



St. James Parish Council

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PUBLIC NOTICE

NOTICE OF INTRODUCTION OF ORDINANCE

NOTICE IS HEREBY GIVEN that the following entitled ordinance was introduced at a regular meeting of the Parish Council of the Parish of St. James, State of Louisiana, October 4, 2017, and laid over for publication of notice:

PROPOSED ORDINANCE NO. 17-21 ST. JAMES PARISH COUNCIL

AN ORDINANCE TO AMEND SECTION 86-37 OF THE ST. JAMES PARISH LAND USE ORDINANCE, TO AMEND THE LAND USE PLAN, AND TO AMEND SECITON 18-5 OF THE ST. JAMES PARISH CODE OF ORDINANCES RELATED TO PERMITS AND COMPLIANCE WITH THE LAND USE PLAN

WHEREAS, on April 2, 2014, the St. James Parish Council adopted Ordinance 14-03 to create a land use ordinance to guide the development of St. James Parish; and

WHEREAS, experience with the implementation of the land use ordinance over more than three years of operation indicates that revisions to the ordinance will improve its implementation and the long term benefits to the citizens of St. James Parish; and

WHEREAS, the St. James Parish Planning Commission created a subcommittee to study the ordinance and to make specific recommendations for its improvements; and

WHEREAS, on September 27, 2017, the St. James Parish Planning Commission met to consider the work of its subcommittee and to forward the recommendations of the full commission to the Parish Council for its consideration. The recommendations included changes to the ordinance text as well as minor changes and clarifications to the land use map; and

WHEREAS, the Parish Council held public hearings on the recommended changes to the ordinance on _____ in Convent and on _____ in Vacherie, and has considered the public comments received during those hearings;

NOW, THEREFORE, the St. James Parish Council hereby ordains:

SECTION 1. Section 86-37 of the St. James Parish Code of Ordinances is hereby amended to read as follows:

Sec. 86-37. Land use plan

(a) **Adoption of future land use plan.** The following map is hereby adopted and incorporated herein by reference to guide to the development of St. James Parish: The "St. James Parish Generalized Future Land Use Plan" dated [insert date], 2017 in its digital form, identified as File [insert file name or number]. A printed version of map is attached to this ordinance as Exhibit 1. Any ambiguity in the location of land use category boundaries, or any conflict between the printed and digital forms of the map shall be resolved by relying on the digital form of the map. Any ambiguity in the boundaries shown on the digital map shall be resolved as follows:

Any boundary that does not align with an existing tract or lot line shown in instruments or plats registered as of April 2, 2014 in the conveyance records of the St. James Parish Clerk of Court shall be interpreted to align with the nearest boundary of an existing tract or lot.

If an ambiguity in any boundary cannot be resolved based on the conveyance records, the map shall be interpreted to apply the least restrictive of the land use categories that reasonably could apply to the affected parcel based on the land use map.

The map described above, together with the text of this Sec. 86-37, are collectively referred to herein as the "Land Use Plan:"

(b) **Plan compliance.** All departments, officers, employees, boards, and commissions of St. James Parish, and all representatives of St. James Parish serving on boards, commissions, or other governing bodies whose jurisdictions include any portion of St. James Parish, shall carry out their public duties in compliance with the Land Use Plan. To the maximum extent permissible by law, all such agencies, persons, and entities shall exercise decision-making discretion in a manner consistent with the Land Use Plan. With respect to uses covered by Sec. 86-37(e) or (f), such uses shall not be considered to be consistent with the Land Use Plan unless the use has been approved in accordance with Sec. 86-37(e) or (f), as applicable. It is the intention of St. James Parish to avail itself of the benefits of La. R.S. 33:109 and La. R.S. 33:109.1 for all agencies and departments of the state and political subdivisions bound thereby to conduct their activities in full compliance with the Land Use Plan, which is hereby declared to be a "master plan" as that term is used in La. R.S. 33:109 and 33:109.1. It is further the intention of St. James parish that all local, regional, state, and federal entities operating in or making decisions affecting property in St. James Parish comply with the Land Use Plan to the maximum extent allowable under law, and St. James Parish hereby invokes all such law for the benefit of its citizens.

