

# 5 Urban Nonpoint Source Pollution Reduction and Inspection Ordinance

## **Section 1: Findings**

Nonpoint sources of pollution are a major source of water quality impairment in urban areas. \_\_\_\_\_ Parish has experienced increased growth and development in its urban centers resulting in degradation to area waters.

Through the implementation of best management practices urban centers can decrease the adverse water quality impacts. This ordinance develops a parish-wide planning and inspection mechanism designed to target sources of NPSP in urban areas that are contributing pollutants to parish water resources.

## **Section 2: Definitions**

### **2.1 Best Management Practice (BMP)**

Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollution directly or indirectly to municipal separate storm sewer systems, ditches, streams and water bodies. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from developed areas.

### **2.2 Designated Urban NPS Areas**

Under the authority granted by this ordinance the \_\_\_\_\_ (authorized government agency) will identify urban NPS areas that will be targeted for plan development. These areas will be selected based on the detection of negative NPSP impacts on surrounding water resources. [Note: designating urban NPS areas could be conducted as part of an overall watershed-planning project by the parish. See the model watershed planning resolution contained in these materials. Other sources of information available to help identify NPSP impacted areas would be the Louisiana 305(b) Report or the 303(d) TMDL List]

### **2.3 Urban Runoff Nonpoint Source Pollution**

Diffuse, typically rainfall-induced pollution caused by urban activities, such as the conversion of pervious surfaces to impervious, which results in increased storm water runoff volumes and pollutant loadings. Pollutants may include sediments, pesticides, heavy metals, oil and grease and nutrients.

### **2.4 Urban Nonpoint Source Pollution (NPSP) Reduction Plan**

A plan that evaluates the NPSP generated by a particular development/building/road/bridge/impervious surface and selects corrective BMPs, such as those detailed in Louisiana's Management Measures for Urban Runoff, designed to remedy and/or abate the negative impacts generated by urban development upon the area's water resources. The plan will be submitted by the property owner for approval by

the \_\_\_\_\_ (authorized government agency) when a site is required to participate in the system developed by the Urban NPSP Reduction and Inspection Ordinance.

### **Section 3: Sites Requiring Urban NPS Plans**

#### 3.1 Designated Urban NPSP Areas

The \_\_\_\_\_ (authorized government agency) has the authority to identify urban NPSP areas that will be targeted for plan development. These areas will be selected based on the detection of negative NPSP impacts on surrounding water resources. Criteria for designation shall be promulgated and followed by the \_\_\_\_\_ (authorized government agency). Detailed maps will be generated and property owners will be notified by certified mail of their designation. Property owners will have six months from the mailing of the initial letter to submit an Urban NPS Reduction Plan for the approval of \_\_\_\_\_ (authorized government agency). Approved best management measure information will be available at the (government) office of \_\_\_\_\_ (authorized government agency).

#### 3.2 Case-by- Case Determinations

The \_\_\_\_\_ (authorized parish agency) has the authority to require Urban NPSP Reduction Plans to be developed for a particular piece of property within (city limits or parish-wide) on a case-by-case basis. Criteria for case-by-case designation shall be promulgated and followed by the \_\_\_\_\_ (authorized government agency). Property owners will have six months from the mailing of the initial certified letter to submit an Urban NPSP Reduction Plan. Approved best management measure information will be available at the (government) office of \_\_\_\_\_ (authorized government agency).

### **Section 4: Urban NPSP Reduction Plan Development and Approval**

4.1 It is the responsibility of the property owner to develop a NPSP Urban Reduction Plan for a site once that site has been designated by inclusion in an Urban NPSP Designation Area or by a specific case determination.

4.2 Approved BMPs are to be selected from the \_\_\_\_\_ (local government urban NPSP BMP document) and/or the Louisiana Management Measures for Urban Runoff document developed by the Louisiana Department of Natural Resources (LDNR) Coastal Management Division.

4.3 Responsible parties will have 6 months from the initial mailing of notification to submit a plan for approval. The Parish (Note: parish can be substituted with any local governmental entity that adopts such an ordinance) can establish a submission fee in order to cover administrative costs of reviewing the plans.

4.4 The Parish will have 30 days upon receipt of the submission to approve, approve with conditions or deny the submitted plan.

4.5 If the Parish denies the submission a certified letter identifying the deficiencies in the plan must be mailed with the denial notice.

4.6 The property owner will have 30 days from the mailing of the notice to make the necessary corrections to the plan and resubmit the plan for approval. If the plan is not resubmitted within the 30 days then the submission will have to start the process from the beginning and the submission fee paid again.

