

STORM WATER ORDINANCE

ORDINANCE NO. 12-12-06A

STORMWATER QUALITY MANAGEMENT AND DISCHARGE CONTROL

The Council of the Town of Pearl River Does Ordain As Follows:

Section 1. The Town of Pearl River hereby adopts the Storm Water Quality Management and Discharge Control Ordinance which shall read in its entirety as follows:

STORM WATER QUALITY MANAGEMENT AND DISCHARGE CONTROL.

Division I.

Title, Purpose and General Provisions.

Section 1.1-1 Title

This Article shall be known as the “Storm Water Quality Management and Discharge Control Ordinance” of the Town of Pearl River and may be so cited.

Section 1.1-2 Purpose and Intent.

The purpose and intent of this Article is to ensure the health, safety, and general welfare of citizens, and protect and enhance the water quality of watercourses and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. 1251 et seq.) by reducing pollutants in storm water discharges to maximum extent practicable and by prohibiting non-storm water discharges to the storm drain system.

Section 1.1-3 Definitions.

The terms used in this Article shall have the following meanings:

- (a) Best Management Practices. Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the municipal storm drain system and waters of the United States. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of

specific activities, practices, and procedures and such other provisions as the Town determines appropriate for the control of pollutants.

- (b) Town. The Town of Pearl River.
- © Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. 1251 et.seq.) and any subsequent amendments thereto.
- (d) Construction Activity. Activities that are subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to cleaning and grubbing, grading, excavating, and demolition.
- (e) Hazardous Materials. Any Material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (f) Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 1.2-1 of this Chapter.
- (g) Illicit Connections. An illicit connection is defined as either of 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-storm water discharge including sewage, process wastewater, and wash water 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 connections had been previously allowed, permitted, or approved by a government agency; 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 plans, maps, or equivalent records and approved by the Town.
- (h) Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (i) National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits. General, group and individual storm water discharge permits which regulate facilities defined in Federal NPDES regulations pursuant to the Clean Water Act.

- (j) Non-Storm Water Discharge. Any Discharge to the storm drain system that is not composed entirely of storm water.
- (k) Pollutant. Anything which causes or contributes to pollution that may include But are not limited to: 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, articles, and accumulations so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.
- (l) Pollution. The human-made or human induced alteration of the quality of waters by waste to a degree which unreasonably affects or has the potential to unreasonably affect either the waters for beneficial uses or the facilities which serve these beneficial uses.
- (m) Premises. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (n) Storm Drain System. Publicly-owned facilities operated by the Town by which storm water 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 human-made or altered drainage channels, reservoirs, and other drainage structures which are within the Town and are not part of a publicly-owned treatment works as defined at 40 CFR Section 122.2.
- (o) Storm Water. Any surface flow, runoff and drainage consisting entirely of water from rain storm events.
- (p) Town's Authorized Representative. That person by which the Mayor designates as the representative representing the Town of Pearl River. If no person is designated, then the Mayor will act as the designated representative. The designated representative may be changed at any time during any event by the Mayor.
- (q) Waters of the United States. Surface watercourses and water bodies as defined at 40 CFR Section 122.2 including all natural waterways and definite channels and depressions in the earth that may carry water even though such waterways may only carry water during rains and storms and may not carry storm water at end during all times and seasons.

Section 1.1-4 Applicability.

This article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands lying within the Town of Pearl River including any amendments or revisions thereto.

Section 1.1-5 Responsibility for Administration.

The Town's Authorized Representative of the Town of Pearl River shall administer, implement, and enforce the provisions of this article. Any powers granted or duties imposed upon the Town's Authorized Representative may be delegated in writing by the Town's Authorized Representative to persons or entities acting in the beneficial interest of or in the employ of the Town.

Section 1.1-6 Severability.

The provisions of this Article are hereby declared to be severable. If any provision, clause, sentence or paragraph of this Article or the application thereof to any person, establishment or circumstances shall be held invalid. Such invalidity shall not affect the other provisions or application of this article.

Section 1.1-7 Regulatory Consistency.

This article shall be construed to assure consistency with the requirements of the Clean Water Act and acts amendatory thereof or supplementary thereto or any applicable implementing regulations.

Section 1.1-8 Ultimate Responsibility of Discharger.

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore this Article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharged of pollutants into waters of the U.S. caused by said person. This Article shall not create liability on the part of the Town of Pearl River or any agent or employee thereof for any damages that result from any discharger's reliance on this Article or any administrative decision lawfully made thereunder.

