



# *St. Bernard Parish Council*

8201 West Judge Perez Drive    Chalmette, Louisiana, 70043  
(504) 278-4228    Fax (504) 278-4209  
[www.sbpq.net](http://www.sbpq.net)

**#20**

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, APRIL 4, 2017 AT SEVEN O'CLOCK P.M.

On motion of Ms. Callais, seconded by Mr. McCloskey, it was moved to adopt the following ordinance:

## **ORDINANCE SBPC #1869-04-17**

### **Summary No. 3470**

Introduced by: Councilmember Callais on 3/21/17  
Public hearing held on 4/4/17

AN ORDINANCE IMPLEMENTING THE UPDATED COASTAL ZONE MANAGEMENT PROGRAM FOR ST. BERNARD PARISH AND PROVIDING FOR THE REGULATION AND CONTROL OF COASTAL USES OF LOCAL CONCERN.

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

**SECTION 1.** That St. Bernard Parish Council does hereby implement the updated Coastal Zone Management Program for St. Bernard Parish and providing for the regulation and control of coastal uses of local concern as per attached in Exhibit "A".

**SECTION 2.** Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

**SECTION 3.** Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted.

**Kerri Callais**  
Councilmember  
at Large

**Richard "Richie" Lewis**  
Councilmember  
at Large

**Gillis McCloskey**  
Councilmember  
District A

**Nathan Gorbaty**  
Councilmember  
District B

**Howard Luna**  
Councilmember  
District C

**Wanda Alcon**  
Councilmember  
District D

**Manuel "Monty" Montelongo III**  
Councilmember  
District E

**Roxanne Adams**  
Clerk of Council



# St. Bernard Parish Council

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Extract #20 continued  
April 4, 2017

**Kerri Callais**  
Councilmember  
at Large

**Richard "Richie" Lewis**  
Councilmember  
at Large

**Gillis McCloskey**  
Councilmember  
District A

**Nathan Gorbaty**  
Councilmember  
District B

**Howard Luna**  
Councilmember  
District C

**Wanda Alcon**  
Councilmember  
District D

**Manuel "Monty"  
Montelongo III**  
Councilmember  
District E

**Roxanne Adams**  
Clerk of Council

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:


**YEAS:**            McCloskey, Gorbaty, Luna, Alcon, Montelongo, Callais

**NAYS:**            None

**ABSENT:**        None

The Council Chair, Mr. Lewis, cast his vote as **YEA**.

And the motion was declared **adopted** on the 4<sup>th</sup> day of April, 2017.

  
ROXANNE ADAMS  
CLERK OF COUNCIL

  
RICHARD J. LEWIS  
COUNCIL CHAIR

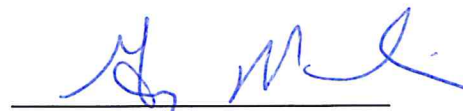
Delivered to the Parish President

4/7/17 3:25pm  
Date and Time

Approved 

Vetoed \_\_\_\_\_

Parish President

  
Guy McInnis

Returned to Clerk of the Council

4/11/2017 9:17am  
Date and Time

Received by



**EXHIBIT "A"**  
**SUMMARY NO. 3470**  
**ORDINANCE SBPC #1869-04-17**

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**SECTION 1 - PURPOSE**

- 1.1 The St. Bernard Parish Coastal Zone Management Ordinance is hereby enacted. The purpose of this ordinance is to implement the updated Coastal Zone Management Plan that will maintain a balance between conservation and coastal use in St. Bernard Parish.
- 1.2 This ordinance is adopted pursuant to the State and Local Coastal Resources Management Act of 1978 Act 361, as amended). This Act establishes the Louisiana Coastal Zone Management Program which allowed for a coastal use permitting system to be created at both state and parish levels of government. This ordinance ensures the continuation of a coastal use permitting system for St. Bernard Parish.
- 1.3 The Parish of St. Bernard does hereby certify that the updated Local Coastal Zone Management Program adopted pursuant to La.R.S. 49:213, its guidelines, rules and regulations, is consistent with the Louisiana Coastal Resources Program, its policies and 2 objectives, and that the Parish of St. Bernard Local Coastal Zone Management Program shall be interpreted and administered consistently with such policies, objectives, and guidelines.

**SECTION 2 - DEFINITIONS**

Unless specifically defined in this section, words and phrases in this ordinance shall be read as commonly used and to give this ordinance its most reasonable application.

1. Act means the State and Local Resources Management Act of 1978, Act 361 of 1978 as amended (SLCRMA) La.R.S.49:214.21 et seq.

2. After-the-Fact Permit means a coastal use permit issued after the commencement of an activity or use.
3. Aggrieved Party means any person who receives a decision adverse to their interests or proposed objectives.
4. Agricultural, Forestry and Aquaculture Activities means those activities that are common practice and incident to agriculture, forestry and aquaculture provided that the activity is one of an on-going basis; that do not require a permit from the U.S. Army Corps of Engineers; and that do not result in a new or changed use of the land. Examples include seeding, fence building, and harvesting.
5. Applicant means a landowner, person or company responsible for the proposed project
6. Camp means a structure built and used for non-commercial and non-profit purposes and commonly referred to as "single family," not multiple family dwellings and shall apply only to such structure built singly, by and for the owner/lessee of the land for the owner's/lessee's use and not to practices involving the building of more than one such structure as in subdividing, tract development, speculative building, or recreational community development and intended for periodic occupancy.
7. Closely-related actions mean those actions that:
  - Automatically trigger other actions which may require permits;
  - Cannot proceed unless other actions are taken previously or simultaneously; or
  - Are interdependent parts of a larger action and depend upon the larger action for their justification.
8. Coastal Use Permit or permit or CUP means those permits required by La.R.S. 49:214.30.
9. Coastal Waters means bays, lakes, inlets, estuaries, rivers, bayous and other bodies of water within the boundaries of the coastal zone.
10. Coastal Zone means that area described in La.R.S. 49:214.24.
11. Coastal Zone Management Program means the applicable laws, regulations, policies and guidelines developed by federal, state, and local government to implement the State and Local Coastal Resources Management Act of 1978, Act 361 of 1978 as amended.
12. Compensatory mitigation means replacement, substitution, enhancement, or protection of ecological values to offset anticipated losses of those values caused by a permitted activity.
13. Conservation Plan means the Louisiana Coastal Wetlands Conservation Plan which details the comprehensive effort of the state to offset losses of wetlands from development activity.

