

ORDINANCE NO. 4630

AN ORDINANCE TO AMEND ORDINANCE NO. 4170 OF JULY 18, 2007, AND AMENDING CHAPTER 122 OF THE BOSSIER PARISH CODE OF ORDINANCES "UTILITIES", TO ADD ARTICLE IV "STORM WATER MANAGEMENT PLAN; ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE REGULATING DISCHARGES TO THE MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) TO PREVENT AND/OR MINIMIZE POLLUTION FROM STORM WATER RUNOFF"

WHEREAS, the Clean Water Act, among other things, regulates storm water and urban runoff to protect water quality; and

WHEREAS, the Parish of Bossier adopted a Storm Water Management Plan on March 10, 2003, in order to comply with the Clean Water Act (33 U.S.C. 1251 et seq.) and its implementing regulations for storm water management (40 C.F.R. Part 122), and to comply with the Louisiana Pollutant Discharge Elimination System (LPDES) permit issued by the Louisiana Department of Environmental Quality (LDEQ); and

WHEREAS, the Parish's Storm Water Management Plan provides that the Parish will adopt Ordinance(s) intended to prohibit, prevent and/or minimize pollution resulting from storm water runoff, on or before December 4, 2007.

NOW, THEREFORE, BE IT ORDAINED by the Bossier Parish Police Jury, in regular session convened, that the ordinance regulating discharges to the municipal separate storm drain system shall read as follows:

ARTICLE IV. STORM WATER MANAGEMENT PLAN; ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE REGULATING DISCHARGES TO THE MUNICIPAL SEPARATE STORM DRAIN SYSTEM (MS4) TO PREVENT AND/OR MINIMIZE POLLUTION FROM STORM WATER RUNOFF

SECTION 1. Purpose/intent.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Bossier Parish through the regulation of non-storm water discharges to the municipal storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm drain system (MS4) in order to comply with requirements of the Louisiana Pollutant Discharge Elimination System (LPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspections, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

SECTION 2. Definitions.

For the purposes of this ordinance, the following words and terms shall be defined as follows:

(1) Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal storm drain system. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from outdoor storage areas.

(2) Parish shall mean the Bossier Parish Police Jury, Bossier Parish, Louisiana.

(3) Clean Water Act means the federal Water Pollution Control Act, (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

(4) Director means the Public Works Director.

(5) Illegal Discharge means any direct or indirect non-storm water discharge to the municipal storm drain system except as exempted in Section 5 of this ordinance.

(6) Illicit Connection An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the municipal storm drain system including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the municipal storm drain system and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by the Parish of Bossier or, any drain or conveyance connected from a commercial or industrial land use to the municipal storm drain system that has not been documented in plans, maps, or equivalent records and approved by the Parish of Bossier.

(7) Municipal Storm Drain System (MS4) means all or part of the publicly owned and maintained roads, streets, catch basins, curbs, gutters, ditches, man-made channels, storm drains, and dry wells located within public easements, right-of-way, parks, common areas, retention areas, or other publicly owned or maintained real property designed or used for collecting, holding, or conveying storm water.

(8) National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit means a permit issued by the EPA (or by a state under the authority delegated pursuant to 33 USC § 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

(9) Person means any individual, municipality, public or private corporation, partnership, firm, the United States Government and any agent or subdivision thereof, or any other juridical person which shall include, but is not limited to, trust, joint stock companies, associations, the State of Louisiana, political subdivisions of the state, commissions, and interstate bodies.

(10) Pollutant shall have the same meaning as defined in 40 C.F.R. § 122.2, and includes but is not limited to any solid, liquid, gas, or other substance that can alter the physical or chemical properties of water including, but not limited to fertilizers, solvents, sludge, petroleum byproducts, solid waste, garbage, biological materials, radioactive materials, sand, dirt, animal waste, acids, and bases.

(11) Premises means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved including adjacent sidewalks and parking lots.

(12) State shall mean the State of Louisiana Department of Environmental Quality.

(13) Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

(14) Wastewater means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

SECTION 3. Applicability.

This ordinance shall apply to all water entering the municipal storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Parish of Bossier.

SECTION 4. Responsibility For Administration.

The Director of Public Works is delegated the authority to exercise the powers and performance of such duties set forth in this ordinance and to administer and enforce provisions of this ordinance. The Director may designate other employees to exercise such powers and perform such duties, as he/she deems appropriate.

SECTION 5. Discharge Prohibitions.

A. Prohibition of Illegal Discharges.

Unless expressly authorized or exempted by this ordinance, no person shall throw, drain, or otherwise discharge, cause, or allow others under their control to throw, drain, or otherwise discharge into the municipal storm drain system (MS4) any pollutants or waters containing any pollutants, other than storm water.

(1) Exemptions.

