

The following ordinance a summary and notice thereof having been published in the official journal, together with a notice of public hearing which was held on November 20th, 2018, in accordance with said public notice, was brought up for final passage on motion of Mr. Dustin Suire, and seconded by Mr. David Broussard;

ORDINANCE NO. 2018-23

AN ORDINANCE ADOPTING CHAPTER 26 – ENVIRONMENT – ARTICLE III – STORMWATER POLLUTION PREVENTION TO THE CODE OF ORDINANCES FOR THE CITY OF NEW IBERIA;

WHEREAS, in accordance with the EPA Stormwater Phase II Final Rule the City is required to implement an operation and maintenance program with the ultimate goal of preventing or reducing pollutant runoff from municipal operations into the storm sewer system, which includes the adoption of an ordinance;

WHEREAS, the Mayor and New Iberia City Council have reviewed and discussed the adoption of proposed ordinance “Chapter 26 – Environment – Article III – Stormwater Pollution Prevention of the City of New Iberia Code of Ordinances;

THEREFORE, BE IT ORDAINED by the New Iberia City Council that:

Section 1. CHAPTER 26 – ENVIRONMENT – ARTICLE III – STORMWATER POLLUTION PREVENTION is hereby adopted as per the attached Exhibit entitled “**CHAPTER 26 – ENVIRONMENT – ARTICLE III – STORMWATER POLLUTION PREVENTION**”;

Section 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed, effective as of this day.

Section 3. If any clause, section or portions of this ordinance shall be declared illegal, null and void or unconstitutional by any court of competent jurisdiction, the remaining clauses, sections and portions shall remain in full force and effect, the provisions of this article or ordinance shall be severable.

This ordinance having been introduced and placed on the agenda for public hearing, having been submitted to a vote, was adopted by the following yea and nay votes:

YEAS: Dan Doerle, Natalie Lopez, Marlon Lewis, David Broussard, Deidre Ledbetter, Sherry Guidry and Dustin Suire
NAYS: None
ABSENT: None
ABSTAINED:None

And this ordinance was declared adopted on this 20th day of November, 2018.

/s/ Freddie DeCourt
Freddie DeCourt, Mayor

/s/ Maxine Gonsoulin
Maxine Gonsoulin, City Clerk

THE ABOVE IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2018-23 AS ADOPTED BY THE NEW IBERIA CITY COUNCIL AT A REGULAR MEETING HELD ON NOVEMBER 20TH, 2018.

/s/ Maxine Gonsoulin
Maxine Gonsoulin, City Clerk
City of New Iberia, LA

Chapter 26 - ENVIRONMENT
Article III - Stormwater Pollution Prevention

Section 1 - General Provisions

- 1.1 Purpose
- 1.2 Applicability
- 1.3 Exempt Land Disturbing Activities
- 1.4 Compatibility with Other Ordinances
- 1.5 Certified Plans
- 1.6 Definitions

Section 2 - Prohibitions and Exemptions

- 2.1 Prohibited Discharges
- 2.2 Prohibited Illicit Connections

Section 3 - Construction Activity Discharges

- 3.1 Stormwater Pollution Prevention Plan (SWPPP) Requirements
- 3.2 Permit required
- 3.3 Application requirements
- 3.4 Application Review Fees
- 3.5 Application Procedure
- 3.6 Notice of Construction

Section 4 - Stormwater Management Plan Requirements

- 4.1 SWPPP required
- 4.2 SWPPP Submission
- 4.3 SWPPP Review and Approval
- 4.4 SWPPP Contents
- 4.5 Post-Construction Erosion and Sedimentation Control

Section 5 - Compliance and Enforcement

- 5.1 Inspection
- 5.2 Compliance
- 5.3 Enforcement

Article III - Stormwater Pollution Prevention

Section 1 - General Provisions

1.1 Purpose

The regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize soil erosion, stream channel erosion, and nonpoint source pollution is in the public interest and will prevent threats to public health and safety.

