

2015-0367

INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT
(COASTAL ZONE MANAGEMENT)

ORDINANCE NO. 15-10-12

An ordinance to adopt the St. Charles Parish Local Coastal Program.

WHEREAS, St. Charles Parish has been engaged in a Coast Zone Management program since the early 1970's; and,

WHEREAS, there have been several attempts to adopt a Local Coastal Program that can be recognized by both the Louisiana Department of Natural Resources and the National Oceanographic and Atmospheric Administration and; and,

WHEREAS, approval of a Local Coastal Program will increase our parish's say in the management of our coastal resources; and,

WHEREAS, the St. Charles Parish Coastal Zone Advisory Committee has worked since the early 1970's toward this goal; and,

WHEREAS, the public was engaged throughout the development of the Plan; and,

WHEREAS, the Council entered into a contract with South Central Planning and Development to lead the Parish in the development of the Local Coastal Program; and,

WHEREAS, the plan was presented to the Coastal Zone Advisory Committee with comments and correction on October 1, 2015; and,

WHEREAS, the Coastal Zone Advisory Committee has forwarded the plan to the St. Charles Parish Council with a recommendation to approved as amended.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. The St. Charles Parish Local Coastal Program as amended by the Coastal Zone Advisory Committee on October 1, 2015, is adopted.

SECTION II. All Public Comments heard at the St. Charles Parish Council Meeting in consideration of this document shall be included on the Public Comments Section of this document.

SECTION III. A final document shall be printed and filed with the St. Charles Parish Clerk of Courts and in the records of the St. Charles Parish Council.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: SCHEXNAYDRE, LEWIS, WILSON, TASTET, HOGAN, COCHRAN,
FLETCHER, FISHER-PERRIER

NAYS: NONE

ABSENT: BENEDETTO

And the ordinance was declared adopted this 19th day of October, 2015, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: _____
SECRETARY: _____
DLVD/PARISH PRESIDENT: 10/21/15
APPROVED: _____ DISAPPROVED: _____
PARISH PRESIDENT: 10/21/15
RETD/SECRETARY: 10/21/15
AT: 10:55 RECD BY: 200

RECORDED IN THE ST. CHARLES PARISH
CLERK OF COURT OFFICE

ON Jan. 15, 2016

AS ENTRY NO. 412009

IN MORTGAGE/CONVEYANCE BOOK

NO. 1650 FOLIO 745

REFERENCE

15-10-13 attached as Recorded

NOTICE OF PLAN

ORDINANCE NO. 15-10-12

ST. CHARLES PARISH LOCAL COASTAL PROGRAM

STATE OF LOUISIANA

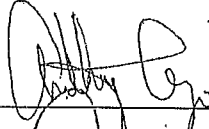
PARISH OF ST. CHARLES

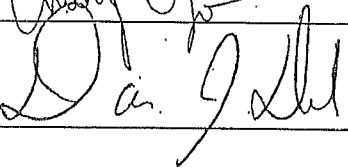
PLEASE TAKE NOTICE that by virtue of a written Local Coastal Program dated October 1, 2015, St. Charles Parish, 15045 River Road, P. O. Box 302, Hahnville, LA 70057, through its then Parish President, V.J. St. Pierre, Jr., duly authorized by Ordinance No. 15-10-12 adopted by the St. Charles Parish Council on October 19, 2015 shall serve as a guiding document containing goals, policies, and actions that define and support a common vision for the comprehensive management of natural resources in St. Charles Parish. Said Local Coastal Program was authorized for commencement by the adoption of Ordinance No. 14-5-5, a Cooperative Endeavor Agreement between St. Charles Parish and South Central Planning and Development. The Public participated in four meetings of the Coastal Zone Advisory meeting discussing the details of the Program. The CZAC passed a resolution supporting the Program on October 15, 2015. The Program contains discussions of the Environmental Setting, Principal Resources, Socio-Economic Characteristics, Environmental Issues and Goals and Objectives. The Program contains a map of the Environmental Management Units which graphically represents the Parish's differing environmental areas to assist the Parish in prioritizing projects and to implement the policies of the Program for each area and the challenges each face. The complete St. Charles Parish Local Coastal Program Document may be reviewed at the Records Office of the St. Charles Parish Council, Parish Courthouse, 15045 River Road, Hahnville, LA.