14. Continuing Uses are activities which by nature are carried out on an uninterrupted basis, examples include shell dredging and surface mining activities, projects involving maintenance dredging of existing waterways, and maintenance and repair of existing levees.
15. Cumulative Impacts means the influence on the environment resulting from the incremental effects of the activity when added to other past, present, and reasonably foreseeable future activities regardless of what agency or person undertakes those activities. Cumulative impacts may result from individually minor but collectively significant activity taking place over a period of time. "Secondary" impacts caused or enabled by a particular project are considered cumulative; including, but not limited to, increased development in an area where new sewers, roads, and other infrastructure have been built whether plans exist for this area at the time the infrastructure is built or not. Cumulative impacts to coastal zone resources may result from activity outside the coastal zone or from activity exempt under coastal zone permitting.
16. Department or DNR means Department of Natural Resources.
17. Direct and Significant Impact means an impact that alters the physical, hydrological, chemical, or biological characteristics of coastal waters as a result of an action or series of actions undertaken by man.
18. Emergency means a situation that poses an immediate threat to public safety, life, health or property and action in response to the threat cannot await the permitting process. Declaration of an emergency must come from a governmental body with authority to make such declarations and continues for the time that body specifies.
19. Environmental Management Unit or EMU means an area with certain distinguishing physical, hydrological, chemical, biological or cultural characteristics.
20. Exempted Use shall mean any use specifically listed in this ordinance as not requiring a permit.
21. Fastlands means lands surrounded by publicly-owned, maintained, or otherwise validly existing levees or natural formations as of January 1, 1979, or as may be lawfully constructed in the future, which levees or natural formations would normally prevent activities, not to include the pumping of water for drainage purposes, within the surrounded area from having direct and significant impacts on coastal waters.
22. Guidelines mean Louisiana Administrative Code (L.A.C.) Title 43, Chapter 7 Subchapter B entitled "Coastal Use Guidelines."
23. Habitat means the natural environment where a plant or animal population lives.
24. Interested person means any of the following:
  - Any applicant, an agent or an employee of the applicant, or a person receiving consideration for representing the applicant, or a participant in a proceeding on the matter.

- Any person with a financial interest in a matter before the appeals panel, or an agent or employee of the person with a financial interest, or a person representing the person with a financial interest.
  - A representative acting on behalf of any civic, environmental, neighborhood, business, labor, trade, or similar organization who intends to influence the decision of the appeals panel on a matter before the appeals panel.
25. Levees mean any use or activity which creates an embankment to control or prevent water movement, to retain water or other material, or to raise a road or other linear use above normal or flood water levels. Examples include levees, dikes and embankments of any sort.
26. Local administrator means the St. Bernard Parish professional charged with implementing and administering this ordinance and the Local Coastal Zone Management Plan.
27. Local Coastal Zone Advisory Committee or Committee means the group of designated individuals, representing coastal area user groups.
28. Local Government means the St. Bernard Parish Council and Parish President.
29. Navigational Aids means buoys, marker piles, dolphins, piling, and/or pile clusters when in conformance with U.S. Coast Guard standards and do not involve dredge and fill activity.
30. Non-continuing Uses are activities which by nature are done on a one-time basis, examples include dredging access canals for oil and gas well drilling, implementing an approved land use alteration plan and constructing new port or marina facilities.
31. Normal Maintenance and Repair means activity taken to reasonably preserve the utility of a lawfully existing structure in active use for the year preceding the proposed activity. It does not include expanding an existing structure, dredging and filling, or altering the magnitude or function of the original structure.
32. Parish Coastal Zone Management Program means the compendium of laws, regulations and enforceable policies that comprise the Parish's state and federally approved Local Coastal Management Program.
33. Overriding public interest means that the public interest benefits of a given activity clearly outweigh the public interest benefits of compensating for wetland values lost as a result of the activity, as in the case of certain mineral extraction, production, and transportation activities or the construction of flood protection facilities critical for protection of existing infrastructure.
34. Permit means a coastal use permit.
35. Person means any individual, partnership, association, trust, public agency or authority, corporation, government body or any other legal or jurisdictional person created by law.

36. Public Hearing means a hearing announced to the public at least thirty (30) days in advance, at which all interested persons shall be afforded a reasonable opportunity to submit data, views or arguments, orally or in writing. At the time of the announcement of the public hearing all materials pertinent to the hearing, including documents, studies, and other data, in the possession of the party calling the hearing, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the party which conducted the hearing.
37. Residence means structure built and used for non-commercial and non-profit purposes and commonly referred to as "single family", not multiple family, dwellings and shall apply only to such structures built singly, by and for the owner of the land for the owner's use and not to practices involving the building of more than one such structure as in subdividing, tract development, speculative building, or recreational community development and intended as a primary residence.
38. Residents mean both real persons and entities whose occupancy in St. Bernard Parish is intended to be of an on-going, primary nature. These include, but are not limited to, civic, environmental, neighborhood, business, labor, trade, or similar organizations or a legally recognized business entity.
39. Secretary means the Secretary of the Department of Natural Resources or his or her designee.
40. Special Management Areas means those portions of the coastal zone within St. Bernard Parish that require special management procedures due to certain unique and valuable characteristics. Examples include barrier islands, shell deposits, salt domes, archaeological sites, transportation corridors, endangered species habitat, ports, and recreational sites among others. These areas may be nominated by the Parish Council. Establishment of Special Areas shall be in accordance with L.A.C. 43:L§729 et al.
41. State Administrator means the Office of Coastal Management within the Louisiana Department of Natural Resources.
42. State Use or Uses of State Concern means those uses which directly and significantly affect coastal waters and which are in need of coastal management and which have impacts of greater than LOCAL significance or which significantly affect interests of regional, state, or national concern. Uses of state concern shall include, but not be limited to:
- a. Any dredge or fill activity which intersects with more than one water body.
  - b. Projects involving use of state owned lands or water bottoms.
  - c. State publicly funded projects.
  - d. National interest projects.
  - e. Projects occurring in more than one parish.
  - f. All mineral activities, including exploration for, and production of, oil, gas, and other minerals, all dredge and fill uses associated therewith, and all other associated uses.
  - g. All pipelines for the gathering, transportation or transmission of oil, gas and other minerals.
  - h. Energy facility siting and development
  - i. Uses of LOCAL concern which may significantly affect interests of regional, state or national concern.

43. Supplemental material means any of the following or other, unlisted material deemed appropriate by the local administrator: a description of the physical, chemical, hydrological, biological, and cultural environment in which the activity is proposed to take place; a list of alternatives to the proposed activity including a "status quo" alternative; a complete description of expected consequences to the physical, chemical, hydrological, biological, and cultural environment; how any such impacts will be mitigated or offset including when these environmental benefits will be achieved, evidence to support the proposal's intended results and how the projected results – both positive and negative -- may be monitored in the future.
44. The Administration means the St. Bernard Parish Department of Community Development-Office of Coastal Zone Management, the authority of general jurisdiction and operation at the parish level.
45. Uplands mean land that is five feet or more above sea level, fastlands, or all lands outside the coastal zone.
46. Use means any use or activity within the coastal zone which has a direct and significant impact on coastal waters.
47. Wetland means land that:
- has a predominance of hydric soil;
  - is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
  - under normal circumstances does support a prevalence of that vegetation.
48. Wetland functions means a service that wetlands perform, including flood water storage, flood water conveyance, ground water discharge, erosion control, wave attenuation, water quality protection, scenic and aesthetic use, food chain support, and habitat for fish, wildlife, invertebrates, and plants, among others.