(c) **Land use categories and allowable uses.** The land use plan divides the parish into land use categories whose purposes are described in this section. These category descriptions are not intended to be a comprehensive prescriptive list of all possible land uses,

but shall be interpreted to control the general character and impacts of development so that the physical development within each use area is compatible with and beneficial to other uses within the same area.

Land Use Category	Allowable Uses
Residential/Future Industrial	Dwellings and uses customarily associated with dwellings (such as garages, carports, patios, outbuildings used by residents of the dwellings) developed on existing lots or properties of record. Subdividing properties is not allowed, except for Family Subdivisions under Sec. 106 of the St. James Parish Code of Ordinances, which shall be allowed. Industrial uses, subject to the establishment of suitable buffer zones under Sec. 86-37(i) and (j).
Residential Growth	Dwellings and uses customarily associated with dwellings (such as garages, carports, patios, outbuildings used by residents of the dwellings), whether developed on existing lots or on properties subdivided in accordance with Sec. 106 of the St. James Parish Code of Ordinances.
Commercial.	Retail outlets, grocery stores, restaurants, convenience stores and service stations, lodging, service businesses, offices, automotive and light equipment sales and service, wholesale businesses not requiring unusually heavy traffic; light manufacturing in enclosed structures not exceeding 100,000 square feet; warehousing in enclosed structures not exceeding 100,000 square feet.
Commercial/Residential Mixed.	All uses described under either Residential Growth or Commercial uses, along with multifamily housing development.
Industrial	Petrochemical operations; manufacturing; tank farms; material processing and production; grain elevators, railroad yard facilities; raw, spent, and finished material storage; warehousing or open-yard equipment, material handling facilities (such as conveyors, pipelines, and trans-shipment facilities); and associated support facilities and offices.
Agriculture	Growing crops; raising fowl, livestock, or aquaculture; dairying; forestry and fiber production; any facilities customarily associated with such activities; any uses allowed in any adjacent Residential or Residential Growth areas. Agricultural areas may also be used for buffer areas required around other uses.
Recreation	Parks, playgrounds, athletic fields, golf courses, open space, natural areas, and wildlife preserves.
Schools	Public, private, and parochial schools and related facilities.
Fire Department	Fire stations and other facilities related to fire protection.
Water	Shown for information only; water areas should remain unoccupied except for unique situations requiring a location in the water, subject to any permits required under the St. James Parish Code of Ordinances, Chapter 18, Article VI, Coastal Zone Resource Management Program.
Wetlands	Shown for information only; wetland areas should remain unoccupied except for unique situations requiring a location in the water, subject to any permits required under the St. James Parish Code of Ordinances, Chapter 18, Article VI, Coastal Zone Resource Management Program.
Lutcher	The municipal limits of Lutcher are shown for information only; uses in this area are governed by Lutcher's ordinances.
Gramercy	The municipal limits of Gramercy are shown for information only; uses in this area are governed by Gramercy's ordinances.

(d) **Permitting of Allowable uses as a matter of course.** Within the areas designated for each land use category, allowable uses described in Sec. 86-37(c) shall be permitted as a matter of course through the parish's customary building permit process under Chapter 18 of the St. James Parish Code of Ordinances, subject to compliance with other applicable ordinance requirements, and except as otherwise provided in this Section.

(e) **Approval of uses not listed as allowable uses.** Uses not specifically listed as allowable in a use category in Sec. 86-37(c) are prohibited unless (1) the Planning Commission recommends the use for approval; and (2) the Parish Council approves the use. Any such recommendation or approval shall be made on a case-by-case basis, and may be recommended or approved only upon affirmative findings that there is a compelling public benefit; that the use is compatible with surrounding uses and adverse impacts of the use are inconsequential; or that approval is required to as a matter of constitutional imperative or other vested legal right superior to this ordinance. Any person aggrieved by a decision of the Parish Council under this Sec. 86-37(e) may appeal to a court of competent jurisdiction within 30 days of the decision of the Parish Council.