The plan upon which the above described actions support shall serve as a guiding document containing goals, policies, and actions that define and support a common vision for the comprehensive management of natural resources in St. Charles Parish.

THUS DONE AND SIGNED, this 15th day of January, 2016, in the presence of the undersigned.

WITNESSES:





ST. CHARLES PARISH



BY: Larry Cochran

PARISH PRESIDENT

ORD.

(This is the amended and recorded version of Ord.)

2015-0368

INTRODUCED BY: V.J. ST. PIERRE, JR., PARISH PRESIDENT
(COASTAL MANAGEMENT SECTION)

ORDINANCE NO. 15-10-13

This is the revised

Ordinance 15-10-13 differs from originally adopted ordinance -- changes made by CZM after adoption -- approved by Legal Department.

*Explanation - last page

An ordinance to amend the St. Charles Parish Code of Ordinance by adding Chapter 26, the St. Charles Parish Local Coastal Program.

WHEREAS, St. Charles Parish has been engaged in a Coastal Zone Management program since the early 1970's; and,

WHEREAS, there have been several attempts to adopt a Local Coastal Program that can be recognized by both the Louisiana Department of Natural Resources and the National Oceanic and Atmospheric Administration; and,

WHEREAS, approval of a Local Coastal Program will increase our parish's say in the management of our coastal resources; and,

WHEREAS, the St. Charles Parish Coastal Zone Advisory Committee has worked since the early 1970's toward this goal; and,

WHEREAS, the public was engaged throughout the development of the Plan; and,

WHEREAS, the Council entered into a contract with South Central Planning and Development Commission to lead the Parish in the development of the Local Coastal Program; and,

WHEREAS, the Local Coastal Program ordinance is a part of the Local Coastal Plan and when adopted makes the plan part of St. Charles Parish law; and,

WHEREAS, the ordinance was presented to the Coastal Zone Advisory Committee with comments and corrections on October 1, 2015; and,

WHEREAS, the Coastal Zone Advisory Committee has forwarded the ordinance to the St. Charles Parish Council with a recommendation to be approved as amended.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. The ordinance to amend the St. Charles Parish Code of Ordinance by adding Chapter 26, the St. Charles Parish Local Coastal Program shall read as follows:

SECTION 26-1. - PURPOSES AND CONSTRUCTION

(a) This article is hereby enacted for the purpose of:

(1) Recognizing the value in natural coastal ecosystems.

a. Protect, restore and enhance the coastal zone as a natural storm barrier, flood control system, and water infiltration system;

b. Protect, restore and enhance the coastal zone as a habitat for wildlife, an aquatic resource, an aesthetic resource, a parish, state and national resource, and an historic cultural resource;

c. Protect, restore and enhance the coastal zone as a legacy to future generations.

(2) Recognizing the value in coastal-dependent commercial activity.

a. Promote coordinated development within the coastal zone.

b. Promote conflict resolution arising from multiple, competing uses.

c. Promote recreational uses (respect private property) and monitor public access within the coastal zone.

(3) Balancing these values in the parish to allow current and future residents the opportunity to enjoy the multiple benefits and cultural values associated with a healthy coastal zone.

(4) Fostering the public safety, health and welfare of parish residents.

(5) In the event that sections of this article may be subject to multiple interpretations, they must be read to further the purposes stated above and to be consistent with the state coastal resources program.

REFERENCE

15-10-12

(12) **Coastal zone** means that area described in R.S. 49:214.24.

(13) **Coastal zone management program** means the applicable laws, regulations, policies and guidelines developed by federal, state and local government to implement the coastal zone management act.

(14) **Compensatory mitigation** means replacement, substitution, enhancement or protection of ecological values to offset anticipated losses of those values caused by a permitted activity.

(15) **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.

(16) **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 an 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.

(17) **CZM Administrator** (See also **Local Administrator**) means the parish professional charged with implementing and administering this article and the local coastal zone management plan.

(18) **Department or DNR** means the Louisiana Department of Natural Resources.

(19) **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.

(20) **Ecological Value** means the ability of an area to support vegetation and fish and wildlife populations.

(21) **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.