### **SECTION 3 POLICIES**

- 3.1 The following policies are contained in the updated St. Bernard Parish Coastal Zone Management Program:
- a. Support restoration strategies identified in the State of Louisiana's 2007 Integrated Ecosystem Restoration and Hurricane Protection: Louisiana's Comprehensive Master Plan for a Sustainable Coast and subsequent state approved restoration and flood protection plans using measures appropriate for St. Bernard Parish.
  - b. Support restoration strategies for Regions 1 and 2 of St. Bernard Parish as recommended in Coast 2050: Toward a Sustainable Coastal Louisiana.
  - c. Support restoration programs that utilize the introduction of fresh water and sediment into wetlands.

- d. Support beneficial use of dredged material to create wetlands, barrier islands, and beaches, where practicable.
- e. Encourage use of appropriate bankline stabilization measures to retard wetland loss resulting from shoreline erosion by wind, wave and slumping actions.
- f. Support and encourage wetland management and restoration projects implemented by private landowners.
- g. Support state and federal wetland management and restoration projects in designated wildlife management areas.
- h. Encourage the locating of new pipelines in established pipeline corridors to the maximum extent practical.
- i. Encourage oil and gas exploration and production practices to be conducted in an environmentally sound manner and consistent with the CZMP and implementation ordinance.
- j. Encourage oil and gas operating companies to incorporate wetland management and mitigation components in their operation plans that are consistent with state and local coastal management programs.
- k. Support actions to restore and/or maintain barrier islands.
- l. Oppose projects that damage barrier islands, beaches, wetlands, and other habitats where proposed project associated restoration or mitigation measures are inadequate.
- m. Support reestablishment and/or relocation of productive oyster seed reefs that are impacted by government funded restoration projects (e.g., freshwater diversions, dredging and deposition of fill material) and man-made disasters such as oil spills.
- n. Support efforts to improve water quality.
- o. Support, enhance, encourage and protect multiple-use of resources consistent with maintenance and enhancement of renewable resources management and productivity, and the need to provide for economic and orderly growth and development, with minimization of adverse effects of one resource use upon another without imposing undue restrictions on any user.
- p. Promote recreational activities in wetlands through the development of environmentally compliant support and staging facilities such as parks and boat launches.
- q. Encourage the use of Best Management Practices during construction of development projects in upland and fastland areas in order to reduce adverse environmental impacts to adjacent wetlands.
- r. Encourage avoidance of activities on upland and fastland areas that would have negative and unmitigated impacts on adjacent wetlands.

- s. Establish separate guidelines for wetlands that recognize that:
  - 1. The wetlands of St. Bernard Parish, although part of a larger estuarine ecosystem, stretching from Lake Maurepas to the Chandeleur Islands, consist of a series of distinct geographic areas. These areas have been combined into appropriate environmental units to facilitate wetland management and habitat enhancement.
  - 2. Individual permissible uses for each wetland management unit are based on a balance of economic, environmental, and social priorities and needs.
  - 3. The primary goal for future use of parish wetlands is to maintain them in their natural condition and to restore, when possible, those areas that have deteriorated due to natural and human-induced actions. A major aspect of these restoration activities should be the preservation of the parish's archaeological and historical resources. Maximum use of the renewable and non-renewable resources of the wetlands is encouraged so long as high productivity is maintained and the ecological balance of the wetlands is not disrupted further.

#### **SECTION 4 MANAGEMENT GOALS**

- 4.1 The following management goals are contained in the updated St. Bernard Parish Coastal Zone Management Program:
  - a. Attain proper use of parish resources through a balance of conservation and development.
  - b. Identify natural habitats with unique characteristics and develop methods to maintain them.
  - c. Determine the degree of development intensity suitable for all areas of the parish.
  - d. Enhance the biologically productive and physically protective aspects of the parish's wetland environment.
  - e. Enhance cultural and recreational opportunities in the parish by the development of ecologically sensitive facilities within the context of a comprehensive program.
  - f. Enhance the productivity, flood protection and water storage functions of St. Bernard Parish wetlands.
  - g. Protect stable wetlands, reduce land loss in deteriorating wetlands, and create and restore wetlands, where practicable.
  - h. Reduce shoreline erosion in order to preserve wetlands and preserve shallow estuarine areas and protect water-dependent development outside of fastlands.
  - i. Introduce fresh water and nutrients into wetland areas to restore and sustain natural habitats to the maximum extent practical.

- j. Improve and maintain water quality.
- k. Enhance multiple functions of wetlands through the restoration of fresh-to-saline gradients of surface water using hydrological management.
- l. Reduce saltwater intrusion through the emplacement of plugs or water control structures at the ends of canals.
- m. Protect water bottoms and associated biotic communities from damages induced by human activity, such as dredging.
- n. Achieve environmentally sound oil and gas exploration and production practices that minimize environmental damage to wetlands and sensitive natural areas and contribute to the parish's efforts to maintain and restore wetlands, sensitive natural areas, and barrier islands.
- o. Restore Chandeleur Barrier Island system through coastal restoration projects involving repair of breaches and creation of dunes for protection from storm surge and for wildlife habitat.
- p. Maintain the extensive seagrass beds behind the Chandeleur Barrier Islands.
- q. Restore wetlands, including marshes and where feasible cypress swamps, using freshwater diversions and dredged material near protection levees for additional protection from storms.
- r. Restore forest habitats (freshwater swamps, maritime forests, live oak natural levee forests) throughout the parish for habitat diversity, use by migratory neotropical birds, recreation and storm surge protection.
- s. Encourage participation in wetland conservation and restoration programs by landowners and public agencies.
- t. Evaluate proposed development of wetland areas for non-wetland dependent uses and require appropriate mitigation for unavoidable adverse impacts.
- u. Support environmentally sound economic uses with special emphasis on sustainable multiple-use of waterfront areas.
- v. Support orderly development with encouragement of land uses that are compatible with wetlands and aquatic habitats.

