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## ORDINANCE 2025-3

### **CHAPTERS 28 and 29 OF THE CITY OF BAKER CODE OF ORDINANCES: *STORM WATER MANAGEMENT RELATIVE TO DURING CONSTRUCTION AND POST CONSTRUCTION FOR ALL DEVELOPMENT AND REDEVELOPMENT WITHIN THE CITY OF BAKER and to Provide for Other Matters regarding to the same.***

**BE IT ORDAINED BY THE MAYOR AND COUNCIL** of the City of Baker, Parish of East Baton Rouge, Louisiana, in regular session assembled, a proper quorum being there and then assembled on the 8<sup>th</sup> day of April 2025, as follows, to-wit:

#### ***SECTION 1:***

***Regarding the management of storm water in the City of Baker, Louisiana, during construction and post construction for all development and redevelopment, the following Ordinance is herein and hereby Enacted as follows to add Chapters 28 and 29 to the City of Baker Code of Ordinances:***

#### **Chapter 28 STORM WATER MANAGEMENT: DURING CONSTRUCTION AND POST- CONSTRUCTION FOR NEW DEVELOPMENT AND REDEVELOPMENT**

##### ***ARTICLE I. GENERAL PROVISIONS***

##### **Sec. 28-1. Introduction, Purpose, and Intent.**

During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. Clearing and grading during construction can also cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

Post-construction, new developments tend to increase impervious land surfaces due to the addition of hard surface roads, sidewalks and foundations, which may lead to increased volume and levels of pollutants in storm water discharges.

The purpose of this chapter is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased storm water runoff and nonpoint source pollution associated with new development and redevelopment during construction and post-construction.

Additionally, it has been determined that proper management of construction storm water runoff and post-development storm water runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment, and general welfare of the public, and protect water and aquatic resources. This chapter seeks to meet that purpose through the following objectives:

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- (1) Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
  - (2) Require that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable in order to reduce flooding, stream bank erosion, nonpoint source pollution and increases in stream temperature, and maintain the integrity of stream channels and aquatic habitats;
  - (3) Establish minimum construction and post-construction storm water management standards and design criteria for the regulation and control of storm water runoff quantity and quality;
  - (4) Establish design and application criteria for the construction and use of structural storm water control facilities that can be used to meet the minimum construction and post-construction storm water management standards;
  - (5) Encourage the use of nonstructural storm water management and storm water better site design practices, such as the preservation of green space and other conservation areas, to the maximum extent practicable;
  - (6) Establish provisions for the long-term responsibility for and maintenance of structural storm water control facilities and nonstructural storm water management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
  - (7) Establish administrative procedures for the submission, review, approval, and disapproval of storm water management plans, and for the inspection of approved active projects, and long-term follow up.

#### **Sec. 28-2. Applicability.**

This chapter shall be applicable to all land development, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to subsection (2) below. These standards apply to any new development or redevelopment site that meets one (1) or more of the following criteria:

- (1) New development that involves the creation of one (1) acre or more of impervious cover, or that involves other land development activities of one (1) acre or more;
- (2) Redevelopment that includes the creation, addition or replacement of one (1) acre or more of impervious cover, or that involves other land development activity of one (1) acre or more;
- (3) Any new development or redevelopment, regardless of size, that is defined by the City of Baker to be a hotspot land use; or
- (4) Land development activities that are smaller than the minimum applicability criteria set forth in items (1) and (2) above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.

#### **Sec. 28-3. Administration.**

The City of Baker shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the City of Baker may be delegated in writing by the superintendent of drainage to persons or entities acting in the beneficial interest of or in the employ of the agency.

#### **Sec. 28-4. Compatibility with Other Regulations.**

This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this chapter imposes restrictions different from those imposed by any

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other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

#### **Sec. 28-5. Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter 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 chapter.

#### **Sec. 28-6. Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

#### **Sec. 28-7. Definitions.**

For the purposes of this chapter, the following shall mean:

*Applicant* means a person submitting a post-development storm water management application and plan for approval.

*Certified contractor* means a person who has received training and is licensed by the State of Louisiana to inspect and maintain erosion and sediment control practices.

*Channel* means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Clearing* means any activity that removes the vegetative surface cover.

*Conservation servitude* means an agreement between a land owner and City of Baker or other government agency or land trust that permanently protects open space or green space on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

*Detention* means the temporary storage of storm water runoff in a storm water management facility for the purpose of controlling the peak discharge.