(f) **Planning Commission consideration of certain allowable uses.** Notwithstanding Sec. 86-37(d), the following uses or activities shall not be issued a building permit until approved by the Planning Commission (or by the Parish Council on appeal):
 Any residential building containing three or more dwelling units.
 Any non-residential development exceeding 10,000 square feet of building area or sites 3 acres or more.
 Any commercial or industrial development that requires a state or federal permit for air, water, solid waste, hazardous materials, or Section 404 wetland/Rivers and Harbors Act permits.

The Planning Commission shall act on the proposal under this Sec. 86-37(f), and such decision shall be final unless it is appealed. Any person aggrieved by the Planning Commission's decision under this Sec. 86-37(f) may appeal to the Parish Council in writing within thirty (30) days of the Planning Commission's decision. The Parish Council shall take up the appeal as soon as is practical

following the written notice of appeal to the Parish Council, and shall do so in accordance with the requirement of the Louisiana Open Meetings Law. The Parish Council, in its discretion, may consider the appeal on the basis of the written record of the matter, or may convene a hearing concerning the appeal.

(g) Application, public notice, and hearing process.

1. Uses or activities that do not require action by the Planning Commission (including those covered by Sec. 18-5(l)) shall be applied for and considered through the parish's building permit process under Chapter 18 of the St. James Parish Code of Ordinances.
2. For any use or activity requiring Planning Commission consideration (either for a final decision by the Planning Commission or for recommendation for final action to the Parish Counsel), the proponent of the proposed use shall submit an application in such a form required by and accompanied by documentation as required by the Planning Commission or its designated representative.
3. The application for any use or activity covered by Sec. 87-37(e) or (f) shall include a listing and a map of all parks, playgrounds, churches, schools, community or senior citizen centers, nursing homes, hospitals, other places of public assembly, and historic sites within two (2) miles of the outer extent of the use or activity for which approval is sought. Additionally, the application shall include a listing of all substances that are anticipated to be present on the site for which reportable quantities have been established under the Right-to-Know Law (La. R.S. 30:2361, et seq.), along with the anticipated quantities of such substances.
4. Public notice of any decision or recommendation to be made under Sec. 86-37(e) or (f) shall be published in the official journal of St. James Parish at least two weeks prior to the meeting at which it is to be made.

(h) Procedure before the Planning Commission. The Planning Commission shall consider the following factors for approval or denial of uses under Sec. 86-37(f):

Whether the impacts of the proposed use would be substantially different from the impacts of allowable uses for the districts. Such impacts may include, but are not limited to, air and water emissions, noise, lighting, traffic (road and rail), effect on property values, and neighborhood

The public benefits of the proposed use, such as job creation, expansion of the tax base, and enhancing the attractiveness of the parish for future development.

The physical and environmental impacts of the proposed use on the air, water, and land, with particular attention to whether the public benefits of the proposed use are commensurate with those impacts, and whether the environmental impacts may impair the ability of the parish to attract other beneficial development.

Vested property rights and other constitutional protections enjoyed by the proponent of the proposed use.

(i) Conditions on uses may be established by Planning Commission. Prior to recommending or approving any use under Sec. 86-37(e) or (f) above, the Planning Commission may establish conditions on such approval which, in the reasonable discretion of the Planning Commission, would minimize adverse impacts and be beneficial to the public. For all uses and activities covered by Sec. 86-37(e) or (f), the Planning Commission shall affirmatively consider the public need for buffer zones in accordance with Sec. 86-37(j), and shall either condition its approval on the creation and maintenance of an appropriate buffer zone, or shall adopt a finding that such a buffer zone is not required. In other cases, the Planning Commission may include requirements for buffer zones surrounding potentially dangerous uses to protect residences, schools, public facilities, and other occupied areas or facilities.