## **SECTION 5 DUTIES OF THE LOCAL ADMINISTRATOR**

5.1 The local administrator shall perform the following duties:

- a. Manage the local Coastal Zone Management Program, as adopted by the St. Bernard Parish Government, and state and federally approved;

- b. Issue, deny or modify CUPs consistent with the Coastal Zone Management Program for St. Bernard Parish;
- c. Adopt any rules and regulations that are reasonable and necessary to carry out this ordinance in conformance with the generally established procedures for St. Bernard Parish rule making;
- d. Conduct any investigation necessary to ascertain compliance with this ordinance;
- e. Act as liaison for St. Bernard Parish to the U.S. Army Corps of Engineers, other parishes, and other state and local governmental entities relative to projects governed by this ordinance or the Act which are proposed to take place in or impact the coastal zone of St. Bernard Parish;
- f. Review and comment upon uses of state concern, as defined in La.R.S.49:214.25 A (1);
- g. Coordinate with the state administrator regarding receipt of a complete coastal use permit application for a use of local concern;
- h. Maintain and hold open for public inspection records pertaining to this ordinance and activities governed by this ordinance;
- i. Regularly update the Committee on actions taken by the local administrator;
- j. Enforce this ordinance and the Act;
- k. Request and receive the assistance of other officers and employees of the parish, when necessary to carry out these duties;
- l. Consider written requests from St. Bernard Parish residents to add, modify, or delete local rules implementing this ordinance;
- m. Submit regular reports as required by the Secretary; and
- n. Implement this ordinance and the Act.
- o. To avoid duplication, any of the local administrator's duties that are already performed by another St. Bernard Parish Office (i.e., Office of Safety and Permits and Office of Planning and Zoning in the Department of Community Development) may remain a responsibility of that office provided that a standardized method of communicating between that office and the local administrator exists.

## **SECTION 6 DUTIES OF THE LOCAL COASTAL ZONE ADVISORY COMMITTEE**

### **6.1 The Local Coastal Zone Advisory Committee shall:**

- a. Include representatives of various interest groups to encourage full use of the coastal resources while recognizing it is in the public interest of the people of the St. Bernard Parish Council or St. Bernard Parish to establish a proper balance between development and conservation;

- b. Have its membership appointed by majority vote of the St. Bernard Parish Council;
- c. Remove members only for good cause;
- d. Have its public meetings organized by the local administrator who functions as a nonvoting chair of the committee meetings;
- e. Advise, comment, or make recommendations to the Parish Council on any coastal project, coastal activity, coastal development, or coastal use permit application;
- f. Review and comment upon any proposed rules and regulations impacting the Coastal Zone;
- g. Recommend to the Parish Council any modifications to this ordinance;
- h. Review and comment upon any coastal use permit application at the request of the local administrator.

## **SECTION 7 COASTAL USE PERMIT APPLICATIONS**

1. Undertaking a use of local or state concern in the St. Bernard Parish coastal zone without a Coastal Use Permit or in violation of permit terms is unlawful. Activities listed under La. R.S. 49:214.34(A) are exempt from this ordinance, except when that particular activity would have direct and significant impact on coastal waters. These exceptions noted in the revised statutes must be described in a complete permit application to allow a determination of whether they have a direct and significant impact on coastal waters.
2. A coastal use permit shall be required for a coastal use of local concern, as defined in the State and Local Coastal Resources Management Act of 1978 (Act 361 of 1978 as amended). Uses or activities occurring in areas 5 feet or more above mean sea level or in fastlands do not require a coastal use permit, unless it can be shown that the use or activity has a direct and significant impact on coastal waters. Uses of local concern include, but are not limited to:
  - a. Privately funded projects which are not a use of state concern,
  - b. Publicly funded projects which are not uses of state concern,
  - c. Maintenance of uses of local concern,
  - d. Jetties or breakwaters,
  - e. Dredge or fill projects not intersecting more than one (1) water body,
  - f. Bulkheads,
  - g. Piers,
  - h. Camps and Cattlewalks,
  - i. Maintenance dredging,
  - j. Private water control structure less than \$15,000 in cost,
  - k. Uses on cheniers, salt domes, or similar landforms,
  - l. Any other coastal uses which directly and significantly affect coastal waters, and are in need of coastal management but are not uses of state concern and which should be regulated primarily at the local level. St. Bernard Parish Council shall have the power to add other coastal uses to

this list as recommended by the Department of Community Development, Office of Coastal Zone Management and the Coastal Zone Advisory Committee, subject to the approval of the Secretary.

3. Separate applications shall be made for each unrelated, single action. Actions that are closely-related should be included in a single permit application.
4. Applications are to be submitted directly to the state administrator for initial review and determination of whether the proposed action is of state or local concern.
5. The local administrator will assist the applicant to the extent required to submit the permit application and any supplemental materials, on line or as a hard copy, to the state administrator for an authoritative determination as to whether or not a use is of state or local concern.
6. All applications shall be made on the form(s) prescribed by the Secretary, available through the St. Bernard Parish Department of Community Development, Office of Coastal Zone Management or on the Website of the Louisiana Department of Natural Resources.
7. Applications must include material required by L.A.C. Title 43 '723(C)(2), including, but not limited to, the following:
  - a. The name, address, and telephone number of the applicant. If the applicant is not the owner of the property, written documentation that the owner has given the applicant authority to act on his or her behalf is required,
  - b. A detailed description of the coastal use activity,
  - c. Maps showing actual location, size and dimensions of the real property used and the access routes to be used, if relevant,
  - d. Plans showing the exact location, size, and height of the buildings or structures to be developed,
  - e. A list of all applications, approvals, and/or denials already made concerning the development to/by federal, state, or local agencies,
  - f. A description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of the proposed coastal use,
  - g. If the development involves dredging, a description of the type, quantity and composition of the dredged material, plans showing extent of dredge and fill, the method of dredging and disposal.
  - h. Any other documentation required by the Local or State Administrator due to the particular nature of the project, and
  - i. All required application fees.

8. Once the Secretary determines that an application is complete and involves a use or activity of local concern, the complete application is sent to the local administrator for processing and to the US Army Corps of Engineers, New Orleans District.
9. Upon a finding of no impact(s), the local administrator shall notify the project applicant proponent that the activity may proceed without a coastal use permit.
10. Upon a finding that direct and significant impacts(s) will result from the proposed activity, the application will proceed through the permit process of the St. Bernard Parish Department of Community Development, Office of Coastal Zone Management.
11. Application fees for local coastal use permits may be assessed according to a schedule prepared and posted by the local administrator.
12. The application fee is based on the estimated cost of the proposed coastal use and wetland area (acreage) of impact current at the time of the permit application:

CLASS	COST	IMPACT	FEE
I	< \$100K	< 1 acre	\$150
II	\$100K - \$200K	< 1 acre	\$500
III	> \$200K	or 1-3 acres	\$2,000
IV	N/A	3 – 10 acres	\$5,000
V	N/A	> 10 acres	\$10,000
Schedule of Fees as of June 1, 2008			

