

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 2824

ORDINANCE COUNCIL SERIES NO. 04-0886

COUNCIL SPONSOR: MR. GOULD

PROVIDED BY: LEGAL COUNSEL

INTRODUCED BY: MR. BAGERT

SECONDED BY: MR. BILLIOT

ON THE 28TH DAY OF APRIL 2004

ORDINANCE TO AMEND AND REENACT ST. TAMMANY PARISH ORDINANCE C.S. NO. 04-0862, ADOPTED APRIL 1, 2004, WHICH AMENDED THE CODE OF ORDINANCES, CHAPTER 7, DRAINAGE AND FLOOD CONTROL, ARTICLE I, TO PROHIBIT THE ACCUMULATION OF ANY NET FILL ON THOSE LOTS MEETING THE CRITERIA SET FORTH HEREIN, TO PROVIDE PROCEDURES AND REQUIREMENTS FOR THE DEVELOPMENT OF THOSE LOTS, TO PROVIDE PENALTIES FOR VIOLATION THEREOF AND TO OTHERWISE PROVIDE WITH RESPECT THERETO

WHEREAS, by Ordinance C.S. No. 04-0862, the St. Tammany Parish Council amended the Code of Ordinances, Chapter 7, Drainage and Flood Control, Article I, to prohibit the accumulation of any net fill on those lots meeting the criteria set forth therein, to provide procedures and requirements for the development of those lots, to provide penalties for the violation thereof and to otherwise provide with respect thereto; and

WHEREAS, in order to interpret and clarify the intents and purposes of said ordinance, and to otherwise provide with respect thereto, certain amending language is determined to be necessary and appropriate.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that Ordinance C.S. No. 04-0862, Adopted April 1, 2004, and the Drainage and Flood Control Ordinance, particularly Chapter 7, Article I, is amended and reenacted to prohibit the accumulation of any net fill on those lots meeting the criteria set forth therein, to provide procedures and requirements for the development of those lots, to provide penalties for violation thereof and to provide as follows:

ARTICLE I IN GENERAL

SEC. 7-001.00 Flooding Roads

It shall be unlawful for any owner or user of water from artisan wells or other artificial sources of water supply to allow said water to flow or drain into any ditch along a parish road, highway or other public right-of-way without receiving approval from St. Tammany Parish and without obtaining a permit from the State of Louisiana, Department of Transportation and Development, Office of Water Resources. It shall be unlawful for any owner or user of water from artisan wells or other artificial sources of water supply to allow said water to flow or drain into any ditch along any public road, highway or public right of way so that such ditch overflows onto a public road or highway.

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. 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. Excavation of existing soil and its replacement with fill is permissible, at the site where a proposed structure is to be built, and at the site of a proposed driveway, provided there is no increase in the surface elevation of the land from its natural or pre-development state. Following the adoption of this ordinance, any increase in the surface elevation of the land from its natural or pre-development state is strictly prohibited in the following areas:

(1) "Net fill" shall not be permitted on:

(a) Any undeveloped lot or parcel of property within unincorporated St. Tammany Parish that is located in Flood Zone A, according to an official survey or adjacent to the Bayou Tete L'Ours or within the Bayou Tete L'Ours drainage basin has any part of its boundary located adjacent to, contiguous to, or which encompasses all or any part of a natural or manmade drainage way that is designated by the Department of Engineering on its natural and manmade drainage way list, except with the express written consent of said department. Said drainage way shall extend outward from the center line to the one hundred (100) year storm event bench mark.

(b) Any undeveloped lot or parcel of property, or any part thereof, located within any "critical drainage area" as delineated by the Department of Engineering on the Department's most current Critical Drainage Area Map. (A copy of the current map is attached hereto as Appendix A.)

(2) (c) Should the Department of Engineering determine that the placement of fill is authorized, the procedures, guidelines and provisions of Subdivision Regulatory Ordinance 499, Section 40-037.04 and 40-037.05 shall apply.

**C. EXEMPTION:** This section shall not apply to 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 would have an adverse impact on drainage in or around a subdivision or development with an approved drainage plan, the Parish shall have the authority to apply this ordinance to ensure the health, welfare and safety of the public.

**D. PROCEDURES AND REQUIREMENTS:** Whenever application is made for a building permit to build on property identified in paragraph B of this Section, the following procedures and requirements, in addition to any others, shall be applicable:

(1) The applicant shall submit to the Department of Engineering an official survey of the property that sets forth all of the information required by the Department of Engineering in the Department's "Existing and Proposed Grade Elevations Form," including the surface elevation of the property in its natural or pre-development state.

(2) 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 of the foundation and prior to pouring any concrete, or installing any permanent foundation, that the foundation is ready to be installed and that no "net fill" exists at the site of the foundation. The foundation shall not be poured or installed prior to certification and inspection.

(3) Prior to the issuance of the certificate of occupancy, the applicant or builder shall submit an official survey which confirms that no "net fill" exists on the property, otherwise a certificate of occupancy shall not be issued.

**E. CONFLICTS: In the event of a conflict with any other ordinance or regulation, the more restrictive ordinance or regulation, governing the placement and the amount of fill, shall apply. Furthermore, in any event, there must be an application and approved drainage plan.**

**E. F. 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.**

**E. G. UNLAWFUL: 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)**

**BE IT FURTHER ORDAINED that this Ordinance shall be effective May 6, 2004 and shall be retroactive to the effective date of the ordinance it amends, i.e., Ordinance C.S. No. 04-0862.**

**REPEAL: In the event of a conflict with any other ordinance or regulation, the more restrictive ordinance or regulation, governing the placement and the amount of fill, shall apply. 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.**

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

**MOVED FOR ADOPTION BY: MR. GOULD , SECONDED BY: MR. STEFANCIK**

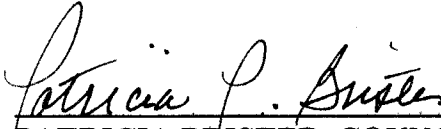
**YEAS: DEAN, FITZMORRIS, THOMPSON, BRISTER, GOULD, IMPASTATO, BILLIOT, STEFANCIK, BINDER, THOMAS, BURKHALTER (11)**

**NAYS: (0)**

**ABSTAIN: (0)**


**ABSENT: SINGLETARY, CANULETTE, BAGERT (3)**

THIS ORDINANCE WAS DECLARED ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 6<sup>TH</sup> DAY OF MAY 2004; AND BECOMES ORDINANCE COUNCIL SERIES NO. 04-0886.

  
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PATRICIA BRISTER, COUNCIL CHAIRMAN

ATTEST:

  
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DIANE HUESCHEN, COUNCIL CLERK

  
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KEVIN DAVIS, PARISH PRESIDENT

Published introduction: April 22, 2004

Published adoption on: May 20, 2004

Delivered to Parish President: May 14, 2004 @ 4:20 pm

Returned to Council Clerk: May 17, 2004 @ 10:35am