1.2 Applicability

This article shall be applicable to all land disturbing activities, including all sites requiring a building permit from the City, unless such a site is eligible for an exemption, as set forth in this article, or granted a waiver by the City under the specifications of this article. This article also applies to land disturbing activities that are smaller than the minimum applicability criteria (less than one acre) if such activities are part of a larger common plan of development that meets the stormwater management plan criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

1.3 Exempt Land Disturbing Activities

This article shall apply to any land disturbing activity undertaken by any person and any land except for the following:

- (1) Where construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to, or greater than, one acre and not otherwise exempted under this section;
- (2) Agricultural operations including the raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry, and farm buildings and farm ponds;
- (3) Forestry land management practices, including harvesting;
- (4) Any project involving 7500 square feet or less of disturbed area; provided, however, that this exemption shall not apply to any land disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to, or greater than, one acre;
- (5) Any land disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the federal energy regulatory commission, any cable television system, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where such entity is a secondary permittee for a project located within the larger common plan of development or sale under the state general permit.

1.4 Compatibility with Other Ordinances

This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation. The requirements of this article should be considered the minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other ordinance, rule or regulation, whichever provisions are more restrictive or impose higher protective standards shall be considered to take precedence.

1.5 Certified Plans

All plans submitted for construction sites in accordance with the requirements of this article must be certified by a licensed state professional engineer and reviewed by the City of New Iberia Permit and Inspection Department to ensure that established stormwater protection criteria will be maintained during and after development of the site and that post construction runoff is consistent with the site's stormwater pollution prevention plan (SWPPP).

1.6 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accelerated erosion means erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

Applicant means a property owner or agent of a property owner who has filed an application for a building permit.

Best management practices (BMPs) refers to schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to

stormwater, receiving waters, or stormwater conveyance systems. The term ‘BMPs’ also includes treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Building means any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of ear.

Developer means a construction operator or landowner who undertakes land disturbance activities.

Drainage Easement is a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

Illicit connections means the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge, including sewage, process wastewater, and washwater to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in SWPPP plans, maps, or equivalent records and approved.

Impervious cover refers to those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

Land development means the disturbance of land through clearing, utilities placement and preparatory development activities in anticipation of and prior to construction thereon.

Land disturbance activity means any activity which changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include the grading, digging, cutting, scraping, or excavating of soil, placement of fill materials, paving, construction, substantial removal of vegetation, or any inactivity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

Land operator means any person (developer, manager, operator, contractor, lessee or licensee) authorized to undertake land disturbance activities on a site.

Landowner means the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person hold proprietary rights in the land.

LDEQ means the Louisiana Department of Environmental Quality.

MS4 means the city stormwater collection, transport and handling system, the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater.

Off-site facility means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.

On-site facility means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: soils, cements, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Qualified Inspection refers to a person familiar with the SWPPP requirements and proper use of controls to comply with the SWPPP. Upon the establishment of a certification program by the Louisiana State Department of Environmental Quality, a qualified inspector must be certified.

Site development means activities on a specific site for the construction, excavation, placement, installation, or erection of any structure or land use components related thereto.

Storm drainage system means publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and manmade or altered drainage channels, reservoirs, and other drainage structures.

Stormwater management means the use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater management plan means a management and pollution control plan, including best management practices, qualifying as complete in accordance with the state department of environmental quality's stormwater pollution prevent plan requirements or a plan functionally equivalent thereto.

Stormwater runoff means flow on the surface of the ground, resulting from precipitation.

Section 2 - Prohibitions and Exemptions

2.1 Prohibited Discharges

No person shall discharge, or cause to be discharged, into the MS4 any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as follows:

(1) The following discharges are exempt from discharge prohibitions established by this division; water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), firefighting activities, and any other water source not containing pollutants and discharges specified in writing by EPA or the LDEQ as being necessary to protect public health and safety.

(2) The prohibition shall not apply to any non-stormwater discharge permitted under an LPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA or LDEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that the written approval has been granted for any discharge to the storm drain system. Any person subject to an industrial or construction activity LPDES stormwater discharge permit shall comply with all provisions of such permit.

2.2 Prohibited Illicit Connections

(a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this division if the person connects a line conveying sewage to the stormwater system, or allows such a connection to continue. Improper connections in violation of this division must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the city.

(b) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice from the city requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance is identified as storm sewer, sanitary sewer other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point is identified, documented and provided to the City.

Section 3 - Construction Activity Discharges

3.1 Stormwater Pollution Prevention Plan (SWPPP) Requirements

(a) The stormwater pollution prevention plan (SWPPP) requirements, as administered by the Louisiana Department of Environmental Quality, must be met at new development sites prior to the granting of a building permit. Existing industrial and development sites shall come into compliance with the requirements hereof within 180 days of the effective date of the ordinance from which this division is derived. These requirements apply to any construction activity disturbing more than one acre of land unless such site is part of a common (multisite) development which exceeds one acre in size, in which case these requirements apply to such construction site regardless of size. If an SWPPP has been received for the common development which incorporates a specific site's construction activities, a separate SWPPP need not be submitted for that site.