The following non-storm water sources may be discharged to the municipal storm drain system provided that they have not been determined by the Director of Public Works to be a substantial source of pollutants to the MS4 system:

- (a) Water line flushing,
- (b) Landscaping irrigation,
- (c) Diverted stream flows,
- (d) Rising groundwater,
- (e) Uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)),
- (f) Uncontaminated pumped groundwater,
- (g) Incidental discharges of potable water (e.g. drinking fountain overflows)
- (h) Foundation drains,
- (i) Air conditioning condensate,
- (j) Irrigation water,
- (k) Springs,
- (l) Water from crawl space pumps,
- (m) Footing drains,
- (n) Lawn watering runoff,
- (o) Water from individual residential car washing,
- (p) Flows from riparian habitats and wetlands,
- (q) De-chlorinated swimming pool discharges,
- (r) Residual street wash water,
- (s) Discharges or flows from fire fighting activities (excludes predictable and controllable discharges from fire fighting training facility); and
- (t) Other similar occasional incidental discharges (e.g. non-commercial or charity car washes) where such discharges will not cause a problem either due to the nature of the discharge or controls the Parish places on the discharge.

(2) Discharges authorized by a separate LPDES General Storm Water Permit

(3) No person shall discharge to the public storm drain system any exempted discharge under this subsection if the Director or assigned designee identifies and provides written notice to the person that the discharge has the potential to be a source of pollutants to receiving waters, waterways, or groundwater.

(4) Dye testing is an allowable discharge, but requires a verbal notification to the Director prior to the time of the test.

(5) Discharges specified in writing by the Director as being necessary to protect public health and safety.

B. Prohibition of Illicit Connections

(1) The construction, connection, use, maintenance or continued existence of any illegal connection to the municipal storm drain system (MS4) is prohibited.

(2) This prohibition is retroactive and shall apply to any connection that was made in the past, regardless of whether it was made under permit or other authorization or whether it was permissible under the law or practices applicable or prevailing at the time of the connection.

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sanitary sewage, domestic or industrial, to the MS4, or allows such a connection to continue unless the discharge is authorized by a LPDES discharge permit issued by the state.

SECTION 6. Suspension Of Ms4 Access

A. Suspension due to Illicit Discharges in Emergency Situations.

The Director of Public Works may, without prior notice, suspend MS4 access to a person when such suspension is necessary to stop an actual or threatened discharge, which represents or may represent imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Director may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of United States, or to minimize danger to persons.

B. Suspension due to the Detection of Illicit Discharge.

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director of Public Works will notify a violator of the proposed termination of its MS4 access. The violator may petition the Parish for reconsideration.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Director of Public Works.

SECTION 7. Specific Prohibitions

A. The specific prohibitions and requirements in this section are not inclusive of all discharges prohibited by the general prohibitions in Section 5.

B. No person shall release or allow to be released any of the following substances directly into the MS4 or in or upon any street, alley, parking lot, sidewalk, curb, gutter, storm drains, catch basin, conduit, or other drainage structure:

(1) Any refuse, pet waste, rubbish, garbage, yard waste, or other discarded or abandoned objects;

(2) Any used motor oil, antifreeze or any other petroleum product or waste;

(3) Any industrial waste;

(4) Any hazardous waste, including household hazardous waste;

(5) Any wastewater that contains soap, degreaser, solvent, or surfactant based cleaner from commercial vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;

(6) Any wastewater from the washing, cleaning, de-icing, or other maintenance of aircraft;

(7) Any wastewater from commercial mobile power washer or from the washing or other cleaning of a building exterior that contains harmful soap, detergent, degreaser, solvent, or any surfactant based cleaner;

(8) Any wastewater from commercial floor, rug, or carpet cleaning;

(9) Any wastewater from the wash down or other cleaning of pavement that contains any soap, detergent, solvent, degreaser, emulsifier, dispersant, or other cleaning substance; or any wastewater from the wash down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all such materials have been previously removed.

(10) Any effluent from cooling tower, condenser, compressor, emissions scrubber, emission filter or the blow down from a boiler;

(11) Any ready mix concrete, mortar, ceramic, or asphalt base material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;

(12) Any runoff, wash down water or waste from any animal pen, kennel, fowl or livestock containment area or any pet wastes generally;

(13) Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine at the point of entry into the MS4 or surface waters;

(14) Any contaminated runoff from a vehicle wrecking yard;

(15) Any substance or material that will damage, block, or clog the MS4;

(16) Any release from petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharged or pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an LPDES permit from the state;

(17) Any domestic sewage or septic tank waste, grease trap waste, or grit trap waste;

(18) Any water from a water curtain in a spray room used for painting vehicles or equipment;

(19) Any harmful quantity of sediment, silt, earth, soil, or other material associated with clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures to the maximum extent practicable under prevailing circumstances;

(20) Any waste cooking oil or food waste;

(21) Any other discharge that causes or contributes to causing the Parish to violate a state water quality standard, the Parish's LPDES Water Discharge Permit or any state issued discharge permit for discharges from its MS4.

C. Regulation of Pesticides and Fertilizers.

(1) No person shall use or cause to be used any pesticide or fertilizer, in any manner that the person knows, or reasonably should know, is likely to cause, does cause, a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.