(22) **Environmental management unit (EMU)** means an area with certain distinguishing physical, hydrological, chemical, biological or cultural characteristics.

(23) **Exempted use** means any use specifically listed in this article as not requiring a permit.

(24) **Fastlands** 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.

(25) **Guidelines** means L.A.C. title 43, chapter 7, entitled "Coastal Management."

(26) **In-kind mitigation** means providing goods, services, or funds in an amount valued equally to the fair market value of creating a mitigation site; it is similar in concept to barter trade.

(27) **Interested person** means any of the following:

values lost as a result of the activity, as in the case of the construction of flood protection facilities critical for protection of existing infrastructure.

(41) **Parish Council** means the legislative authority of general jurisdiction at the parish level.

(42) **Permit** means a Coastal Use Permit.

(43) **Person** means any individual, partnership, association, trust, corporation, or government body.

(44) **Public hearing** means any hearing announced to the public at least 30 and no more than 60 days in at least two newspapers covering the parish. Hearings will be held in the closest available site to the permit site or local community. All interested persons shall be afforded a reasonable opportunity to make written or oral submissions on the subject of the meeting.

(45) **Residence** means a structure built and used for noncommercial and nonprofit purposes and commonly referred to as single-family dwellings, not multiple-family dwellings and shall apply only to such structures built singly, not as part of a subdivision, tract development, speculative building, or recreational community development and intended as a primary residence.

(46) **Residents** means both real persons and entities whose occupancy in parish is intended to be on an ongoing, primary nature. These include, but are not limited to civic, environmental, neighborhood, business, labor, trade, or similar organizations or a legally recognized business entity.

(47) **Same-kind mitigation** means the creation of habitat functions and types at the mitigation site substantially similar to those that existed at the project site; restoration of a bottomland hardwood site as mitigation for a project in a bottomland hardwood site is one example.

(48) **Secretary** means the secretary of the department of natural resources or designee.

(49) **Special areas** means those portions of the coastal zone within 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 designated by the parish council and recommended by the committee.

(50) **State Administrator** (See also **Administrator**) means the administrator of the Office of Coastal Management within the Louisiana Department of Natural Resources.

(51) **Supplemental material** means any of the following or other, unlisted material deemed appropriate by the local administrator:

- a. A description of the physical, chemical, hydrological, biological and cultural environment in which the activity is proposed to take place;
- b. A list of alternatives to the proposed activity including a status quo alternative;
- c. A complete description of expected consequences to the physical, chemical, hydrological, biological and cultural environment;
- d. 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.

(52) **Uplands** means land that is five feet or more above sea level.

(53) **Use** means any use or activity within the coastal zone which has a direct and significant impact on coastal waters.

(54) **Wetland** means:

- a. for the purpose of this Ordinance except for Section 724 of SLCRMA open water areas or areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under

(12) Consider written requests from parish residents to add, modify, or delete local rules implementing this article.

SECTION 26-4. – LOCAL COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

- (a) The committee shall include representatives from various interest groups or government agencies to encourage full use of the coastal resources recognizing that it is in the public interest of the people to establish a proper balance between development and conservation. Its membership shall be appointed by a majority vote of the parish council.
- (b) A member shall be removed by the parish council only for good cause during their four-year term. Within the first six months of each term, the Council may remove or replace Committee members without cause. With no action on the part of the Council, Committee members shall remain in their seats as there are no express term limits. The committee chairperson is to be selected by standing members.
- (c) Committee activities shall be coordinated by the CZM Administrator.
- (d) The seven-member advisory committee will be appointed by the parish council with a member appointed by each council member.
- (e) The committee shall review and comment upon any proposed rules and regulations impacting the coastal zone.
- (f) The committee shall recommend to the parish council any modifications to this ordinance.
- (g) The committee shall review and comment upon any coastal use permit at the request of the local CZM administrator.
- (h) The committee shall nominate representatives to hear appeals in accordance with this article.
- (i) The committee shall assist the CZM Administrator in submitting a regular report describing the activity of parish's coastal zone management program to the DNR secretary as required and make copies available to the public. The report shall include the number, type and characteristics of the CUP applications, decisions, appeals, variances, enforcement actions, and problem areas in the parish coastal zone management program for the past year and proposed changes in the state or local coastal zone management program.
- (j) The committee shall enforce this Ordinance and the Act.