DIVISION II
Discharge Prohibitions

Section 1.2-1 Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses 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 storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (a) Discharges from the following activities will not be considered a source of pollutants to the storm drain system and to waters of the U.S. when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illegal discharges unless determined to cause a violation of the provisions of the Clean Water Act, or this ordinance: potable water line flushing,; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the storm drain system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non-industrial roof drains; springs; individual residential and occasional non-commercial car washing; flows from riparian habitats and wetlands; dechlorinated swimming pool discharges; street wash waters; and flows from fire fighting.
- (b) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the State of Louisiana under the authority of the Federal Environmental Protection Agency 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 written approval has been granted by the Town of Pearl River for any discharge to the storm drain system.
- © The Town of Pearl River may exempt in writing other non-storm water discharges which are not a source of pollutants to the storm drain system nor waters of the United States.

Section 1.2-3 Prohibition of Illicit Connection.

- (a) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (b) 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.

Section 1.2-4 Waste Disposal Prohibitions.

No person shall throw, deposit, leave, maintain, keep or permit to be thrown, deposited left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drain system, or water of the U.S., any refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

Section 1.2-5 Discharges in Violation of Industrial or Construction activity NPDES Storm Water Discharge Permit.

Any person subject to an industrial or construction activity NPDES 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 Town's Authorized Representative prior to or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

DIVISION III

REGULATIONS AND REQUIREMENTS

Section 1.3-1 Requirement to Prevent, Control, and Reduce Storm Water Pollutants.

- (a) **Authorization to Adopt and Impose Best Management Practices.**
The Town will adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. as a separate BMP Guidance Series. Where best management practices requirements are promulgated by the Town or any Federal, State of Louisiana or regional agency for any activity, operation or facility which would otherwise cause the discharge of pollutants to the storm drain system or water or water of the U.S., every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.
- (b) **New Development and Redevelopment.** The Town may adopt requirements identifying appropriate best management practices to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport, and discharge of pollutants. The Town shall incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in this Article and the Storm Water Utility Ordinance.
- (c) **Responsibility to Implement Best Management Practices.**
Notwithstanding the presence or absence of requirements promulgated

pursuant to subsections (a) and (b), any person engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the storm drain system, or waters of the United States. Shall implement best management practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

Section 1.3-2 Requirement to Eliminate Discharges.

Notwithstanding the requirements of Section 1.4-1 herein, the Town's Authorized Representative may require by written notice that a person responsible for an illegal discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future illegal discharges.

Section 1.3-3 Requirement to Eliminate or Secure Approval for Illicit Connections.

- (a) The Town's Authorized Representative may require by written notice that a person responsible for an illicit connection to the storm drain system comply with the requirements of this Article to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this article.
- (b) If subsequent to eliminating a connection found to be in violation of this Article, the responsible person can demonstrate that an illegal discharge will no longer occur, said person may request Town approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

Section 1.3-4 Watercourse Protection.

Every person owning property through which a watercourse passes or such person's lessee shall keep and maintain that part of the watercourse within the property reasonably free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. The owner or lessee shall not remove healthy bank vegetation beyond that actually necessary for maintenance nor remove said vegetation in such a manner as to increase the vulnerability of the watercourse to erosion. The property owner shall be responsible for maintaining and stabilizing that portion of the watercourse

that is within their property lines in order to protect against erosion and degradation of the watercourse originating or contributed from their property.

Section 1.3-5 Requirement to Remediate.

Whenever the Town's Authorized Representative finds that a discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of storm water, the storm drain system, or water of the U.S., the Town's Authorized Representative may require by written notice to the owner of the property and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of Sections 1.5.1 through 1.5-4 below.

Section 1.3-6 Requirement to Monitor and Analyze.

The Town's Authorized Representative may require by written notice of requirement that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to storm water pollution, illegal discharges, and/or non-storm water discharges to the storm drain system or waters of the U.S. to undertake at said person's expense such monitoring and analyses and furnish such reports to the Town of Pearl River as deemed necessary to determine compliance with this article.

Section 1.3-7 Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material, said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911).

In the event of a release on non-hazardous materials, said person shall notify the Town's Public Works Department in person or by phone or facsimile no later than 5:00 pm of the next business day. Notification in person or by phone shall be three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an onsite written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Division IV.