- a. Class I (\$150) Coastal projects which cost less than one hundred thousand dollars (\$100,000) and impact less than one (1) acre of wetlands. Any coastal project that cannot otherwise be classified will be considered Class I.
- b. Class II (\$500) Coastal projects which cost between one hundred thousand dollars (\$100,000) and two hundred thousand dollars (\$200,000) and impact less than one (1) acre of wetlands.
- c. Class III (\$2,000) Coastal projects which cost over two hundred thousand dollars (\$200,000) or impact from one (1) to three (3) acres of wetlands. Class III projects also include all wells; well platforms; pipeline dredging; excavation; seismic exploration jobs; and any other well activity which has a direct and significant impact on the water bottom.
- d. Class IV (\$5,000) Coastal projects which impact from three (3) to ten (10) acres of wetlands.
- e. Class V (\$10,000) Coastal projects which impact greater than ten (10) acres of wetlands.
- f. The term "impact" shall be interpreted to mean the following: *Direct and significant impact* means an impact that perceptibly or measurably alters the physical, hydrological, chemical, or biological characteristics of coastal waters as a result of an action or series of actions undertaken by man.

## SECTION 8 PERMIT APPLICATION REVIEW PROCESS

8.1 Application processing for a use or activity of local concern will begin when a complete application is accepted by the local administrator from the state administrator. The local administrator shall assign it a number and acknowledge its receipt by the submission of a permit application acknowledgement code sheet to the state administrator within two (2) days of receipt of the complete application.

8.2 Local Concern:

- a. The local administrator shall, within 10 days of receipt of a complete application, make public notice in the official parish newspaper of the pending local use application in accordance with L.A.C. 43:1,723(C)(5).
- b. The local administrator shall review the application for consistency with the state and local coastal zone management program guidelines. Before expiration of the applicable 25-day public comment period, the local administrator shall:
  1. forward copies of the local concern application to appropriate parish officials for comment.
  2. solicit comments from the local Coastal Zone Advisory Committee members. The applicant or other agencies with expertise may be provided an opportunity to address issues raised in comments prior to the final permit decision.
  3. make a determination regarding the appropriateness of calling a public hearing on the proposed local use based on the same requirements noted for state concerns or at the request of the applicant or a majority
  4. of the Coastal Zone Advisory Committee. To be considered, the request must be received within 25 days of the official journal publication. A decision to call a public hearing shall interrupt the timeline for deciding the appropriateness of issuing or denying the permit application, however, the hearing shall be scheduled in a
  5. prudent manner. Any documents, studies or other data in the applicant's possession relevant to the proposed use must be made available to the public for review, study, and duplication at least fifteen (15) days prior to the hearing. As additional materials are developed, they must also be made available. When appropriate, the local administrator shall hold a public hearing in accordance with the St. Bernard Parish's procedures governing public hearing within 30 days of Public Hearing Notice.
  6. submit the local coastal use permit application to the St. Bernard Parish Council for review, after the Coastal Zone Advisory Committee approves the application.
  7. immediately notify the permit applicant of the Council's approval, and that the approval is conditioned upon approval of the St. Bernard Port, Harbor and Terminal District and the US Army Corps of Engineers.
  8. immediately issue Public Notice of Council's decision.
  9. immediately send the local coastal use permit application that has been approved by the Council to the St. Bernard Port, Harbor and Terminal District (SBPHTD) for review. The SBPHTD directly notifies the applicant and the local administrator of their decision.
  10. consider and address in writing each comment received on the application in the final permit decision;
  11. include a short, plain statement explaining the basis for decision on each final permit decision;
  12. either send a permit to the applicant or send notice of denial to the applicant within thirty (30) days of the giving of public notice or within 15 days after the closing of the record of a public hearing, if held, whichever is later and in accordance with L.A.C. 43:1723(C)(8); and

13. shall assess mitigation for coastal wetland losses, caused by permitted activities consistent with the requirement of the Louisiana Coastal Resources programs and attendant regulations and guidelines, if applicable.

8.3 State Concern

1. Upon the receipt of an application deemed to be a state concern application by the Secretary, the local administrator shall review the proposed activity for consistency with their program guidelines and with the goals, objectives and policies developed for the environmental management units(s) in which the proposed activity would take place. Based on this review the local administrator shall:
  - a. forward copies of the state concern application to appropriate parish officials;
  - b. solicit comments from the Local Coastal Zone Advisory Committee and parish officials; and
  - c. request a public hearing when there is significant public opposition to a proposed use, or when there have been requests from legislators or local governments or other local authorities, or in controversial cases involving significant economic, social, or environmental issues.
2. The local administrator may:
  - a. submit comments to the state administrator regarding the application within twenty-five (25) days from the date of the official journal publication of the notice. Note: General permits have a shorter window of review time and the local administrator should forward comments in accordance with the specific general permit timelines.
  - b. assist the state administrator in the scheduling and location of requested public hearings.

8.4 Any person may obtain a copy of a local permit application and supporting documents by making a request to St. Bernard Parish Department of Community Development, or its successor and providing reasonable costs of copying, postage, and handling.

8.5 An issued local permit shall contain conditions described in L.A.C. 43:1723(C)(9) and any other conditions designated by parish ordinance and by the local administrator in compliance with the St. Bernard Parish Coastal Zone Management Program, the guidelines, and the Act.

1. The term of an issued permit shall be as follows:
  - a. Two (2) years to initiate the non-continuing use from the date of issuance with five (5) years for completion from date of issuance. The permit term for initiation may be extended for an additional two (2) years by the local administrator. The permit term for completion may not be extended.
  - b. The term of a coastal use permit for a continuing use shall be five (5) years from the date of issuance with no provisions for extension. Renewal may occur in the form of a new application.
2. Modification and suspension shall be allowed in accordance with L.A.C. 43:1.723(D)(1) & (2).

8.6 The local administrator's decision on a permit application is evidenced by his/her signature on issued permit or on the mailing of a letter notifying the applicant of the denial. Copies of the local program administrator's decision shall be mailed to the applicant by certified mail within three (3) days of the date the decision was made.

8.7 All permitting decisions made pursuant to this ordinance shall be published in the official St. Bernard Parish journal within ten (10) days.