(b) Exemptions. The following activities may be exempt from these stormwater performance criteria:

- (1) Any activity which is exempt from preparation of a stormwater pollution prevention plan (SWPPP) as administered by the Louisiana Department of Environmental Quality.
- (2) Additions or modifications to existing single-family structures.

(3) Developments that do not disturb more than one acre of land, provided they are not part of a larger common development plan.

(4) Repairs to any stormwater control facility deemed necessary by the City.

c) Industrial sites. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit is required prior to allowing new or continued discharged to the MS4.

3.2 Permit required

No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this division prior to commencing the proposed activity.

3.3 Application requirements

Unless specifically excluded by this division, any landowner or operator desiring a permit for any land disturbance activity shall submit to the City of New Iberia Permit and Inspection Department all information required by this division. Unless otherwise excepted by this division, a permit application must be accompanied by a stormwater pollution prevention plan (SWPPP) as administered by the Louisiana Department of Environmental Quality and a non-refundable permit review fee to be considered. The SWPPP shall be prepared to meet the requirements of this division, and building permit fees shall be those established by the City as shown in Appendix A, which appeared as an attachment to the ordinance form which this provision was derived. The SWPPP shall be submitted in electronic form (CD).

3.4 Application Review Fees

(a) The fee for review of any land development application shall be based on the amount of land to be disturbed at the site, and the fee structure shall be \$150.00 for the first acre of disturbed land and \$50.00 for each additional acre or portion thereof.

(b) The fee for site development shall be \$2.50 per \$1,000.00 of construction costs.

3.5 Application Procedure

Applications for building permits must be filed with the City of New Iberia Permit and Inspection Department on any regular business day. In addition to filing requirements imposed by other ordinances, building permit applications shall include a copy of the stormwater pollution prevention plan (SWPPP) as administered by the state department of environmental quality, including a certification by a registered state engineer that the SWPPP is adequate to meet the requirements of applicable state and federal stormwater control laws and regulations.

3.6 Notice of Construction

(1) The applicant for a building permit must notify the City of New Iberia Permit and Inspection Department in advance before the commencement of construction.

(2) All applicants are required to submit actual as built plans for any stormwater management practices located on-site after final construction within 45 days of completion. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City is required before the release of utilities restrictions, including final utility connections.

Section 4 – Stormwater Management Plan Requirements

4.1 SWPPP required

(a) No building permit or other application for a land disturbance activity will be approved unless it includes a stormwater pollution prevention plan (SWPPP), as administered by the Louisiana Department of Environment Quality, detailing how runoff and associated water quality impacts resulting from the development will be controlled or managed. The SWPPP must indicate whether stormwater will be managed on-site or off-site and, if on-site, the location and type of practices.

(b) The plan must be signed by a licensed state professional engineer, who will verify that the design of all stormwater management practices meet the requirements hereof. No permit shall be issued until a satisfactory SWPPP, or a waiver thereof, shall have been approved by the city after determining that the plan or waiver is consistent with the requirements of this division.

4.2 SWPPP Submission

(a) A stormwater pollution prevention plan (SWPPP) shall be submitted with the building permit application for each building permit site larger than one acre, or which forms a portion of a group of sites greater than one acre.

(b) A SWPPP must be submitted if the site project involves any of the following:

(1) Disturbing or grading more than one acre of land.

- (2) Disturbing greater than ten percent grade;
- (3) Creating more than 100 linear feet of ditch to an existing water channel;
- (4) Removing or filling more than 1,000 cubic yards of material;
- (5) Creating a new public or private road longer than 125 feet;
- (6) Creating impervious cover (including parking areas or roof coverage) in excess of one acre;
- (7) Recording a subdivision plat; or
- (8) Other activities that pose a serious erosion or water pollution risk.

(c) The SWPPP shall be prepared in accordance with good engineering practices and must be completed in accordance with any applicable requirements of the state department of environmental quality and the environmental protection agency. The plan shall identify potential sources of pollution (including sediment) which may reasonably be expected to affect the quality of stormwater discharges associated with the land disturbance activity. In addition, the plan shall describe and ensure the implementation of best management practices (BMPs) which will be used to reduce the pollutants in stormwater discharges associated with activity. All construction operations must implement the provisions of their SWPPP as a condition of their permit.

