

8.2 LAND CLEARING PERMIT (amended 02/02/12 ZC09-11-034 OCS#12-2664)

A. GENERAL

The purpose of this Section is to promote the health, safety, and general welfare of the public; to facilitate the creation of a convenient, attractive and harmonious community; to conserve natural resources including natural stream systems and wetlands which contribute to adequate air and water quality; to prevent certain activities from resulting in adverse impacts to the surrounding community; to conserve properties and their values; to preserve the character of and area by preventing the harmful effects of prejudicial uses; and to encourage the appropriate use of the land, including well operated silva culture and forestry practices.

Live oak and cypress trees six (6") inches DBH (diameter breast height) and over shall not be removed or otherwise damaged by parties engaged in the operation of clearing land in St. Tammany Parish for any purpose whatsoever unless otherwise expressly permitted by the St. Tammany Parish Department of Planning and/or in compliance with the provisions of Section 7.01 of these regulations.

A land-clearing permit shall be required by all parties engaged in land-clearing activities in St. Tammany Parish, as noted below.

This permit shall be issued by the Department of Planning.

The fee for a Land Clearing Permit shall be One Hundred and Fifty (\$150.00) dollars. All fees shall be paid at the time of application. Land clearing permits shall be required for the following types of properties:

1. Properties fronting on arterials or collectors - All properties one (1) acre in area or greater which are located within Wards 1, 3, 4, 7, 8, 9 or 10 and have frontage on roadway identified as an arterial or collector the adopted Major Corridor Plan shall be required to file for and receive a land clearing permit in accordance with this section.
2. Properties not located on arterials or collectors - All properties three (3) acres in area or greater which are located within Wards 1, 3, 4, 7, 8, 9 or 10, but do not have frontage on roadway identified as an as arterial or collector, as identified on the adopted Major Corridor Plan, shall be required to file for and receive a land clearing permit in accordance with this section.
3. Properties located inside of Wards 2, 5 or 6 - All properties five (5) acres in area or greater which are located inside of Wards 2, 5 or 6 shall be required to file for and receive a land clearing permit in accordance with this section.
4. All properties zoned for commercial, industrial, multifamily or institutional uses shall be required to file for and receive a land clearing permit in accordance with this section. This requirement shall apply to all parcels within commercial subdivisions. At no time shall any permit other than an approved land clearing permit from the Department of Planning constitute approval to clear a parcel within a commercial or industrial subdivision.

5. All commercial, institutional, industrial, or multifamily components of any PUD zoning designation shall be required to file for and receive a land clearing permit in accordance with this section. At no time shall any permit other than an approved land clearing permit from the Department of Planning constitute approval to clear a parcel within a PUD subdivision.
6. All properties that, regardless of zoning classification, approval for a commercial, institutional, industrial, or multifamily development shall be required to file for and receive a land clearing permit in accordance with this section.

As used in this section, land-clearing, timber harvesting, tree farming and agriculture, shall be defined as follows:

1. Land-Clearing is the removal of trees, timber, or underbrush, from a tract of land so as to change the land from an agricultural or forestry use to development of any kind.
2. Timber Harvesting is the removal of all or part of merchantable standing timber as part of an ongoing timber producing operation or business which is not part of any development.
3. Clear Cut Harvesting is the removal of all trees from a parcel or plot of land.
4. Tree Farming is an active agricultural production land use which involves the harvesting of timber as a crop to be replenished and in which clear cutting is prohibited unless immediate reforestation is implemented in accordance with recognized practices for active tree farm forest management. This provision includes timber thinning and selective harvesting where reforestation may not be required or desirable.
5. Agricultural Clearing is the removal of trees from a parcel of land designated for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

B. APPLICATION INFORMATION

All applicants for land-clearing permits shall submit to Department of Planning:

1. Name, address, phone number of contractor.
2. Name, address, phone number of property owner of the site.
3. Survey indicating scale, date and north arrow.
4. Copy of recorded deed, title or cash sale and legal description.
5. A statement from the property owner acknowledging his/her understanding of the applicable local regulatory standards and that liability for compliance with those standards applies to both the landowner and the contractor. This statement is not

intended to create a solidty or joint liability between landowner and contractor, where such solidty or joint liability does not exist.