4.7 Once approved a copy of the NPS reduction plan shall be kept on the premises at all times

and shall be available for inspection if requested.

### **Section 5: Inspections**

5.1 Inspections: The \_\_\_\_\_ (authorized government inspector) will be allowed access to all land with an Urban NPSP Plan in order to ensure that proper maintenance, as designated in the plan, of the BMPs are being carried out. Inspections may be made on a random basis or in conjunction with a complaint received by the \_\_\_\_\_ (designated government department).

5.2 Complaint-driven inspections: The \_\_\_\_\_ (designated government department) will accept letters of complaint from other government entities or from the general public. Upon receiving a complaint the \_\_\_\_\_ (authorized government inspector) will inspect the BMPs in question to determine if maintenance as established in the plan is being carried out.

### **Section 6: Notice of Violation**

Notice of violation: Upon inspection and documentation of failure to maintain any provisions in an Urban NPS Plan the \_\_\_\_\_ (designated government official) will mail a certified letter (notice of violation) to the property owner. The letter will contain: time and date of inspection, the specific violation(s) detected and a short explanation of the work necessary to correct the violation. The notice of violation will state the property owner has \_\_\_\_ days to either correct the violation or respond in writing.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within \_\_ days of the decision of the \_\_\_\_\_ (designated government authority) upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

### **Section 7: Reimbursement of Costs**

Cost of Abatement of the Violation: Within \_\_\_\_ days after abatement of the violation by \_\_\_\_\_ (designated government authority), the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within \_\_ days. If the amount due is not paid within a timely manner as determined by the decision of the \_\_\_\_\_ (designated government authority) or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment

### **Section 8: Appeals**

8.1 To appeal any of the decisions of the \_\_\_\_\_ (authorized government agency) any interested person may file a notice of appeal to the \_\_\_\_\_ (designated government authority, i.e. parish council). The notice of appeal must be received within \_\_ \_\_\_\_\_ days from the date of the (authorized government agency) decision. Hearing on the appeal before the

\_\_\_\_\_ (designated government authority or their designee) shall take place within \_\_\_\_\_ days from the date of receipt of the notice of appeal. The decision of the \_\_\_\_\_ (designated government authority or their designee) shall be final.

### **Section 9: Penalties**

9.1 If the (designated government official) or his/her designated representative believes that a person is violating a provision of this Ordinance or an order issued pursuant to this Ordinance, the representative may issue a citation within ninety (90) days after the alleged violation is discovered. The citation shall state with particularity the nature of the violation and the established civil penalty established for such violation. The citation shall be delivered or sent by registered mail to the alleged violator.

9.2 Any party issued a citation may appeal the citation to the (designated government official) or his/her designated representative within thirty (30) days after the citation is issued. The appeal shall be conducted in accordance with Section 8 of this Ordinance.

9.3 Monetary civil penalties may be imposed according to the following schedule:

First violation: Up to: \$ 100.00

Second violation: \$ 250.00

Third and subsequent violations each:\$ 500.00

9.4 A civil penalty levied under this Section may be assessed for each violation or day that the violation continues.

9.5 A decision by the (designated government official) or his/her designated representative not to issue a citation shall not be construed as a waiver of any other rights or remedies authorized by law or this Ordinance.

9.6 Any person who willfully violates this Ordinance is guilty of a misdemeanor, punishable by imprisonment for not more than ninety (90) days, or a fine of not more than \$200.00 or both. Conviction by jury, court or voluntary plea and acceptance by court under this provision shall not waive any other claim for fines, costs, injunction or other relief authorized by this Ordinance. Each day that a violation of this ordinance exists shall constitute a separate offense.

9.7 All monies collected from penalties under this ordinance will be placed in the Urban NPSF Reduction Fund.

### **Section 11: Urban NPSF Reduction Fund**

The Urban NPSF Reduction Fund will be created by the \_\_\_\_\_ (government) under the authority granted to them in the \_\_\_\_\_ (home rule charter or type of government of that particular local government). All penalties collected from enforcement of this Ordinance will be placed in this fund to be used for urban NPSF projects, including but not limited to: NPSF education efforts, community urban NPSF projects and low interests loans to fund private urban NPSF projects. All expenditures must be approved by a majority vote of the \_\_\_\_\_ (local government president/council).

### **Section 11: Severability**

Each provision of this ordinance must be interpreted in a way that is valid under Louisiana law. If any provision is held invalid, the rest of the ordinance shall remain in full effect.

### **Section 12: Ordinance Adoption**

This ordinance \_\_\_\_\_ is adopted by \_\_\_\_\_ Parish Government  
by the following vote:

The effective date of this ordinance will be \_\_\_\_\_ 20\_\_.