SECTION 26-5. – COASTAL USE PERMIT APPLICATIONS

(a) Undertaking a local or state use in the St Charles Parish coastal zone without a Coastal Use Permit or in violation of permit terms is unlawful. Activities listed under L.A.C. 43:1,723(B) et al. and 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 completed permit application to allow a determination of whether they have a direct and significant impact on coastal waters. The following procedure shall be followed in applying for a coastal zone use permit:

- (1) All applications shall be made on the forms prescribed by the secretary, available at the parish coastal zone management office or online at the Louisiana Department of Natural Resources, Office of Coastal Zone Management's Website
- (2) Applications may be submitted to either the local CZM Administrator or the State Administrator.
- (3) Applications must include material required by L.A.C. title 43, section 723(C)(2), including, but not limited to, the following:
 - a. Maps showing actual location, size and dimensions of the real property proposed as the use site. Maps shall be the latest available (e.g., earth imaging infrared, coast and geodetic survey maps or equivalent).
 - b. Plans showing the exact location, size, and height of the buildings or structures to be developed;

(3) Application processing will begin when an application that is apparently complete is accepted by the local CZM Administrator or the State Administrator. When received by the local CZM Administrator, the local CZM Administrator shall assign it a number, acknowledge its receipt and make an initial determination of whether the proposed activity is a state or local concern in accordance with La R.S. 49:214.25(A). Copies of all applications submitted to St Charles Parish CZM Administrator along with the local CZM Administrator's initial determination shall be submitted to the Secretary within two (2) days of receipt.

(b) When it is determined to be a Local Use/Concern:

(1) Upon the determination that a permit application is a local concern either by the State Administrator, the local CZM Administrator shall make public notice of the pending local use application made in accordance with LAC 43:1.723(C)(5).

(2) Notice of a pending application shall include the permit number, the location of the proposed activity, and information allowing members of the public to comment on the proposal for 25 days.

(3) Before expiration of the applicable public comment period, the local CZM Administrator shall:

a. Forward copies of the local concern application to the local Coastal Zone Committee and appropriate parish officials

b. Solicit comment(s) both the Coastal Zone Committee, appropriate parish officials and as appropriate other agencies with expertise.

c. 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 of the coastal 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 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 five (5) days prior to the hearing. As additional materials are developed, they must also be made available. When appropriate, the local CZM Administrator shall hold a public hearing in accordance with the St Charles Parish's procedures governing public hearing. After expiration of the applicable public comment period, the local CZM Administrator shall take one of the following actions:

1. Consider and address in writing each comment received on the application in the final permit decision.

2. Include a short, plain statement explaining the basis for decision on each final permit decision.

3. Either

i. Issue the local use permit, based on this article, the guidelines and the Act;

OR

ii. Issue the local use permit with conditions, based on the parish coastal zone management plan, the guidelines and the Act.

- send a draft permit to the applicant for acceptance and signature or send notice of denial to the applicant within 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 LAC 43:1.723(C)(8).

4. Or

i. Deny the local use permit, based upon the parish coastal zone management plan, the guidelines, and the Act.

- f. To certify that the permitted activity has been completed in accord with permit or, upon request of the local administrator, provide certification from a licensed professional to that effect;
- g. To allow reasonable inspection of the project for purposes of monitoring and compliance inspections.

SECTION 26-7. - AFTER THE FACT PERMITS.

- (a) A CUP may be issued as an after-the-fact permit under one of the following circumstances:
 - (1) The activity taken was undertaken in response to an emergency and the parish official was notified of the activity;
 - (2) The activity taken was in violation of this article but would likely have been permitted if the applicant had applied for a permit;
 - (3) The activity taken was in violation of this article but would likely have been permitted if the applicant had accurately described the project as completed in the application materials.
- (b) 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 CUPs obtained through the normal process.
- (c) An after-the-fact permit must be requested within 15 days of the activity subject to permitting, at which time the application will proceed as any other application.
- (d) 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 committee as consideration of circumstances unique to the particular applicant, including, but not limited to fines, posting of larger bonds to assure compliance and reporting requirements to monitor the project. Increased mitigation requirements may be required on or off site over normal permit requirements.
- (e) 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.
- (f) For purposes of this article, an after-the-fact permit shall be treated as any other permit after it is issued.