*Detention facility* means a detention basin or structure designed for the detention of storm water runoff and gradual release of stored water at controlled rates.

*Developer* means a person who undertakes land development activities.

*Development* means a land development or land development project.

*Drainage servitude* means a servitude appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge storm water runoff onto the tract or parcel of land subject to the drainage servitude.

*Drainage way* means any channel that conveys surface runoff throughout the site.

*Erosion and sedimentation control plan* means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

*Erosion control* means a measure that prevents erosion.

*Extended detention* means the detention of storm water runoff for an extended period, typically twenty-four (24) hours or greater.

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*Extreme flood protection* means the measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of one hundred (100) years or more.

*Flooding* means a volume of surface water that is too great to be confined within the banks or walls of a conveyance or stream channel and that overflows onto adjacent lands.

*Grading* means excavation or fill of material, including the resulting conditions thereof.

*Green space or open space* means permanently protected areas of the site that are preserved in a natural state.

*Hotspot* means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water.

*Hydrologic soil group (HSG)* means a natural resource conservation service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

*Impervious cover* means a surface composed of any material that significantly impedes or prevents the natural infiltration of water into soil. Impervious surfaces include, but are not limited to, rooftops, buildings, streets and roads, and any concrete or asphalt surface.

*Industrial storm water permit* means a National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries which regulates the pollutant levels associated with industrial storm water discharges or specified on-site pollution control strategies.

*Infiltration* means the process of percolating storm water runoff into the subsoil.

*Jurisdictional wetland* means an area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

*Land development* means any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

*Land development activities* means those actions or activities which comprise, facilitate or result in land development.

*Land development project* means a discrete land development undertaking.

*Inspection and maintenance agreement* means a written agreement providing for the long-term inspection and maintenance of storm water management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

*New development* means a land development activity on a previously undeveloped site.

*Nonpoint source pollution* means a form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, storm water runoff, and leaching. Nonpoint source pollution is a by-product of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

*Nonstructural storm water management practice or nonstructural practice* means any natural or planted vegetation or other nonstructural component of the storm water management plan that provides for or enhances storm water quantity and/or quality control or other storm water management benefits, and includes, but is not limited to, riparian buffers, open and green space areas, overland flow filtration areas, natural depressions, and vegetated channels.

*Off-site facility* means a storm water management facility located outside the boundaries of the site.

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*On-site facility* means a storm water management facility located within the boundaries of the site.

*Overbank flood protection* means measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e. flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through twenty-five-year frequency storm events.

*Owner* means the legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

*Perimeter control* means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*Permit* means the permit issued by the City of Baker to the applicant which is required for undertaking any land development activity.

*Person* means except to the extent exempted from this chapter, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

*Phasing* means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

*Post-development* means the time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

*Pre-development* means the time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

*Project* means a land development project.

*Redevelopment* means a land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate storm water runoff, or cause additional nonpoint source pollution.

*Regional storm water management facility or regional facility* means storm water management facilities designed to control storm water runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

*Runoff* means storm water runoff.

*Sediment control* means measures that prevent eroded sediment from leaving the site.

*Site* means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

*Site development* means a permit issued by the municipality for the construction or alteration of ground.

*Stabilization* means the use of practices that prevent exposed soil from eroding.

*Start of construction* means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*Storm water better site design* means nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural storm water management. Storm water better site design includes conserving and protecting natural areas and green space, reducing impervious cover and using natural features for storm water management.

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*Storm water management* means the collection, conveyance, storage, treatment and disposal of storm water runoff in a manner intended to prevent increased flood damage, stream bank channel erosion, habitat degradation and water quality degradation, and to enhance and promote public health, safety, and general welfare.

*Storm water management facility* means any infrastructure that controls or conveys storm water runoff.

*Storm water management measure* means any storm water management facility or nonstructural storm water practice.

*Storm water management plan* means a document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this chapter.

*Storm water management system* means the entire set of structural and nonstructural storm water management facilities and practices that are used to capture, convey, and control the quantity and quality of the storm water runoff from a site.

*Storm water retrofit* means a storm water management practice designed for a currently developed site that previously had either no storm water management practice in place or a practice inadequate to meet the storm water management requirements of the site.

*Storm water runoff* means the flow of surface water resulting from precipitation.

*Structural storm water control* means a structural storm water management facility or device that controls storm water runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow of such runoff.