6. Site plan of the property which shall include the following:
 - a. Property boundaries.
 - b. Buffer areas and Stream-side Management Zones, when required. For all development clearing permits, buffer areas shall be documented by an official tree survey of all trees to be preserved within the required buffer areas. Such survey shall be prepared by a licensed arborist, landscape architect, or landscape contractor.
 - c. Access points to public roads. Additional access points required after commencement of logging activities shall be allowed upon notification to the Department of Planning, and additional warranty provisions shall be met, if required. Access points shall not be in excess of one hundred fifty (150') feet in width, unless otherwise approved.
 - d. Surrounding land uses.
4. Estimated starting date.
5. Estimated completion date.

C. PREPARATION PROJECT IMPLEMENTATION, AND RESTORATION OF LANDS

1. All land-clearing operations including skidding, yarding, trimming, loading and equipment operation or storage shall be on the site. No operation other than hauling shall take place on Parish right-of-way. An entrance roadway to the site shall be constructed to facilitate on site operation. A culvert shall be placed in the Parish roadside ditch under this entrance roadway, minimum length 40 feet, and a minimum diameter of 18 inches or greater if determined by DPW staff, of sufficient strength as not to bend or collapse while in use. The material used in the construction of this entrance roadway shall be of such quality as to prevent damage to the shoulder or surface of the Parish road being entered. Any deviation from this procedure shall require prior approval of the Department of Public Works.
2. Three (3) working days prior to beginning work and prior to obtaining a land clearing permit, the contractor shall request a pre-condition inspection by Department of Planning staff. Preparation of the site for the pre-condition inspection shall include demarcating the areas to be preserved as uncut buffers. At no time shall a land clearing permit be issued without the completion of such inspection by Department of Planning staff. Within ten (10) days of completion of the clearing operation, a post-condition inspection shall be requested.
3. All parties conducting land-clearing activities shall exercise due and reasonable caution when traversing public rights-of-way and public lands and water bodies as to minimize disturbance to same. All public rights-of-way, public properties, existing and recognized

natural drainage and engineered drainage shall be restored to pre-existing condition with the cessation of the land-clearing activity.

4. All land clearing and timber harvesting activities shall be carried out in accordance with any and all applicable Best Management Practices as provided in the current version of "Recommended Forestry Best Management Practices for Louisiana" published by Louisiana Department of Environmental Quality.

D. WARRANTY PROVISIONS

1. Any person who obtains a land clearing permit shall post security with the Department of Public Works in an amount determined by the Department of Public Works for the repair of any Parish roads, Parish rights-of-way, Parish lands or water bodies and/or drainage easements. This security shall not be released until all provisions of all aspects of the project are found to be in compliance with this ordinance upon inspection by parish personnel.
2. The security required by this section shall be either a funded Letter of Credit or a Bond recognized by the Federal Register with the Parish listed as obligee. An annual blanket security must be provided to ensure that the integrity of the road and/or drainage structure is retained, as per Section 20-013.00 Road and Drainage Security, of the St. Tammany Parish Code of Ordinances. In the event that the above security has to be called for any reason, a new security will be established.
 - a. The amount of security shall be determined by St. Tammany Parish Public Works Director, Public Works Engineer and Public Works Right of Way section. The amount of security shall be determined by the condition of the road both surface and sub-base, the age of the road, the amount cut and/or hauled off, the length of the roads, the weather, the location and any other factors that may arise. The amount shall not be less than \$10,000 and not greater than the previous year's cost of reconstruction of a road to ensure the integrity of the road and/or drainage structures.
 - b. All existing permits shall be forfeited and no new permits will be issued until new security is posted and prior damage claim has been resolved. Applicants shall be responsible only for damage to roads and/or bridges caused directly by their use thereof.
3. The security required by this section may be posted by any interested party, including but not limited to the land owner, logging contractor, or timber purchaser.
4. The security posted by the applicant shall remain in effect for one (1) year. Each permit issued shall be applied to the security posted. Upon notification by the applicant that work is complete, the Department of Public Works shall inspect the site and if acceptable, Certificate of Completion shall be issued and recorded accordingly on security.
5. Enforcement - It shall be the responsibility of either the Department of Public Works, Department of Engineering, or Department of Planning to review and inspect the site