SECTION 26-8. - MITIGATION

- (a) Applicability; requirements
 - (1) Provisions on mitigation shall be read and construed as a whole and in accordance with applicable state regulations, L.A.C. title 43, part I, chapter 7, section 724, which designate the secretary of the Louisiana Department of Natural Resources (LDNR) as the authority responsible for all decisions respecting mitigation.
 - a. In accordance with R.S. 49:214.41(C), compensatory mitigation is not required in a CUP for an activity that does not have direct and significant coastal zone impacts:
 - 1. In a wetland existing in a fastland;
 - 2. In a wetland more than five feet above mean sea level; or
 - 3. When an applicant has satisfactorily demonstrated to the secretary that the required mitigation would render impracticable an activity proposed to be permitted and that such activity serves a clearly overriding public interest, and the provisions of R.S. 49:214.41(C) are met.
 - b. Projects exempt from the compensatory mitigation requirements may still be required to include other forms of mitigation or to mitigate for other types of impacts under regulations promulgated in accordance with R.S. 49:214.41, such as L.A.C. title 43, section 724(B)(1)(a) and (b).
 - (2) The local CZM Administrator shall implement mitigation activities in accordance with the directives of Louisiana's Coastal Resources Program (LCRP).

b. Contain the names, signatures, address of legal residence, and phone numbers of each resident requesting a public appeal and of their legal representative, if any.

(2) The public appeal shall replace the form of the administrative appeal described in this article, when properly requested. All provisions applicable to the administrative appeal shall be equally applicable to the public appeal unless clearly contradictory, impossible, or specifically expected.

(e) The local CZM administrator shall schedule an administrative appeal or public appeal within ten days of receiving a completed administrative appeals packet or proper request for a public appeal.

(1) The local CZM Administrator shall promptly send each party of record the date, time, and location of the administrative appeal by registered mail.

(2) The local CZM Administrator shall publish the date, time and location of any public appeal in a newspaper of general circulation in the parish of the proposed site for the project at issue.

(3) The local CZM Administrator shall require the applicant to post notification of the upcoming appeal on the proposed site of the activity at issue.

(f) Interested parties may appear personally or be represented by counsel at the public appeal to produce any competent evidence on their behalf.

(g) The panel may administer oaths, examine witnesses, and issue notices of hearings or subpoenas requiring the testimony of witnesses and production of books, records or other relevant documents.

(1) The appeals panel may admit and give probative effect to evidence that possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The appeals panel may exclude evidence they find incompetent, irrelevant, immaterial or unduly repetitive.

(2) The appeals panel shall give effect to the rules of privilege recognized by law.

(3) Objections may be made and considered, and shall be noted in the record.

(4) The appeals panel may take notice of judicially cognizable facts, as requested by interested parties. Such facts include, but are not limited to, recognized technical or scientific facts.

(5) Depositions may be taken in accordance with provisions governing the taking of depositions for civil court proceedings and admitted in the public appeal or administrative appeal.

(6) Discovery may occur in accordance with provisions governing discovery for civil court proceedings in the district court of parish.

(h) A verbatim transcript of testimony at the public appeal shall be prepared and, in addition to exhibits and documents introduced, constitute the record.

(i) The appeals panel shall make findings of fact and a decision based upon the record when a public appeal is held. When an administrative appeal is held, the findings of fact and decision shall be based upon the following:

(1) Written submissions from interested parties prepared for purposes of administrative appeal;

(2) The original permit application and associated documentation; and

(3) Any legislative facts (such as scientific studies) or documented communications the panel deems trenchant relative to material issues in the permit.

(j) The appeals panel shall issue a written decision of a length and depth to enable a court to evaluate the rationale and fundamental facts underlying the decision. A copy of the appeals panel's decision shall be provided to each of the interested parties by the local administrator.

(k) The appeals panel hearing appeals of permit decisions on applications for a CUP in parish shall be composed of three, unbiased members as follows:

(1) The parish council shall appoint three local representatives to an ad hoc hearing panel.