*Subdivision* means the division of a tract or parcel of land resulting in one (1) or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

*Watercourse* means any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Baker.

*Waterway* means a channel that directs surface runoff to a watercourse or to the public storm drain.

**Secs. 28-8—28-20. Reserved.**

## **ARTICLE II. PRE-CONSTRUCTION PERMIT PROCEDURES AND REQUIREMENTS**

### **Sec. 28-21. Permit Requirements.**

- (a) No person shall be granted a LPDES permit for land-disturbing activity that would require the uncovering of one (1) acre or more without the approval of an erosion and sediment control plan by the Louisiana Department of Environmental Quality Water permits section.
- (b) An LPDES permit is not required for the following activities:
  - (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (2) The clearing of land solely for agricultural purposes. Projects on cultivated croplands are not regulated, as these are already disturbed areas.

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- (3) Repaving of roads and reworking of utility lines or pipelines unless one (1) or more acres of underlying and/or surrounding soil are cleared, graded, or excavated as part of the operation.
  - (c) Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by a filing fee.
  - (d) Each application shall include a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the erosion and sediment control plan and that a certified contractor shall be on site on all days when construction or grading activity takes place.
  - (e) The applicant will be required to file with the City of Baker a faithful performance bond in an amount deemed sufficient by City of Baker to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the City of Baker, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

#### **Sec. 28-22. Review and Proposal.**

- (a) The City of Baker will review each application for a LDPES permit to determine its conformance with the provisions of this regulation. Within thirty (30) days after receiving an application, the City of Baker 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 regulation, and issue the permit subject to these conditions; or
  - (3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.
- (b) Failure of the City of Baker to act on an original or revised application within thirty (30) 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 of Baker. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of Baker.

#### **Sec. 28-23. Erosion and Sediment Control Plan.**

At least one (1) storm water pollution prevention plan (SWPPP) shall be developed for each construction project or site covered by an LPDES permit. Each SWPPP shall include a description of appropriate control measures (i.e., BMPs) that will be implemented as part of the construction activity to control pollutants in storm water discharges. An erosion and sediment control plan is minimum requirement of a SWPPP.

The erosion and sediment control plan shall include the following:

- (1) *Short- and long-term goals and criteria:*
  - a. The construction phase erosion and sediment controls should be designed to retain sediment on-site to the maximum extent practicable.
  - b. All control measures must be properly selected, installed, and maintained in accordance with the manufacturers specifications and good engineering practices. If periodic inspections or other information indicates a control has been used inappropriately, or incorrectly, the permittee must replace or modify the control for site situations.
  - c. If sediments escape the construction site, off-site accumulations of sediment must be removed at a frequency sufficient to minimize off-site impacts (e.g., fugitive sediment in street could be washed into storm sewers by the next rain and/or pose a safety hazard to users of public streets).

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- d. Sediment must be removed from sediment traps or sedimentation ponds when design capacity has been reduced by fifty (50) percent.
  - e. Litter, construction debris, and construction chemicals exposed to storm water shall be prevented from becoming a pollutant source for storm water discharges (e.g., screening outfalls, picking up daily, etc.).
  - f. Off-site material storage areas (also including overburden and stockpiles of dirt, borrow areas, etc.) used solely by the permitted project are considered a part of the project and shall be addressed in the storm water pollution prevention plan.
- (2) *Stabilization practices.* The erosion and sediment control plan must include a description of interim and permanent stabilization practices for the site, including a site-specific scheduling of the implementation of the practices. Site plans should ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized. Stabilization practices may include, but are not limited to: establishment of temporary vegetation, establishment of permanent vegetation, mulching, geotextiles, sod stabilization, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Use of impervious surfaces for stabilization should be avoided.
- The following records shall be maintained and attached to the erosion and sediment control plan: the dates when major grading activities occur; the dates when construction activities temporarily or permanently cease on a portion of the site; and the dates when stabilization measures are initiated. Except as provided in subsections a., b., and c. below, stabilization measures shall be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than fourteen (14) days after the construction activity in that portion of the site has temporarily or permanently ceased.
- a. Where the initiation of stabilization measures by the fourteenth day after construction activity temporarily or permanently ceases, is precluded by snow cover or frozen ground conditions, stabilization measures shall be initiated as soon as practicable.
  - b. Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within twenty-one (21) days, temporary stabilization measures do not have to be initiated on that portion of site.
  - c. In areas experiencing droughts where the initiation of stabilization measures by the fourteenth day after construction activity has temporarily or permanently ceased is precluded by seasonal arid conditions, stabilization measures shall be initiated as soon as practicable.
- (3) *Structural practices.* The SWPPP must include a description of structural practices to divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable. Such practices may include but are not limited to: silt fences, earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins. Placement of structural practices in floodplains should be avoided to the degree attainable. The installation of these devices may be subject to Section 404 of the CWA.
- Modifications to the plan shall be processed and approved or disapproved in the same manner as subsection (4) of this regulation, may be authorized by the City of Baker by written authorization to the permittee, and shall include:
- a. Major amendments of the erosion and sediment control plan submitted to the City of Baker.