(2) No person shall dispose of, discard, store, or transport a pesticide or fertilizer, or its container, in a manner that the person knows, or reasonably should know, is likely to cause, or does cause, a harmful quantity of the pesticide or fertilizer to enter the MS4 or waters of the United States.

SECTION 8. Requirements To Prevent, Control And Reduce Storm Water Pollutants By The Use Of Best Management Practices.

A. All persons engaged in activities, which will or may reasonably be expected to result in pollutants entering the municipal storm drain system shall undertake best management practices (BMPs) to minimize such pollutants, shall provide protection from accidental discharge of pollutants to the MS4 and comply with cleanup and notification requirements of this ordinance. Such measures shall include the requirements imposed by federal, state and local authorities. BMPs are activity specific and are described in the document "Stormwater Management Practices" (EPA 832-R-92-006) or other guidance documents available from EPA and/or LDEQ.

B. If a specific best management practice is required by the Director to prevent a pollutant from entering the municipal storm drain system, the person receiving the notice of such requirement may petition the Director to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten (10) working days setting forth any reasons and proposed alternatives. The Director will act within thirty (30) days of the petition.

SECTION 9. Compliance Monitoring

A. Applicability

The section applies to all facilities that have storm water discharges associated with commercial and industrial activities, including construction activity.

B. Access to Facilities.

(1) The Parish of Bossier shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry to its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Parish of Bossier Parish.

(2) Facility operators shall allow the Parish of Bossier ready access to all parts of the premises for the purpose of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES or LPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

(3) The Parish of Bossier shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Parish to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Parish of Bossier has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at his own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Director and shall not be replaced. The cost of clearing such access shall be borne by the operator.

(6) Unreasonable delays in allowing representatives of the Parish of Bossier access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a LPDES or NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies representatives of the Parish of Bossier reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(7) If a representative of the Parish of Bossier has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or

sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Director of Public Works may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 10. Industrial Or Construction Site Storm Water Runoff Control.

A. Any person subject to an industrial or construction activity LPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works or Parish Engineer prior to the allowing of discharges to the MS4.

B. As soon as any owner or operator has actual constructive knowledge of any discharge, which may result in pollutants entering the municipal storm drain system, such person shall promptly take all necessary steps to ensure the discovery of the source and the extent and proceed with containment and cleanup of such discharge. The owner or operator shall notify the Director of Public Works of the discharge in both of the following manners:

(1) By telephone as soon as practical or by calling the Louisiana Department of Environmental Quality and/or the local Fire Department if Hazardous materials are involved, and;

(2) By written report identifying the discharge source, extent, pollutant, measures taken to mitigate the discharge, and preventive measures put in place to prevent a subsequent discharge.

SECTION 11. Enforcement.

A. Notice of Violation.

The Director may issue a written Notice of Violation to any person who has violated or is in violation of this ordinance. Failure to comply with any act required in the Notice of Violation shall be a separate violation for each day beyond the thirtieth (30th) day following the Notice of Violation. Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. In appropriate situations the Director may notify the person orally either in person or by telephone prior to, and in some cases in lieu of, written notification.

B. Cease and Desist.

When the Director finds that a person has violated, or continues to violate any provision of this ordinance or any related laws or regulations, or that the person's past violations are likely to recur, the Director may issue an order to the person directing them to cease and desist all such violations and direct the person to immediately comply with all requirements; and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order of the Director issued pursuant to this ordinance constitutes a violation of this ordinance.

C. Penalties.

A person who willfully or negligently violates any provision of this ordinance, or any related laws or regulations shall be punished by a fine imposed by the Director of Public Works of up to \$500 per day per offense.

D. Liability for Cost.

The Director of Public Works may assess liability for cost to any person in violation of this ordinance for all actual cost incurred by the Parish in surveillance, sampling and testing, abatement, and remediation associated with a discharge. Additionally, the Director may assess liability for cost to any person whose discharge resulted in a violation of the Parish's LPDES MS4 permit. Such cost shall include all reasonable attorney's fees and costs incurred by the Parish.

SECTION 12. Providing For Repeal Of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the Code adopted herein by reference are hereby repealed.

SECTION 13. Providing For Severability

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction such decision shall not affect the validity of the remaining portions thereof.

SECTION 14. Right To Appeal

Any person receiving a Notice of Violation may appeal the determination of the Director. The notice of appeal must be received within 10 days from the date of the Notice of Violation. Hearing on the appeal before the Director or his/her designee shall take place within 15 days from the date of the receipt of the notice of appeal. The decision of the Director of Public Works shall be final.

The ordinance was offered by Mr. Brotherton, seconded by Mr. Plummer. Upon unanimous vote, it was duly adopted on this 5th day of October, 2016.

RACHEL D. HAUSER
PARISH SECRETARY

WANDA BENNETT, PRESIDENT
BOSSIER PARISH POLICE JURY