- (t) Nothing in this provision shall impede other authorized means for review.
- (u) The local CZM 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.
- (v) Good faith efforts to reach a resolution through mediation or another alternative dispute resolution process recognized by the state shall stop the running of the timeline for filing a request for either an administrative appeal or a public appeal.
 - (1) Using an alternative dispute resolution process as a delay tactic constitutes bad faith and may subject that party to a penalty equal to five percent of the cost of the proposed project for each calendar day of delay.
 - (2) Any interested party who believes alternative dispute resolution processes are being used in bad faith, as defined above and in state law, may request a determination by the district court in which the proposed project site exists.
 - a. The court will determine whether bad faith exists and may issue penalties.
 - b. Finding of bad faith by a court begins the running of the time for filing a request for an administrative or a public appeal, among such other consequences defined by state law and that the judge may find appropriate.

(w) Reconsiderations, judicial review

- (1) A decision or determination shall be subject to reconsideration if a petition for reconsideration is filed in writing with the CZM Administrator within ten days following public notice of a final coastal use permit or receipt of written notice of a determination.
- (2) Any person authorized by the Subpart to appeal a coastal use permit decision or any local government aggrieved by a final decision on approval of a local program may seek judicial review of that decision whether or not a petition for reconsideration has been filed under this Section. A preliminary, procedural, or intermediate action by the secretary or a determination of local or state concern under R.S. 49:214.30(C)(1) or of direct and significant impact under R.S. 49:214.34 is immediately reviewable if review of the secretary's final permit decision or action would not provide an adequate remedy or would inflict irreparable injury.
- (3) Proceedings for review may be instituted by filing a petition in the district court of the parish in which the proposed use is to be situated within thirty days after mailing of notice of the final decision by the secretary or, if reconsideration is requested, within thirty days after the decision thereon.
- (4) Judicial review shall otherwise be pursuant to the Louisiana Administrative Procedure Act, provided that all such cases be tried with preference and priority. Trial de novo shall be held upon request of any party.

SECTION 26-10. - ENFORCEMENT IN GENERAL

- (a) After a written request sent to the committee upon which no action is taken within 15 days, any person may commence a civil action on his own behalf to enforce this article:
 - (1) Against any person (including parish officials in their capacity as government agents and the parish government) who is alleged to be in violation of this article or an order issued pursuant to this article; or
 - (2) Against the local administrator where there is alleged a failure of the local CZM Administrator to perform any act or duty under this article which is not discretionary.
- (b) Upon a prima facie showing of a violation of this article, the person shall be granted preliminary equitable relief to restrain any further violation.
- (c) Each violation of an individually named condition of a permit or order and each day a violation continues shall constitute a separate violation. A fine of \$2,000.00 per offense per day may be assessed by the parish coastal zone management administrator, subject to coastal zone management committee approval. Such fines will be in addition to fines imposed by other government agencies.
- (d) Enforcement may be initiated in any of three ways:

- b. A letter of warning must be sent by certified mail to the permit applicant or record owner of the property when no permit exists.
- (e) The inspector shall investigate the response to any notice of violation. After examining the timeliness, completeness, documents, and any meetings or interviews necessary, the inspector determines whether or not compliance exists.
- (f) When compliance does not exist, the local CZM Administrator shall issue a cease and desist order. 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.

SECTION 26-12. – COMPLAINTS FROM CONCERNED CITIZENS OR OTHERS

- (a) All complaints will be directed to a parish official to determine whether or not a violation exists or make a referral.
- (b) If the inspecting official deems a violation serious enough to warrant enforcement; considering the gravity of the violation and the actor's compliance history, the violation may be deemed either noncompliance or significant noncompliance:
 - (1) Significant noncompliance exists when the violation poses an imminent threat to the public welfare, is egregious in or results from action by a person that has been in violation of this article within the preceding two years; in these instances, a cease and desist order shall be issued promptly by the local administrator.
 - (2) Noncompliance 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.
 - a. A letter of warning describes the observations of the inspector, identifies the corrective actions that may be taken to come into compliance, provides a date by which the actions must be made, identifies the provisions of this article in violation, and is signed by the inspector.
 - b. A letter of warning must be sent by certified mail to the permit applicant or record owner of the property when no permit exists.
- (c) 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 exists.
- (d) When compliance does not exist, the local administrator shall issue a cease and desist order. 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.