## **Sec. 28-24. Design Requirements.**

- (a) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the most recent version of the City of Baker reference manual and shall be adequate to



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prevent transportation of sediment from the site to the satisfaction of the City of Baker. Cut and fill slopes shall be no greater than 3:1, except as approved by the City of Baker to meet other community or environmental objectives.

- (b) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this chapter. Clearing techniques that retain natural vegetation and drainage patterns, as described in the City of Baker reference manual, shall be used to the satisfaction of the City of Baker.
- (c) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- (d) Phasing shall be required on all sites disturbing greater than thirty (30) acres, with the size of each phase to be established at plan review and as approved by the City of Baker.
- (e) Erosion control requirements shall include the following:
  - (1) Soil stabilization shall be completed within five (5) days of clearing or inactivity in construction.
  - (2) If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks or the City of Baker may require the site to be reseeded or a nonvegetative option employed.
  - (3) Special techniques that meet the design criteria outlined in the City of Baker reference manual on steep slopes or in drainage ways shall be used to ensure stabilization.
  - (4) Soil stockpiles must be stabilized or covered at the end of each workday.
  - (5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
  - (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
  - (7) Techniques that divert upland runoff past disturbed slopes shall be employed.
- (f) Sediment controls requirements shall include the following:
  - (1) Settling basins, sediment traps, or tanks and perimeter controls.
  - (2) Settling basins that are designed in a manner that allows adaptation to provide long term storm water management, if required by the City of Baker.
  - (3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- (g) Waterway and watercourse protection requirements shall include:
  - (1) A temporary stream crossing installed and approved by controlling agency responsible for maintenance of the watercourse if a wet watercourse will be crossed regularly during construction.
  - (2) Stabilization of the watercourse channel before, during, and after any in-channel work.
  - (3) All on-site storm water conveyance channels shall be designed according to the criteria outlined in the City of Baker reference manual.
  - (4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
- (h) Construction site access requirements shall include:
  - (1) A temporary access road provided at all sites.
  - (2) Other measures required by the City of Baker in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

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## **Sec. 28-25. Inspection.**

- (a) The City of Baker or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the erosion and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the City of Baker shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the City of Baker at least two (2) working days before the following:
  - (1) Start of construction.
  - (2) Installation of sediment and erosion measures.
  - (3) Completion of site clearing.
  - (4) Completion of rough grading.
  - (5) Completion of final grading.
  - (6) Close of the construction season.
  - (7) Completion of final landscaping.
- (b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved erosion and sediment control plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the City of Baker at the time interval specified in the approved permit.
- (c) The City of Baker or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed.

## **Sec. 28-26. Enforcement.**

- (a) *Stop-work order; revocation of permit.* In the event that any person holding a site development permit pursuant to this chapter 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 of Baker 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 chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this chapter is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than five hundred dollars (\$500.00) per day and/or thirty (30) days in jail for each offense plus any penalties levied by either/or LDEQ or USEPA. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration.

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## **Chapter 29 STORM WATER MANAGEMENT: ILLICIT DISCHARGE DETECTION AND ELIMINATION**

### ***ARTICLE I. GENERAL PROVISIONS***

#### **Sec. 29-1. Introduction, Purpose and Intent.**

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

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

#### **Sec. 29-2. Applicability.**

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Baker.

#### **Sec. 29-3. Administration.**

The City of Baker shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the City of Baker may be delegated in writing by the Mayor of the City of Baker to persons or entities acting in the beneficial interest of or in the employ of the agency.

#### **Sec. 29-4. Severability.**

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter 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 chapter.