8.8 Conditions and Compliance. By accepting the permit, the applicant agrees to the following:

1. to act in accordance with the plans and specifications as contained in the approved application and in any associated compensatory mitigation plan required in the permit process;
2. to comply with permit conditions imposed to ensure compliance with the Local Coastal Zone Management Program;
3. to adjust, alter, or remove any structure or physical alteration if the local administrator and a majority of the Committee determine such action is necessary to achieve compliance with the Local Coastal Zone Management Program;
4. to provide an acceptable surety bond, in an appropriate amount as posted by the local administrator, to ensure adjustment, alteration, or removal should the applicant fail to take such action when.
  - a. The bond requirement will be a permit condition required prior to start of any construction.
  - b. The amount of the bond shall be one tenth (1/10) of the estimated cost of the project.
  - c. The bond shall be returned to the applicant promptly upon satisfactory completion of the project as documented upon inspection of the project by the authorized representative of the Parish and the subsequent determination that the work is in compliance with the terms of the permit.
  - d. After failure to comply with all permit terms and conditions within a previous 36-month period the local administrator may enhance the bond requirement.
  - e. After demonstrating repeatedly the good faith compliance with all permit terms and conditions of previously granted coastal use permits, an applicant may request that the local administrator waive the bond requirement or reduce the amount for future permits.
5. to hold the state of Louisiana, St. Bernard Parish, and all officers and employees thereof harmless from any injury to persons or property resulting from actions undertaken to carry out the permit;
6. to certify that the permitted activity and any required mitigation will be completed in accord with permit or permits, upon request of the local administrator, provide certification from a licensed professional to that effect; and
7. to allow reasonable inspection of the project for purposes of monitoring and compliance inspections.

#### 8.9 Variances

1. A variance from the Local Coastal Zone Management Program may be granted when the local administrator and a majority of the Coastal Zone Advisory Committee find that:
  - a. the property proposed as the site for the project is subject to exceptional circumstances that warrant recognition and special provision; and
  - b. the granting of a variance poses no detriment to the Coastal Zone.

2. For purposes of the Local Coastal Zone Management Program, a permit variance shall be treated as any other permit.

8.10 Activities not requiring a coastal use permit (L.A.C. 43:1,723(B) et al.)

1. General

- a. The following activities normally do not have direct and significant impacts on coastal waters; hence, a coastal use permit is not required, except as set forth in the following clauses:
  1. agricultural, forestry, and aquaculture activities on lands consistently used in the past for such activities;
  2. hunting, fishing, trapping, and the preservation of scenic, historic, and scientific areas and wildlife preserves;
  3. normal maintenance or repair of existing structures including emergency repairs of damage caused by accident, fire, or the elements;
  4. construction of a residence or camp;
  5. construction and modification of navigational aids such as channel markers and anchor buoys;
  6. activities which do not have a direct and significant impact on coastal waters.

2. Activities on Lands 5 Feet or More above Sea Level or within Fastlands

- a. Activities occurring wholly on lands 5 feet or more above sea level or within fastlands do not normally have direct and significant impacts on coastal waters. Consequently, a coastal use permit for such uses generally need not be applied for.
- b. However, if a proposed activity exempted from permitting in Subparagraph a, above, will result in discharges into coastal waters, or significantly change existing water flow into coastal waters, then the person proposing the activity shall notify the secretary and provide such information regarding the proposed activity as may be required by the secretary in deciding whether the activity is a use subject to a coastal permit.
- c. Should it be found that a particular activity exempted by Subparagraph a, above, may have a direct and significant impact on coastal waters, the department may conduct such investigation as may be appropriate to ascertain the facts and may require the persons conducting such activity to provide appropriate factual information regarding the activity so that a determination may be made as to whether the activity is a use subject to a permit.
- d. The secretary shall determine whether a coastal use permit is required for a particular activity. A coastal use permit will be required only for those elements of the activity which have direct and significant impacts on coastal waters.
- e. The exemption described in this Section shall not refer to activities occurring on cheniers, salt domes, barrier islands, beaches, and similar isolated, raised land forms in the coastal zone. It does refer to natural ridges and levees.

### 3. Emergency Uses

- a. Coastal use permits are not required in advance for conducting uses necessary to correct emergency situations.
  - 1. situations are those brought about by natural or man-made causes, such as storms, floods, fires, wrecks, explosions, spills, which would result in hazard to life, loss of property, or damage to the environment if immediate corrective action were not taken.
  - 2. This exemption applies only to those corrective actions which are immediately required for the protection of lives, property, or the environment necessitated by the emergency situation.
- b. Prior to undertaking such emergency uses, or as soon as possible thereafter, the person carrying out the use shall notify the secretary and the local government, if the use is conducted in a parish with an approved local program, and give a brief description of the emergency use and the necessity for carrying it out without a coastal use permit.
- c. As soon as possible after the emergency situation arises, any person who has conducted an emergency use shall report on the emergency use to the approved local program or to the administrator. A determination shall be made as to whether the emergency use will continue to have direct and significant impacts on coastal waters. If so, the user shall apply for an after-the-fact permit. The removal of any structure or works occasioned by the emergency and the restoration of the condition existing prior to the emergency use may be ordered if the permit is denied in whole or in part.

### 4. Normal Maintenance and Repair

- a. Normal repairs and the rehabilitation, replacement, or maintenance of existing structures shall not require a coastal use permit provided that:
  - 1. the structure or work was lawfully in existence, currently serviceable, and in active use during the year preceding the repair, replacement or maintenance; and
  - 2. the repair or maintenance does not result in an encroachment into a wetland area greater than that of the previous structure or work; and
  - 3. the repair or maintenance does not involve dredge or fill activities; and
  - 4. the repair or maintenance does not result in a structure or facility that is significantly different in magnitude or function from the original.
- b. This exemption shall not apply to the repair or maintenance of any structure or facility built or maintained in violation of the coastal management program.
- c. Coastal use permits will normally authorize periodic maintenance including maintenance dredging. All maintenance activities authorized by coastal use permits shall be conducted pursuant to the conditions established for that permit. Where maintenance is performed which is not described in an applicable coastal use permit, it shall conform to this Section.

5. Construction of a Residence or Camp

- a. The construction of a residence or a camp shall not require a coastal use permit provided that:
  - 1. the terms shall refer solely to structures used for noncommercial and nonprofit purposes and which are commonly referred to as "single family" and not multiple family dwellings;
  - 2. the terms shall refer solely to the construction of one such structure by or for the owner of the land for the owner's use and not to practices involving the building of more than one such structure as in subdividing, tract development, speculative building, or recreational community development.
- b. The exemption shall apply only to the construction of the structure and appurtenances such as septic fields, outbuildings, walk-ways, gazebos, small wharves, landings, boathouses, private driveways, and similar works, but not to any bulkheading or any dredging or filling activity except for small amounts of fill necessary for the structure itself and for the installation and maintenance of septic or sewerage facilities.

6. Navigational Aids

- a. The construction and modification of navigational aids shall not require a coastal use permit.
- b. The term shall include channel markers, buoys, marker piles, dolphins, piling, pile clusters, etc.; provided that the exemption does not apply to associated dredge or fill uses or the construction of mooring structures, advertising signs, platforms, or similar structures associated with such facilities. All navigational aids constructed pursuant to this section shall conform to United State Coast Guard standards and requirements.