after completion. In the event that damage is caused to the right-of-way through activity of the logging operation or their agents, the Department of Public Works shall notify the logging company in writing by certified letter. The cost of repairing the damage shall be the sole responsibility of the logging company. Approval shall be required from the Department of Public Works of all specifications, as well as, of the contractor who will perform any corrective action. A reasonable time frame shall be agreed upon by the Parish and the logging company for corrective work to be completed.

6. Procedure for Enforcement of Security - In the event a logging operation causes damage to Parish property resulting in the Parish having to take corrective action, at the completion of all such corrective work, the Parish will present the invoice for said corrective work to the responsible logging operation, and the logging operation shall have thirty (30) days from its receipt to pay said invoice. In the event the logging operation fails to pay said invoice within the thirty (30) days, the Parish may, at its option, take any appropriate action to execute on the security required by Sub-section D.

E. MONITORING

It shall be the responsibility of the Department of Planning or the Department of Engineering to review and inspect the site prior to the commencement of any land-clearing activity and upon the cessation of land-clearing activity and vacation of the site within a period of ten (10) days of the project completion as noted on the application or Notice of Termination to ensure compliance with subsection (C.) of Section 8.1011. The Department of Planning shall maintain a land-clearing permit file on each application inclusive of written field reports. Said files shall be made available to the public within forty-eight (48) hours, upon prior written notice.

F. COMPLETION

Upon completion of clearing and cleanup of Parish Roads, Parish Rights-Of-Way, Parish Lands, Water Bodies and/or Drainage Easements, the applicant shall notify the Department of Planning for the final inspection within ten (10) working days.

G. EXPIRATION

1. Permits issued under this section shall be valid for a period of one (1) year after which time the permit automatically expires. After this period of time all permitted activities must be complete and a compliance inspection made by the Department of Planning.
2. Permits may be extended for one (1) year if the applicant files a Notice of Continuation of the activity with the Department of Planning. Written notice of continuation of land clearing or timber harvesting activities must be given by the applicant not less than forty-five (45) days of the termination of the original permit. Such notice shall extend the permit for a period of one (1) year. An additional one hundred and fifty (\$150) dollar permit fee shall be required.

H. VIOLATIONS

1. Any person owning a legal interest in a property and/or any contractor involved in the removal of trees from a property, who is violating any of the provisions of Section

8.02 of the St. Tammany Parish Unified Development Code shall be guilty of a misdemeanor and upon first conviction shall be punished by a maximum fine of \$1,500.00. The second offense shall consist of a maximum fine of \$3,000.00 and the revocation of all permits currently active. The third offense shall result in a maximum fine of \$ 5,000.00, the revocation of all permits currently active, and the applicant and landowner will for the period of two (2) years be subject to a 100% increase in the above stated security requirements. The fourth offense shall result in a maximum fine of \$10,000.00 and/or the revocation of all permits currently active and a five (5) year moratorium on the issuance of future permits for activity within St. Tammany Parish by the applicant or the landowner. Nothing herein contained shall prevent the Parish from taking such other lawful actions as necessary to prevent or remedy the violation.