#### **Sec. 29-5. Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore, this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

### ***ARTICLE II. DEFINITIONS***

#### **Sec. 29-6. Definitions.**

For the purposes of this chapter, the following shall mean:

*The City of Baker* means employees or designees of the Mayor of the City of Baker designated to enforce this chapter.

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*Best management practices (BMPs)* means the 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 storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

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

*Construction activity* means activities subject to LPDES construction permits. LPDES storm water phase II permits will be required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

*Hazardous materials* means 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.

*Illegal discharge* means any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 29-27 of this chapter.

*Illicit connections* means either of the following: 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 connection had been previously allowed, permitted, or approved by the City of Baker or, 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 City of Baker.

*Industrial activity* means activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26 (b)(14).

*Litter* means any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind.

*Louisiana Pollutant Discharge Elimination System (LPDES) storm water discharge permit* means a permit issued by the State of Louisiana, under 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.

*Non-storm water discharge* means any discharge to the storm drain system that is not composed entirely of storm water.

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pollutant* means anything which causes or contributes to pollution. Pollutants 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, 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.

*Premises* means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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*Public or private property* means the right-of-way of any road or highway; any body of water or watercourse or the shores or beaches thereof; any park, playground, building, refuge, or conservation or recreation area; timberlands or forests; and residential, commercial, industrial, or farm properties.

*Storm drainage system* means publicly-owned facilities 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.

*Storm water* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

*Storm water pollution prevention plan* means [a] document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

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

**Secs. 29-7—29-25. Reserved.**

### ***ARTICLE III. DISCHARGE PROHIBITIONS***

#### **Sec. 29-26. 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. These illicit discharges may originate from the following sources: sanitary wastewater, effluent from septic tanks, car wash wastewater, improper oil disposal, radiator flushing disposal, laundry wastewaters, spills from roadway accidents, and improper disposal of auto and household toxics.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited.

Notwithstanding other requirements in this chapter, the following instances and categories of non-storm water discharges are exempt from the requirements of this section:

- (1) Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, 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 wet-land flows, swimming pools (if dechlorinated—typically less than one (1) PPM chlorine), firefighting activities, and any other water source not containing pollutants.
- (2) Discharges specified in writing by the City of Baker as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the City of Baker prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an LPDES permit, waiver, or waste discharge order issued to the discharger and administered 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 for any discharge to the storm drain system.

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### **Sec. 29-27. Prohibition of Illicit Connections.**

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 chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

### **Sec. 29-28. Dumping/Litter Prohibitions.**

It shall be unlawful for any person or persons to dump, deposit, throw, store, leave or to cause or permit the dumping, depositing, placing, throwing, storing or leaving of litter on any public or private property or any waters in the City of Baker unless:

- (1) The property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter, and such person is authorized by the proper public authority to use such property;
- (2) The litter is placed into a receptacle or container installed on such property; or,
- (3) The person is the owner or tenant in lawful possession of such property, or has first obtained consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant, all in a manner consistent with the public welfare.

Additional dumping and litter prohibitions that must be complied with are found in Chapter 20, of the City of Baker Code.

### **Sec. 29-29. Storage of Hazardous or Toxic Material.**

Storage or stockpiling of hazardous or toxic material within any watercourse, or in its associated floodway or floodplain, is strictly prohibited. Storage or stockpiling of hazardous or toxic material, including sewage treatment plant stockpiles, on active construction sites must include adequate protection and/or containment to prevent any such materials from entering any temporary or permanent storm water conveyance or watercourse. Reference Chapter 20, of the City of Baker Code for prohibitions concerning the unlawful dumping of hazardous waste.

### **Sec. 29-30. Industrial or Construction Activity Discharges.**

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 City of Baker prior to the allowing of discharges to the MS4.

### **Sec. 29-31. Watercourse Protection on Private Property.**

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 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.

### **Secs. 29-32—29-50. Reserved.**

## ***ARTICLE IV. SUSPENSION OF MS4 ACCESS***

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### **Sec. 29-51. Suspension Due to Illicit Discharges in Emergency Situations.**

The City of Baker may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present 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 City of Baker may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

### **Sec. 29-52. Suspension Due to the Detection of Illicit Discharge.**

Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The City of Baker will notify a violator of the proposed termination of its MS4 access. The violator may petition the City of Baker for a reconsideration and hearing.