Inspection and Monitoring.

Section 1.4-1 Authority to Inspect.

Whenever necessary to make an inspection to enforce any provision of this Article or whenever the Town's Authorized Representative has cause to believe that there exists or

potentially exists in or upon any premises any condition which constitutes a violation of this Article, the Town's Authorized Representative may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to storm water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the Town is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

Section 1.4-2 Authority to Sample, Establish Sampling Devices, and Test.

During any inspection as provided herein, the Town's Authorized Representative may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

Division V.

Enforcement.

Section 1.5-1 Notice of Violation.

Whenever the Town's Authorized Representative finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Town's Authorized Representative may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and,
- (f) The implementation of source control or treatment BMP's.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within such remediation or restoration must be completed. Said notice shall further advise that should the violator fail to remediate or restore within the established deadline, the work will be done by the Town or a contractor designated by the Town's Authorized Representative and the expense thereof shall be charged to the violator pursuant to Section 1.5-3.

Section 1.5-2 Appeal.

Notwithstanding the provisions of Section 1.5-5 below, any person receiving a Notice of Violation under Section 1.5-1 above may appeal the determination of the Town's Authorized Representative to the Town Council. The notice of appeal must be received by the Town Council within 5 days from the date of the Notice of Violation. Hearing on the appeal before the Town Council or their designee shall take place within 30 days

from the date of Town's receipt of the notice of appeal. The decision of the Town Council or designee shall be final.

Section 1.5-3 Abatement by Town.

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 under Section 1.5-2 within 10 days of the decision of the Town Council upholding the decision of the Town's Authorized Representative, then the Town or a contractor designated by the Town's Authorized Representative shall enter upon the subject private property and is 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 on any premises to refuse to allow the Town or designated contractor to enter upon the premises for the purposes set forth above.

Section 1.5-4 Charging Cost of Abatement/Liens.

Within 30 days after abatement of the nuisance by the Town, the Town's Authorized Representative shall notify the property owner of the property of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the Town Clerk within 15 days. The Town Clerk shall set the matter for public hearing by the Town Council. The decision of the Town Council shall be set forth by resolution and shall be final.

If the amount due is not paid with 10 days of the decision of the Town Council or the expiration of the time in which to file an appeal under this Section, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be turned over to the Parish Auditor so that the auditor may enter the amounts of the assessment against the parcel as it appears on the current assessment roll, and the tax collector shall include the amount of the assessment on the bill for taxes levied against the parcel of land.

Section 1.5-5 Urgency Abatement.

The Town's Authorized Representative is authorized to require immediate abatement of any violation of this Article that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Town's Authorized Representative, the Town of Pearl River is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the Town of Pearl River shall be fully reimbursed by the property owner and/or responsible party. Any relieve obtained under this Section shall not prevent the Town from seeking other and further relief authorized under this Article.

Section 1.5-6 Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. A violation of or failure to comply with any of the requirements of this Article. A violation of or failure to comply with any of the requirements of this Article shall constitute a misdemeanor and shall be punished as set forth in Town Code _____.

Section 1.5-7 Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Town's Authorized Representative may impose upon a violator an alternative compensatory action, such as attendance at compliance workshops, river cleanup, etc.

Section 1.5-8 Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the Town at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the Town.

Section 1.5-9 Acts Potentially Resulting in a Violation of the Federal Clean Water Act.

Any person who violates any provision of this Article or any provision of any requirement issued pursuant to this Chapter may also be in violation of the Clean Water Act and may be subject to the sanctions of that act including civil and criminal penalties. Any enforcement action authorized under this Article shall also include written notice to the violator of such potential liability.

Section 2 All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3 This Ordinance shall be in full force and effect 30 days after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE TOWN OF PEARL RIVER, LOUISIANA THIS 12 DAY OF DECEMBER, 2006 BY THE FOLLOWING VOTE:

ALDERMAN VIRGIL PHILLIPS SO MOVED TO ACCEPT THE NEW STORM WATER ORDINANCE 12-12-06A. THE MOTION WAS SECONDED BY ALDERWOMAN THERESA ZECHENELLY. NO DISCUSSION. VOTING: 5 YEAS, 0 NAYS, 0 ABSENT MOTION CARRIED.

ELIZABETH ALLEN
TOWN CLERK

JAMES LAVIGNE, MAYOR
TOWN OF PEARL RIVER

