be placed on any project relative to site specific concerns.
4. Camps/Residences
- A. Camps shall be determined by the U.S. Coast Guard or other appropriate agency not to pose any threat to safe navigation. If necessary, they shall be properly marked.
 - B. Proof of compliance with State and Parish sanitary codes shall be provided as well as proof of compliance with applicable parish building codes.
 - C. Other individual requirements may be placed on any project relative to site specific concerns.
5. Variance
- A. A variance from these guidelines may be given by a majority vote of the Parish Governing Authority.

III. St. Tammany Parish Goals, Objectives and Policies

The following goals, objectives, and policies apply to the St. Tammany Parish coastal zone and are intended to encourage long-term plans for the coastal zone.

LCP Objectives, Policies, and Performance standards which directly or indirectly affect Uses of State Concern shall not be construed as being regulatory or binding on either the permit applicant or the Coastal Management Division, Department of Natural Resources, but are for the purpose of submitting the Parish environmental review comments to the State on applications for Uses of State Concern. Local policies which contain prohibitions, restrictions or performance standards beyond the scope of the Coastal Use Guidelines (CUG) shall be considered as advisory by the Parish, the CMD/DNR, and permit applicants (i.e., mandatory policies with "shalls" are modified such that "should" is the operative verb).

Parish comments to CMD/DNR on proposed Uses of State Concern shall be based on the policies of the LCP and may recommend specific project alternatives and conditions. CMD/DNR consideration of Parish recommendations shall be based on the conformance of the recommendation with the CUGs. Recommendations which reflect further detailing of the CUGs as they apply to the Parish shall be given substantial consideration by the CMD/DNR with the objective of maximizing conformances with the approved LCP. Recommendations which are not in conformance with the CUGs shall not be considered by the CMD/DNR.

St. Tammany Parish does not promote or encourage the alteration of wetlands for any reason. At times, projects may be approved if the use is water dependent, no feasible alternative exists, and the ultimate benefits outweigh the environmental impacts. However, simply because a use is water dependent does not in any way mean that it may occur in coastal wetland areas.

Language in the St. Tammany Parish Local Coastal Plan and the accompanying ordinance that suggests that the Parish in any way encourages development in coastal wetlands shall be considered within the scope of the above statement.

SECTION 8: SEPARABILITY CLAUSE

If any section, subsection, paragraph, sentence, or phrase of this Ordinance shall, for any reason, be held to be unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall continue in full force and effect.

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 ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE _____ DAY OF _____, 2009; AND BECOMES ORDINANCE COUNCIL SERIES NO. 09-_____.

JERRY BINDER, COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published introduction: JUNE 25, 2009
Published adoption on: _____, 2009

Delivered to Parish President: _____, 2009 @ _____
Returned to Council Clerk: _____, 2009 @ _____