2. In addition any person removing trees within the required buffers and/or any live oak trees without approval from the Planning Department shall be subject to imposition of a maximum fine of \$225 per one inch D.B.H. of tree removed. In addition, all live oak trees illegally removed shall be replaced with an equal number of inches of live oaks at a minimum of 3.5" caliper each on the site. Therefore, a 35" live oak tree would be replaced by planting ten 3.5" caliper live oaks on the same site.
3. Any person owning a legal interest in the property upon which the removed trees are located and the contractor who was issued either the land clearing permit or building permit for construction thereon shall be individually and separately subject to the penalties as set forth herein. In addition, any person other than those enumerated above found to have illegally removed a tree in violation of this division shall be subject to the penalties as set forth herein. It shall not be a defense to this section that the person owning any legal interest in the property upon which the tree is located or the contractor who was issued the tree removal permit or building permit for construction thereon did not have actual knowledge of the tree removal when the violation occurred.

I. EXEMPTIONS

The following are exempt from the provisions of this section:

1. Golf Courses and Recreational Facilities when trees to be removed are located within the boundaries of the facility proper. This is not to be perceived as permitting the removal of trees on properties owned by the facility, but not an active part of the facilities operation.

J. PROCESS

All fees, applications and warranty provisions shall apply, in addition applicant shall show all buffering requirements on the site plan as may be required in the minimum requirements below. The Department of Planning upon application for a clearing permit will submit the application to the following parish administrative offices for review and recommendations:

1. Department of Planning
2. Department of Public Works
3. Department of Engineering
4. Drainage District Engineer (if applicable)

Within three (3) working days of acceptance of the completed application, the Director of the Department of Planning, or assigns will:

1. Grant the permit outright; or
2. Grant the permit with conditions submitted as part of the comments supplied in writing through the agency review; or
3. Delay the application for a period of up to thirty (30) days with or without the concurrence of the applicant; or
4. Delay the application for any period necessary to obtain information relative to the compliance of the proposal to provisions of this ordinance.
5. Denial of the permit shall only be for one of the following:
 - a. inability of the applicant to obtain physical access to the site,
 - b. the permitted action would have a negative public health or safety impact,
 - c. the applicant is a habitual offender as evidenced by three (3) previous offenses over a three (3) year period,
 - d. aspects of the project do not comply with requirements of this ordinance.

K. TYPES OF PERMITS

1. Development Clearing Permit

a. General

A development clearing permit shall be required whenever a parcel of land is to be cleared of trees for a development of any kind.

Any property owner, or assign, who has received permission to and has cleared subject property shall be ineligible for a zoning change to a more intense zoning district for a period of three (3) years from the date of the issuance of the Development Clearing permit.

b. Minimum Requirements

The following minimum requirements are mandatory. All buffers required shall be exclusive of all easements, servitudes and/or rights-of-ways within the property.

1. Roadway Buffering

A natural uncut buffer of twenty-five (25') feet in width along improved roadways, unless otherwise approved by the Department of Planning.

For development clearing permits, a wider buffer may be required by the Department of Planning in accordance with Section 7.01 (Minimum Landscape Requirements). For development clearing permits, only trees over six inches (6" DBH) diameter breast height must be preserved within the roadway buffer.

For all permits being sought along a Planned Corridor, a public hearing shall be required unless the applicant agrees to a fifty (50) foot minimum buffer or more as specified under Section 6.05 (PCO Planned Corridor Overlay).

2. Waterway Buffering

A minimum uncut buffer of 100 feet in depth unless a comprehensive Stream-side Management Zone in accordance with the current version of "Recommended Forestry Best Management Practices for Louisiana" published by Louisiana Department of Environmental Quality along both banks (mean low water line) when applicable of all established natural stream beds, and riverbanks and fifty feet (50') in depth along both banks of improved drainage canals, unless otherwise approved by the Department of Engineering. The establishment of a SMZ with specific mandatory standards approved by the Department of Engineering may supersede the 100 foot no-cut buffer in the case of natural streams, rivers and improved canals.