(j) Basis of buffer zones. Buffer zone requirements shall be based on the nature of the use for which the buffer zone is established, and shall be based on commonly recognized regulatory, trade group, or manufacturing and industrial standards, including reportable quantities and associated standards under the Right-to-Know Law (La. R.S. 30:2361, et seq.) In establishing buffer zone requirements, the Planning Commission shall consider not only normal operations of the use but potential failure scenarios impacting public safety.

(k) Nonconformities.

Description. A use of land existing as of April 21, 2014 and which would not constitute an Allowable Use under Sec. 86-37(c) shall be considered to be a nonconformity.

Intention. It is the intention of this ordinance to allow nonconformities to continue until they are voluntarily closed or removed, but not to encourage their survival or expansion.

Maintenance, Safety, and Environmental Protection. It is also the intention of this ordinance to allow nonconformities to perform routine maintenance, and to allow improvements limited to improving safety conditions and environmental protection without being treated as a new use under this section.

Loss of Nonconforming Status. A nonconformity that discontinues operation or use for more than six (6) continuous months shall lose its status as a nonconformity, and shall thereafter be treated as a new use subject to the provisions of this ordinance. Failure to maintain a reasonable level of employment compatible with the historic operation of a nonconformity shall be deemed to be a discontinuation of operations. The mere presence of security personnel at a nonconformity shall not be deemed to be a continuation of operations. The burden of proving that a nonconformity is continuing or has continued operations shall be borne by the owner, operator, or similarly situated person responsible for the nonconformity.

Expansions. Any expansion of capacity or enlargement of physical facilities that would support the future expansion of capacity shall be considered as a new use subject to the provisions of this ordinance.

Reporting. For a nonconformity to retain its status as such, the owner, operator, or similarly situated person responsible for the nonconformity must furnish a copy of one or more of the following reports to the St. James Parish Department of Operations, Planning & Permitting Office within thirty (30) days of submitting the report to the responsible public agency:

Its annual Tier 2 report submitted under the Right-to-Know Law (La. R.S. 30:2361, et seq.);

Its annual Toxic Chemical Release Inventory report submitted under Sec. 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023);

Its Discharge Monitoring Report ("DMR") submitted under the Louisiana Pollution Discharge and Elimination System. For those uses whose DMR is submitted annually, the annual report shall satisfy this requirement. For those uses that submit DMRs more frequently than annually, the reports for an entire calendar year may be submitted to the parish at one time within thirty (30) days of the last DMR submitted for the calendar year, or the DMRs may be submitted to the parish incrementally; or

Such other report approved in writing by the parish President as providing information about ongoing operations similar to the reports described above.

(l) **Use decisions not board of adjustment functions.** No permit, approval, or decision rendered under the Land Use Plan shall be construed as the decision of a board of adjustment under La. R.S. 33:4727, nor shall the Land Use Plan be construed as invoking the procedures under that statute.

(m) **Appeal of Administrative Decisions.**

Appeal, Timing, and Stay. Any person aggrieved by an administrative decision made pursuant to or in the implementation of Sec. 86-37 of the St. James Parish code of Ordinances, or made on the basis of the Land Use Plan, may appeal to the Planning Commission in writing within 30 days of the administrative decision. An appeal shall not stay the effect of the administrative decision unless the stay is granted by the Parish President, the Planning Commission, or a court of competent jurisdiction.

Appointment of Appeal Panel. Upon receipt of an appeal, the Chairman of the Planning Commission shall designate an appeal panel composed of three members of the Planning Commission. The Chairman may serve as one of the three appeal panel members. The Chairman shall appoint the commission member or members whose districts are most impacted by the matter appealed from, unless a commission member so appointed waives service on the appeal panel. The Chairman shall designate one of the three appeal panel members as the facilitator who shall preside over the appeal proceedings. The Chairman shall also give notice to the parish councilmember or members of the district or districts in which the matter appealed from is located, and that councilmember or members may attend and participate in the deliberations of the appeal panel, but shall not have a vote in deciding the appeal.