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

### **Secs. 29-53—29-69. Reserved.**

## ***ARTICLE V. MONITORING OF DISCHARGES***

### **Sec. 29-70. Applicability.**

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

### **Sec. 29-71. Access to Facilities.**

- (a) The City of Baker shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (b) Facility operators shall allow the City of Baker ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an LPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (c) The City of Baker shall have the right to set upon any permitted facility such devices as are necessary in the opinion of the City of Baker to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) The City of Baker 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 its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (e) 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 City of Baker and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the City of Baker access to a permitted facility is a violation of a storm water discharge permit and of this chapter. A person who is the operator of a facility with an LPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the City of

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Baker reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

- (g) If the City of Baker 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 chapter, 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City of Baker may seek issuance of a search warrant from any court of competent jurisdiction.

### **Sec. 29-72. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.**

The City of Baker 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 United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs.

Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all the terms and conditions of a valid LPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the LPDES permit.

### **Sec. 29-73. 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 United States, 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 hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the City of Baker in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City of Baker within three (3) 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 on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

### **Secs. 29-74—29-90. Reserved.**

## ***ARTICLE VI. ENFORCEMENT***

### **Sec. 29-91. Notice of Violation.**

Whenever the City of Baker finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the City of Baker may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;



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- (2) The elimination of illicit connections or discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
  - (5) Payment of a fine to cover administrative and remediation costs including penalties levied by LDEQ and/or USEPA; and
  - (6) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which 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 a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### **Sec. 29-92. Appeal of Notice of Violation.**

Any person receiving a notice of violation may appeal the determination of the City of Baker. The notice of appeal must be received within five (5) working days from the date of the notice of violation. Hearing on the appeal before the City of Baker Council shall take place within twenty (20) days from the date of receipt of the notice of appeal. The decision of the City of Baker Council or their designee shall be final.

#### **Sec. 29-93. Enforcement Measures after Appeal.**

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 ten (10) days of the decision of the City of Baker Council upholding the decision of the City of Baker, then representatives of the City of Baker 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.

#### **Sec. 29-94. Cost of Abatement of the Violation.**

Within ten (10) working days after abatement of the violation, 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 five (5) working days. If the amount due is not paid within a timely manner as determined by the decision of the City of Baker Council 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. Any person violating any of the provisions of this section shall become liable to the City of Baker by reason of such violation.

#### **Sec. 29-95. Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the City of Baker may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

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**Sec. 29-96. Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the City of Baker may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, watercourse cleanup, etc.

**Sec. 29-97. Violations Deemed a Public Nuisance.**

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

**Sec. 29-98. Criminal Prosecution.**

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty.

Louisiana Revised Statutes 30:2076.2 provides for criminal penalties for violation of any provisions of the LPDES or any order or any permit condition or limitation issued under said program or implementing any provisions of the LPDES program.

The City of Baker may recover all attorney's fees court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

**Sec. 29-99. Remedies not Exclusive.**

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Baker to seek cumulative remedies.

## ***SECTION 2: Conflicts and Repeal***

All Ordinances and parts of Ordinances in conflict herewith and the same are hereby Repealed.

All Ordinances not in conflict herewith and not affected by the amendment hereinabove set forth are hereby maintained in full force and effect as if re-enacted herein.

The Repeal of an Ordinance shall not affect any punishment or penalty incurred before the repeal took effect, or any suit, prosecution or proceedings pending at the time of the repeal, for an offense committed under the ordinance repealed.

## ***SECTION 3: Severability***

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by any Court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrases, clauses, sentence, paragraph or section. If the provisions of this ordinance, or the application thereof to any person, fact, situation or circumstance are held invalid, the remainder of this ordinance and the application of such provisions to the other persons, facts, situations or circumstances, shall not be affected thereby.

## ***SECTION 4: Invalidation***

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provisions or applications and, to that end, any and all provisions of this ordinance and applications thereof are declared to be severable.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

**YEAS:** Collins, Dunn, Murphy, Vincent, Young

**NAYS:** None

**ABSENT:** None

**ABSTAIN:** None

And the Ordinance was presented March 18, 2025, at the regular meeting of the Baker City Council held at the City Hall Building in Baker, Louisiana.

And the Ordinance was declared adopted on this, the 8<sup>th</sup> day of April, 2025, at the regular meeting of the Baker City Council held at the Baker City Hall Building in Baker, Louisiana.

**ATTEST:**

**/s/Angela Canady Wall, LCMC, Clerk of Council**

**/s/Darnell Waites, Mayor**