7. Agricultural, Forestry and Aquacultural Activities

- a. Agricultural, forestry and aquacultural activities on lands consistently used in the past for such activities shall not require a coastal use permit provided that:
  - 1. the activity is located on lands or in waters which have been used on an ongoing basis for such purposes, consistent with normal practices, prior to the effective date of SLCRMA (Act 361 of 1978);
  - 2. the activity does not require a permit from the U.S. Army Corps of Engineers and meets federal requirements for such exempted activities; and
  - 3. the activity is not intended to, nor will it result in, changing the agricultural, forestry, or aquacultural use for which the land has been consistently used for in the past to another use.
- b. The exemption includes but is not limited to normal agricultural, forestry, and aquacultural activities such as:
  - 1. plowing;
  - 2. seeding;
  - 3. grazing;

4. cultivating;
  5. insect control;
  6. fence building and repair;
  7. thinning;
  8. harvesting for the production of food, fiber and forest products;
  9. maintenance and drainage of existing farm, stock, or fish ponds;
  10. digging of small drainage ditches; or
  11. maintenance of existing drainage ditches and farm or forest roads carried out in accordance with good management practices.
8. Blanket Exemption. No use or activity shall require a coastal use permit if:
- a. the use or activity was lawfully commenced or established prior to the implementation of the coastal use permit process;
  - b. the secretary determines that it does not have a direct or significant impact on coastal waters; or
  - c. the secretary determines one is not required pursuant to §723.G of these rules.

## **SECTION 9 AFTER-THE-FACT PERMITS**

1. A landowner and/or responsible party shall have thirty (30) days from the date of a violation notice or emergency action to submit an after-the-fact permit application. After thirty (30) days, the local administrator shall proceed in accordance with the terms of the enforcement section of this ordinance
2. A coastal use permit may be issued as an after-the-fact permit under one of the following circumstances:
  - a. The activity was undertaken in response to an emergency and the St. Bernard Parish Local Administrator was notified of the activity;
  - b. The activity taken was in violation of the Local Coastal Zone Management Program but would likely have been permitted if the applicant had applied for a permit;
3. An after-the-fact permit may be limited in duration at the discretion of the local administrator but shall not exceed the time allocated for issuance of similar coastal use permits obtained through the normal process.
4. An emergency after-the-fact permit must be requested within ten (10) days of the activity subject to permitting, at which time the application will proceed as any other application.
5. When an after-the-fact permit is issued as part of an enforcement action, additional terms and conditions may be included at the discretion of the local administrator or Coastal Zone Advisory Committee as consideration of circumstances unique to the particular applicant including, but not limited to, posting of bonds to assure compliance and reporting requirements to monitor the project.
6. An applicant for an after-the-fact permit may be required to fulfill conditions in the permit despite completion of the activity or return the area to its pre-emergency state if the application is denied.
7. For purposes of the Local Coastal Zone Management Program, an after-the-fact permit shall be treated as any other permit.

8. A permit may be suspended for noncompliance or for violation of the permit and/or this ordinance. The permittee shall be notified of the suspension by the Department of Community Development, Office of Coastal Zone Management or its successor and the reasons for it, and be ordered to cease all activities authorized under the coastal use permit. The notice shall advise the permittee that he or she will be given ten (10) days from receipt of notice to respond to the reasons given for the suspension.
9. If the permittee fails to respond, his or her coastal use permit shall be revoked and he or she shall be notified of the revocation.
10. If the permittee responds to the suspension, the Department of Community Development, Office of Coastal Zone Management or its successor shall reinstate, modify, or revoke the permit within ten (10) days of receipt of the response. The permittee shall be notified of the action taken.

## **SECTION 10 MITIGATION AND MITIGATION REQUIREMENTS**

The Parish will require mitigation for coastal wetland losses, caused by permitted activities, consistent with the requirements of the Louisiana Coastal Resources Program (LCRP) and the attendant regulations and guidelines; and the Parish Coastal Zone Management Program will require that the determination of mitigation requirements for permitted activities, as well as the appropriateness of mitigation proposals to offset losses, be based on losses/gains of wetland habitat values, measured by the same method utilized by the Louisiana Department of Natural Resources.

## **SECTION 11 APPEALS**

1. Any person adversely affected by a permit decision, any landowner in, or resident of St. Bernard Parish and any government authority may request an administrative appeal of the local administrator's permit decision by filing a written notice with the St. Bernard Parish Clerk of Court within ten (10) days from Public Notice date of the decision.
2. Four (4) complete copies of the Notice of Appeal shall be sent by the appellant via certified mail to the St. Bernard Parish Clerk of Court or hand-delivered to the Clerk of Council Office. The Notice of Appeal shall include the following:
  - a. copy of permit decision being appealed and a copy of the permit application public notice;
  - b. written description of how the appellant believes the decision to be contrary to the law or how he or she is adversely affected by the decision;
  - c. written description of how appellant would like the decision revisited;
  - d. complete name, address and telephone number of appellant and, if applicable, the appellant's legal representative; and
  - e. statement that appellant has read the Notice of Appeal and believes the contents to be accurate, followed by appellant's signature and that of his legal representative, if any.
3. The Clerk of Council shall immediately notify the Director of the Department of Community Development that a Notice of Appeal had been received and within three (3) working weekdays, provide three (3) copies of the Notice of Appeal to the Director who shall forward complete copies

of the Notice of Appeal to the Parish Attorney, the local administrator, and the permit applicant, and notify the State Administrator and all parties of record that a Notice of Appeal has been received.

4. The local administrator shall provide a complete copy of the permit record to the permit applicant and to the appellant (if not the same) and any interested party within ten (10) days of the filing of the written Notice of Appeal. Copies shall be prepared and presented to the Appeals Committee at least three (3) days prior to the hearing of the appeal.
5. The written filing shall present grounds for reconsideration consistent with those provided by La. R.S. 49:214.35(B).
6. Reconsideration shall be limited to those grounds upon which the permit decision was granted except where fraud, perjured testimony or fictitious evidence are alleged and then proven. New evidence pertinent to the key issues upon which the permit decision was based that may not have been discovered before or during the application review process by using due diligence, or
7. The local administrator shall schedule a hearing of the appeal within twenty (20) days of receiving a proper request for an appeal and convening a review panel.
  - a. Notice
    1. The local administrator shall promptly send each party of record the date, time, and location of the appeal by certified mail.
    2. The local administrator shall publish the date, time, and location of any public appeal in the parish's official journal within 10 days of receipt of notice of appeal.
    3. The local administrator shall require the appellant to post notification of the upcoming appeal on the proposed site of the activity at issue.
  - b. Review Panel
    1. The Coastal Zone Management Program Appeals Committee hearing appeals of permit decisions on applications for a local coastal use permit in St. Bernard Parish shall be composed of nine (9), unbiased members as follows:
      - 1.1 seven (7) members, one each appointed by a member of the Parish Council; and
      - 1.2 two (2) members appointed by the Parish President.
    2. Each member of the appeals panel has an equal vote and decisions shall be determined by majority rule.
8. The CZMP Appeals Committee shall issue a decision and state the reason or basis for its decision within five (5) days of the decision. This statement should be sufficient enough to enable a court to evaluate the rationale and fundamental facts underlying the decision.
9. The local administrator shall publish notice of the Appeals Committee decision within five (5) working weekdays of the decision.
10. The local administrator shall provide a verbatim transcript of the testimony at the appeal hearing. This transcript along with exhibits and documents introduced shall constitute the record.