For all permits being sought along a stream designated Scenic by the State of Louisiana or St. Tammany Parish the following shall apply:

For all permits being sought which involve work within the protection areas of State Scenic Rivers or Streams, evidence of compliance with State Regulations must be provided.

3. Side and Rear Buffering

For development clearing permits, the minimum required side and rear landscape buffers are established in accordance with Section 7.01 (Minimum Landscape Requirements). For development clearing permits, only trees over six inches (6" DBH) diameter breast height must be preserved within this buffer. At the tentative stage of subdivision approval, the Planning Commission may also alter or realign the area of this buffer requirement.

4. Exception.

For development clearing permits, the Department of Planning may modify buffering requirements if the amount of fill to be placed on the site to accommodate the development, in accordance with Chapter 7 of the St. Tammany Parish Code of Ordinances (Drainage and Flood Control), would preclude the survival of existing trees within the

required buffer areas. Prior to obtaining Department of Planning approval for a modification of the buffering requirements, the applicants must provide a letter signed by a licensed arborist, landscape architect, or landscape contractor certifying that the amount of fill required by Chapter 7 of the St. Tammany Parish Code of Ordinances would necessitate the removal of existing trees within the required buffer areas.

c. Diseased trees

If there are diseased trees or specific trees within the buffers that present a safety problem, the owner shall:

1. Petition the Department of Planning to selectively cut and/or thin out the buffer. Prior to obtaining Department of Planning approval for the removal of trees within the buffer, the applicant shall provide a letter signed by a licensed arborist, landscape architect, or landscape contractor that the trees are diseased or present a safety problem.
2. The Department of Planning shall approved this action and specify a replanting schedule with a mixture of Class A and Class B vegetation as spelled out in Section 7.01 of these regulations and schedule a performance inspection of the buffer area within six (6) months of this administrative permit.

d. Replanting

No later than six (6) months from the expiration of the development clearing permit, a building permit or preliminary subdivision approval must be granted for the same site. Should, however, this building permit or subdivision authorization expire without the intended developmental activity being realized, a replanting program would immediately become necessary as follows:

The landowner shall be required to implement a replanting schedule of all cleared areas as approved by the Department of Planning. Said replanting schedule must be filed with the Department of Planning within thirty (30) days of expiration of the building permit or subdivision authorization time period (18 months maximum from issuance of the Development Clearing Permit). This replanting schedule shall include a time frame for implementation and shall be site specific for the location of both hardwood and softwood species including a variation in heights so as to achieve a re-vegetation of the cleared area.

- e. Open burning of waste resulting from land-clearing activities within 500 linear feet of occupied dwellings and within 500 linear feet of occupied subdivisions, or within any recorded subdivision is prohibited, unless otherwise approved by the Department of Public Works.

2. Agricultural Clearing Permit

a. General

An Agricultural Clearing Permit shall be required for all agricultural uses. Agriculture is the use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

Any property owner, or assign, who has received permission to and has cleared subject property shall be ineligible for a zoning change to a more intense zoning district for a period of three (3) years from the date of the issuance of the Agricultural Clearing permit.

b. General Farming and Pasture Requirements

All fees, applications and warranty provisions shall apply. In addition the applicant shall provide buffers. A minimum uncut buffer of twenty five feet (25') in depth along all roadways and a minimum uncut buffer of fifty (50') feet in depth shall be required if the site is adjacent to A-1, A-1A, A-2, A-3, A-4, A-5, A-6, A-7, A-8, PF-1, PF-2, CB-1, ED-1 & ED-2 Zoning Districts. If however, at least seventy-five (75%) percent of the cleared land is not maintained in active agricultural uses, then the cleared areas shall be reforested according to a reforestation schedule approved by the Department of Planning. The reforestation plan shall be implemented no later than six (6) months from the expiration of the land clearing permit. The schedule shall provide details as to the time frame for tree planting. The plan shall address the areas to be replanted, the density or spacing of trees in that area, the type(s) of trees being replanted, quantities and the sizes of the trees. The minimum size of these trees shall be no less than twelve inches (12") high and shall be required to be no greater than thirty-six inches (36") high at the time of planting. No more than 50% of these trees shall be between twelve inches (12") and eighteen inches (18") high, the remainder shall range from eighteen (18") to thirty-six (36") inches high. This size provision shall not be applicable to Southern Yellow Pine.