(d) The city reserves the right to request and review the plans, and to require additional measures to prevent and control pollution, as needed.

4.3 SWPPP Review and Approval

(a) The City will review each application for a land clearing permit to determine its conformance with the provisions of this regulation. Within 45 days after receiving an application, they City shall, in writing:

(1) Approve the permit application;

(2) Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this article, and issue the permit subject to these conditions; or

(3) Disapprove the permit application, indicating the reason and procedure for submitting a revised application and/or submission.

(b) Failure to the City to act on an original or revised application within 45 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed, unless such time is extended by agreement between the applicant and the City. Pending preparation and approval of a revised plan, development activities may be allowed to proceed in accordance with conditions established by the City.

4.4 SWPPP Contents

The stormwater pollution prevention plan shall include, but not be limited to, the following:

(1) A topographical base map which extends beyond the limits of the proposed development and indicates existing surface drainage features such as streams, ditches, ponds, culverts and wetlands; and locations of utilities, roads, and easements. Current land use shall be stated along with any significant natural and manmade features.

(2) A site map which should include:

a. Site boundaries and temporary roads.

b. Areas for storage of materials, soils, or wastes.

c. Areas for temporary disposal of cement products or construction waste.

d. Location of washwater drainage or other process water.

e. Location of all planned improvements such as sewer, water and storm drain lines, buildings, parking lots, roadways and stormwater detention facilities.

(3) A description of appropriate control measures (i.e., BMPs) that will be implemented during the construction activities and after completion of the development of the site to control pollutants in stormwater discharges.

(4) A description of land disturbance/construction activities:

a. A description of the nature of the construction activity.

b. A description of the intended sequence of major activities which disturb soils for major portions of the site (i.e., grubbing, clearing, grading, excavation, utilities and infrastructure installation.

c. Estimates of the total area of the site and total area of the site expected to be disturbed by clearing, grading, excavating, and other construction activities.

(5) A description of the construction phase erosion and sediment controls designed to retain sediment on-site to the maximum extent practicable. All control measures must be properly selected, installed, and maintained in accordance with the manufacturer's specifications and good engineering practices. Soil stockpiles must be stabilized or covered during times of inactivity or completion activities.

(6) Provisions for maintenance of control facilities.

(7) The SWPPP shall identify a specific individual within the construction organization who is responsible for implementing and overseeing compliance with the SWPPP and shall include contact information including address, email, telephone and cellular number.

(8) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(9) Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 4.3, and may be authorized by the City by written authorization to the permittee, and shall include:

- a. Major amendments to the stormwater pollution prevention plan submitted to the City;
- b. Field modifications of a minor nature.

4.5 Post-Construction Erosion and Sedimentation Control

Owners and operators, including developers and property owners, shall use and maintain appropriate erosion and sedimentation control measures to ensure that erosion, or adverse conditions caused by erosion or sedimentation, is eliminated or held to an acceptable minimum so that soil and other pollutants are not discharged to the MS4 or waters of the state nor onto an adjoining property or right-of-way. For example, vegetation, erosion, and sediment control measures, including the following installed structural measures, if any, should be used and maintained: stormwater detention structures (including wet ponds); flow attenuation by use of open vegetative swales and natural depressions; other velocity dissipation devices; infiltration of runoff on-site; and sequential systems that combine several such practices.

Section 5 - Compliance and Enforcement

5.1 Inspection

The city is authorized to undertake such inspections as are required to ensure compliance with this division or a land disturbance permit issued by the city. Such inspection may be undertaken without the requirement for a warrant and the landowner/land operator shall make available for inspection all records required to be maintained in accordance with the permit or this division.

5.2 Compliance

If administrative actions do not provide satisfactory resolution of noncompliance, then civil and/or criminal litigation may be used.

5.3 Enforcement

(a) *Stop work order; revocation of permit.* In the event that any person holding a site development permit pursuant to this article violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the site development permit.

(b) *Violation and penalties.* No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this article. Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this article is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, such person shall be punished by a fine of not more than \$250.00 or 30 days in the parish jail, or both. In addition to any other penalty authorized by this subsection, any person convicted of violating any of the provisions of this article shall be required to bear the expense of any remedial action.