11. The standard for review of the local administrator's decision by the CZMP Appeals Committee is whether the decision on the permit application was supported by substantial evidence, as defined in state law. See La. R.S. 49:964.
  - a. Nothing in this provision shall impede other authorized means for review. An applicant may seek judicial relief under La. R.S. 214.35(E) and (F).
12. Judicial review of the Appeals Committee's decision shall be based on the substantial evidence standard, as defined by state law. See La. R.S. 49:964.
13. The local administrator may establish a fee system to cover administrative costs associated with implementing the appeals process, including, but not limited to, reasonable charges for copies and postage.

## **SECTION 12 ENFORCEMENT**

1. Each violation of an individually named condition of a permit or order and each day a violation continues constitute a separate violation. A fine of \$150.00, plus attorney and collection fees, per offense violation per day may be assessed by the local administrator, subject to the approval of the Coastal Zone Advisory Committee. Such fines will be in addition to fines imposed by other governmental agencies. Monetary proceeds from such fines will be placed into the St. Bernard Parish's General Fund.
2. Enforcement may be initiated in any of three ways:
  - a. Investigation and monitoring as a matter of course under La. R.S. 49:214.36(A);
  - b. Referrals from other agencies; or
  - c. Complaints from individuals or groups.
3. Investigation and Monitoring. Every effort is made to use the investigation and monitoring to correct deficiencies in site compliance whenever possible.
  - a. The inspection shall include a routine check-list, examination of specialized provisions in the permit, photographs, and notes or other documentation developed during the permit process.
  - b. During the course of inspections and monitoring, should the local administrator discover an activity which directly impacts coastal waters, a determination must be made as to whether the activity is a state or local use and whether the activity has been permitted.
    1. If the activity is a state concern, state and federal agencies shall be notified to handle the violation including, but not limited to contacting the state administrator and Louisiana Department of Natural Resources field investigator.
    2. If the activity is a non-permitted local concern, the local administrator shall prepare and send a letter of warning as described below and revert to the guidelines provided in the after-the-fact permit section of this ordinance.
    3. If the activity is a non-compliance issue related to a local concern, the local administrator shall prepare and send a letter of warning as described below. Should compliance fail to

be achieved or if the inspecting official deems a violation serious enough to warrant enforcement -- considering the gravity of the violation and the permittee's compliance history -- the violation may be deemed either non-compliance or significant non-compliance.

3.1 Significant non-compliance exists when the violation poses an imminent threat to the public welfare, is egregious in nature or results from action by a person that has been in violation of the Coastal Zone Management Program within the preceding one (1) year; in these instances, a cease and desist order shall be issued promptly by the local administrator.

3.2 Non-compliance exists when the violation is of a minor nature or can be remedied without significant hardship; in these instances, a letter of warning shall be issued promptly by the local administrator.

- c. A letter of warning describes the observations of the inspector, identifies the corrective actions that shall be taken to come into compliance, provides a date by which the actions must be made, identifies the provisions of the Coastal Zone Management Program in violation and is signed by the inspector. A letter of warning must be sent by certified mail to the permit applicant and/or the record owner of the property when no permit exists.
- d. The inspector shall investigate the response. After examining the timeliness, completeness, documents, and any meetings or interviews necessary, the inspector determines whether or not compliance has been achieved.
- e. The local administrator shall notify the state administrator, appropriate federal and state agencies, and, if applicable, the concerned citizen or group that made the complaint of any and all enforcement actions.
- f. When compliance does not exist, the local administrator shall issue a cease and desist order and may assess any and all appropriate fines. If a cease and desist order has already been issued, the local administrator may suspend, revoke, or modify a coastal use permit or bring injunctive, declaratory or other actions necessary to enforce the ordinance.

#### 4. Referrals from other agency officials

- a. After receiving a referral of notice of a possible violation from a federal, state, local official, the local administrator shall promptly take whatever investigatory actions are necessary in order to ascertain whether or not a violation does in fact exist. The same process described above will be followed.
- b. When a violation does not exist, the local administrator shall inform the agency official who made the referral of such in writing.

#### 5. Complaints from concerned citizens or other group

- a. After receiving a referral of notice of a possible violation from a concerned citizen or other group the local administrator shall promptly take whatever investigatory actions are necessary

in order to ascertain whether or not a violation does in fact exist. The same process described above will be followed.

6. In addition to any other information required by St. Bernard Parish or State Law, a cease and desist order shall contain the following:
  - a. a concise statement of the facts alleged to constitute a violation;
  - b. a statement of the amount of the potential penalties for violating the cease and desist order;
  - c. a copy of the regulation, permit, order, statute or other legal provision applicable;
  - d. information enabling the recipient to contact the local administrator; and
  - e. information on how the recipient may obtain a hearing to contest the cease and desist order.
7. A recipient of a cease and desist order may challenge the validity of the order in the St. Bernard Parish District Court.
8. To perform the duties required under this ordinance, St. Bernard Parish Personnel may enter upon any land and make examinations in accord with La. R.S. 49:214.36 (A), and Article 8 of this ordinance, provided that:
  - a. a warrant is obtained, or
  - b. the examinations do not interfere with the use of the land by its owners or possessors; and
  - c. prior to inspection the owner or possessor of the land is informed that an inspection is to take place and allowed to accompany the inspector if they so desire.
9. Consequences for violating the State and Local Coastal Zone Management Programs are set forth in La.R.S. 49:214.36 (E) - (N).
10. Pursuit of remedies and enforcement actions taken under this ordinance in no way precludes seeking any other applicable remedy or enforcement action available.

### **SECTION 13 SEVERABILITY**

- 13.1 This ordinance is severable. If any part is declared unconstitutional, the remainder of the ordinance shall not be affected.

### **SECTION 14 EFFECTIVE DATE**

- 14.1 This ordinance shall be effective immediately upon approval of the updated St. Bernard Parish Coastal Zone Management Program by the Louisiana Department of Natural Resources.