c. Timber Harvesting Requirements

All fees, applications and warranty provisions shall apply. In addition the applicant shall provide buffers. A minimum uncut buffer of twenty five feet (25') in depth along all roadways and a minimum uncut buffer of fifty (50') feet in depth shall be required if the site is adjacent to A-1, A-1A, A-2, A-3, A-4, A-5, A-6, A-7, A-8, PF-1, PF-2, CB-1, ED-1 & ED-2 Zoning Districts.

d. Replanting requirements shall vary depending upon the type of cut being made.

1. Choice cut harvesting is the removal of trees no less than twenty-four inches (24" D.B.H.) Diameter Breast Height from the site. Choice cut harvesting shall not require replanting.
2. Select Cut is the removal of selected trees from a parcel or plot of land. Removal of all trees except for the trees in the buffer zones shall not constitute a select cut. For the purposes of this ordinance, a select cut shall require replanting of the site if more than 60% of the trees are being removed from the site and one of the following conditions is not met:
 - a. No trees under twelve inches (12" inches) Diameter Breast Height are being removed.
 - b. No hardwoods are being removed.

The replanting plan shall be implemented no later than six (6) months from the expiration of the land clearing permit. This type of cut does not include trees in the buffer zones. However, no replanting plan shall be required for select cut harvesting inside Ward 2, 5 & 6.

Clear Cut Harvesting is the removal of all trees from a parcel or a plot of land. This type of cut does not allow the removal of trees in the buffers. No replanting plan shall be required for clear cut harvesting inside Ward 2, 5, & 6.

Select cut harvesting not meeting all the criteria as set forth in the select cut definition and clear cut harvesting shall require replanting as follows:

The replanting plan and schedule shall be submitted as part of the permit application. The schedule shall provide details as to the time frame for tree planting. The plan shall address the areas to be replanted, the density or spacing of trees in that area, the type(s) of trees being replanted, quantities and the sizes of the trees. The minimum size of these trees shall be no less than twelve inches (12") high and shall be required to be no greater than thirty-six inches (36") high at the time of planting. No more than 50% of these trees shall be between twelve inches (12") and eighteen inches (18") high, the remainder shall range from eighteen (18") to thirty-six (36") inches high. This size provision shall not be applicable to Southern Yellow Pine.

- c. Tree Farming Requirements

Tree Farming is an active agricultural production land use which involves the harvesting of timber as a crop to be replenished and in which clear cutting is prohibited unless immediate reforestation is implemented in accordance with recognized

practices for active tree farm forest management. This provision includes timber thinning and selective harvesting where reforestation may not be required or desirable.

All fees, applications and warranty provisions shall apply. In addition the applicant shall provide buffers. A minimum uncut buffer of twenty five feet (25') in depth along all roadways and a minimum uncut buffer of fifty (50') feet in depth shall be required if the site is adjacent to A-1, A-1A, A-2, A-3, A-4, A-5, A-6, A-7, A-8, PF-1, PF-2, CB-1, ED-1 & ED-2 Zoning Districts.

The applicant shall be exempt from the replanting provisions of these regulations, if the property owner:

1. Is a certified member of the American Tree Farm System, participates in the Forest Stewardship Program or provides written proof from the Louisiana Office of Forestry that the site is a recognized tree farm.
2. Submits a reforestation schedule which includes a time frame for reforestation and a reforestation plan showing numbers, types and sizes of trees used and the locations on the site where the trees will be planted.
3. Is a landowner with an ongoing forest management plan or is participant in a Federal or State cost sharing forestry program.