SECTION 26-13. – CONTENTS OF CEASE AND DESIST ORDER

- (a) In addition to any other information required by parish or state law, a cease and desist order shall contain the following:
 - (1) A concise statement of the facts alleged to constitute a violation;
 - (2) A statement of the amount of the potential penalties for violating the cease and desist order;
 - (3) A copy of the regulation, permit, order, statute or other legal provision applicable;
 - (4) Information enabling the recipient to contact the local administrator; and
 - (5) Information on how the recipient may obtain a hearing to contest the cease and desist order.
- (b) A recipient of a cease and desist order may challenge the validity of the order in the parish district court.

SECTION 26-14. -- CONDITIONS FOR ENTERING PROPERTY FOR EXAMINATION

(a) To perform the duties required under this article, parish personnel may enter upon any land and make examinations in accordance with R.S. 49:214.36(A) and SECTION 19-60 et. Seq. provided that:

(1) A warrant is obtained or the examinations do not interfere with the use of the land by its owners or possessors; and

(2) 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 he so desires.

SECTION 26-15. -- USE OF FUNDS

(a) Funds collected for violations in parish shall be maintained in a coastal monitoring enforcement fund. These monies, including interest accruing thereon, shall be used by parish for the cost of providing aircraft over-flights or boat use for coastal monitoring and similar surveillance and enforcement activities conducted by parish.

SECTION 26-16. -- MITIGATION TRUST FUND

(a) A mitigation trust fund is hereby created as the depository of monies collected in accordance with R.S. 49:214.36(J), which states that 25 percent of the monies collected for violations relating to minimal wetland impacts shall be forwarded to local government whereby 100 percent of the monies received shall be placed in local government mitigation bank and can only be used for mitigation projects. All monies to be spent on mitigation projects will be for coastal restoration projects as approved by the governing authority.

(b). If the coastal parishes do not have a local mitigation bank, the 25 percent of the monies collected are placed into the Wetland Conservation and Restoration Fund (WCRF).

(Revised Version submitted by Earl Matherne, CZM Administrator on January 15, 2016)

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

And the ordinance was declared adopted this _____ day of _____, 2015, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: _____

SECRETARY: _____

DLVD/PARISH PRESIDENT: _____

APPROVED: _____ DISAPPROVED: _____

PARISH PRESIDENT: _____

REC'D/SECRETARY: _____

AT: _____ RECD BY: _____

15. SECTION 19-65 -- USE OF FUNDS

15.1. Funds collected for violations in parish shall be maintained in a coastal monitoring enforcement fund. These monies, including interest accruing thereon, shall be used by parish for the cost of providing aircraft overflights or boat use for coastal monitoring and similar surveillance and enforcement activities conducted by parish.

16. SECTION 19-66 -- MITIGATION TRUST FUND

16.1. A mitigation trust fund is hereby created as the depository of monies collected in accordance with R.S. 49:214.36(J), which states that 25 percent of the monies collected for violations relating to minimal wetland impacts shall be forwarded to local government whereby 100 percent of the monies received shall be placed in local government mitigation bank and can only be used for mitigation projects. All monies to be spent on mitigation projects will be for coastal restoration projects as approved by the governing authority.

16.2. If the coastal parishes do not have a local mitigation bank, the 25 percent of the monies collected are placed into the wetland conservation and restoration fund (WCRF).

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: SCHEXNAYDRE, LEWIS, WILSON, TASTET, HOGAN, COCHRAN,
FLETCHER, FISHER-PERRIER
NAYS: NONE
ABSENT: BENEDETTO

And the ordinance was declared adopted this 19th day of October, 2015, to become effective five (5) days after publication in the Official Journal.

CHAIRMAN: _____
SECRETARY: _____
DLVD/PARISH PRESIDENT: _____
APPROVED: ☒ APPROVED ☐ DISAPPROVED
PARISH PRESIDENT: _____
RETD/SECRETARY: _____
AT: 10/25/15 RECD BY: _____

RECORDED IN THE ST. CHARLES PARISH
CLERK OF COURT OFFICE
ON Jan. 15, 2016
AS ENTRY NO. 412009
IN MORTGAGE/CONVEYANCE BOOK
NO. 1650 FOLIO 745