Hearing and Decision. The appeal panel shall convene and hear the appeal as soon as is practical following the designation of the appeal panel, and shall decide the appeal by a majority of the panel's voting members.

Finality or Further Appeal. The decision of the appeal panel shall be final, unless that decision is appealed in writing to the Parish Council within 30 days of the decision by the appeal panel. Any person aggrieved by the appeal panel's decision may appeal to the Parish Council.

Parish Council Action. The Parish Council shall take up the appeal as soon as is practical following the written notice of appeal to the Parish Council, and shall do so in accordance with the requirement of the Louisiana Open Meetings Law. The Parish Council, in its discretion, may consider the appeal on the basis of the written record of the matter, or may convene a hearing concerning the appeal.

Further Appeal to the District Court. Any person aggrieved by the decision of the Parish Council may appeal to a court of competent jurisdiction within 30 days of the decision of the Parish Council.

(n) **Deemed Denial after Lapse of 60 Days.** Any action, recommendation, approval, or decision on appeal provided for in this Sec. 86-37 shall be deemed to have been taken, made, or rendered adversely to the application or proposal under consideration, without prejudice, unless taken, made, or rendered within 60 days of being submitted to the decision-making authority (either an administration official, the Planning Commission, or the Parish Council), and any appeal periods shall run from the end of the 60-day period. Prior to the end of the 60-day period, the period may be extended one time for up to an additional 60 days by the decision-making authority, in writing, and any appeal periods shall run instead from the end of the period as extended, unless the action, recommendation, approval, or decision is made earlier.

SECTION 2. Section 18-5(k) of the St. James Parish Code of Ordinances is hereby amended and Section 18-5(l) is hereby established as a new subsection under the Chapter 18, Buildings and Building Regulations, Article I, Administration, Section 18-5, Permits, and shall read as follows:

Section 18-5(k). No permit may be issued under this Chapter 18 unless the building, structure, system, installation, or work regulated thereby complies with the Land Use Plan enacted under Sec. 86-37.

Section 18-5(l). If any building, structure, system, installation, or work is excluded from the application of the Sate Uniform Construction Code in Part IV-A of Title 40 of the Louisiana Revised Statutes by virtue of R.S. 40:1730.29 ("Regulation of construction or improvement of industrial facilities"), such structure, system, installation, or work shall nonetheless apply for a permit under this Chapter 18 for the purpose of determining and requiring its compliance with the Land Use Plan. The application shall meet the requirement of Sec. 86-37(g), and shall be considered in accordance with its provisions. The application requirements shall apply to all uses and activities, including those that have been approved by the Parish Council on a case-by-case basis under Sec. 86-37(e) or by the Planning Commission pursuant to Sec. 86-37(f) to determine if the use or activity as implemented complies with the Land Use Plan and with any conditions established pursuant to Sec. 86-37.

SECTION 3. EFFECTIVE DATE. This ordinance shall be effective immediately upon its passage, or as soon thereafter as allowed by law, and shall apply to any then-pending permit or approval for which a final decision has not been rendered by the parish.

NOTICE IS HEREBY, FURTHER, GIVEN that the Parish Council of said Parish will meet at 6:15 p.m. on Wednesday, October 18, 2017, in the Council Chambers of the Parish Courthouse Annex, Vacherie, Louisiana, at which time there will be a public hearing on the adoption of the aforesaid ordinance and proposed budget.

s/Alvin St. Pierre, Jr.
Chairman

s/Linda Hubbell
Secretary

Note: St. James Parish will provide, upon request, reasonable accommodation to any disabled individual wishing to attend the meeting. Anyone requiring reasonable accommodation is requested to contact 1-800-846-5277 (TDD), 1-800-947-5277 (Voice) or 562-2400 (Handicapped) to discuss the particular accommodation needed.