

Topic:	Wetlands & Watercourse Protection; Land Use Planning; Local Environmental Law Regulations
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State:	Louisiana
Jurisdiction Type:	State
Municipality:	N/A
Year (adopted, written, etc.):	Unknown
Community Type – applicable to:	Urban; Suburban; Rural
Title:	State of Louisiana Green Space Ordinance
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Abstract

This model law provides a template for Louisiana parishes wishing to implement a green space ordinance to preserve water resources. The model law creates a servitude on the property between the property owner and the parish government and is a mandatory prerequisite for the issuance of any and all building permits. The servitude provides for a certain percentage of land on a property that shall remain in a natural, undisturbed or revegetated state, and allows the parish to enter the land for random inspections or following a complaint; the parish has the authority to abate any violations at the expense of the property owner.

Resource

7. Green Space Ordinance

This ordinance promotes green space goals for new development and major reconstruction in urban areas. All new construction must leave undisturbed land in order to minimize impacts on water resources. Existing development is also encouraged to increase pervious surfaces through an Outstanding Green Space Member Program. The program is based on the development of Green Space Management Agreements between the property owners and the parish. The parish is granted the authority to uphold and enforce these agreements through notices of violation. Upon receipt of a notice the property owner must correct any violation or reimburse costs if the parish does the work.

Green Space Ordinance

Section 1:

Green "Open" Space development has numerous environmental and community benefits, including:

1. Reduces the impervious cover in a development. Impervious cover contributes to degradation of water resources by increasing the volume of surface runoff, and preventing infiltration of rainfall into the soil surface.
2. Reduces pollutant loads to streams and other water resources.
3. Reduces potential pressure to encroach on resource buffer areas.
4. Reduces soil erosion potential by reducing the amount of clearing and grading on the site.
5. Preserves green space.
6. Preserves open spaces for recreation.
7. Reduces the capital cost of development.
8. Reduces the cost of storm water management by concentrating runoff in one area and reducing runoff volumes.
9. Provides a wider range of feasible sites to locate storm water BMPs.
10. Reduces the cost of future public services needed by the development.
11. Can increase future property values.
12. Creates urban wildlife habitat "islands."
13. Creates a sense of community and pedestrian movement.

It is the desire of _____ (parish agency) to protect the natural, historic and community resources in _____ Parish, by promoting green space development within our jurisdiction.

Section 2: Definitions

Green Space: Open space maintained in a natural, undisturbed or revegetated condition.

Impervious Cover: Any surface in the urban/suburban landscape that can not effectively absorb or infiltrate rainfall.

Major Re-Construction Activities: Construction and/or development that impacts an area 10% the size of the existing structure/construction.

Natural Condition: The topography and vegetation of an area that is unaltered by clearing and grading during construction and protected in perpetuity.

Outstanding Green Space Member: Property owners that exceed ordinance requirements and/or reclaim pervious surface area that had been covered with an impervious surface. Members are encouraged to promote their membership standing and will be acknowledged in the official parish publication, as well as kept on record at the _____ (parish government office) for public review.

Set Back: The distance a structure must be located from property lines or other structures.

Stream / Water Way Buffer: A vegetative area bordering a stream, which exists or is established to protect a stream system/water way. Alteration of this vegetated area is strictly limited.

Urban Construction Projects: All construction within (parish/city) limits

Section 3: Applications

The provisions will apply to all new urban construction projects

Construction plans registered before the adoption of this ordinance are exempt from the provisions of this ordinance, except for major re-construction activities.

The following areas shall be high priorities for inclusion in designated green space:

1. natural resource buffers
2. high quality forest resources
3. individual trees
4. critical habitat areas
5. high quality soil resources

Section 4: Green Space Management Agreement

A green space management agreement shall assure that the green/open space will be protected in perpetuity from all forms of development, except as shown on approved development plan, and that it will never be changed to another use. The agreement will be between the property owner and the parish government, creating a servitude upon the property. A green space agreement will be a mandatory prerequisite for any and all building permits issued by the parish.

The agreement shall:

- 4.1. Prescribe all allowable and unallowable uses and activities within such open space,

4.2. Provide detailed standards and schedules for maintenance of the open space, including vegetative management.

4.3. Allow for parish or municipal maintenance of green space in the event that maintenance specified under an agreement is not complied with.

4.4. Establish a green space servitude created on the land by the agreement, that will be filed with the parish clerk of court.

[Note: the parish may reduce parish property taxes on land preserved as green space or such an incentive may be reserved for green space agreements that exceed parish requirements]

Section 5: Open Space Design Criteria

Green Space (natural, undisturbed or revegetated condition) will be maintained on _____% of each new urban construction site and major re-development site within the Parish.

At least 50% of the green space designated will be a contiguous segment of land, exemptions to this may be allowed in order to best protect natural resources on the property.

All urban construction projects will maintain setbacks from streams/water ways. The design criteria for setbacks will be set according to the specific resource.

Section 6: Green space projects involving existing construction and/or exceeding ordinance requirements

Both reducing existing impervious surfaces and exceeding green space requirements are encouraged by the parish. Landowners entering into such agreements with the parish will be acknowledged in the parish's local publication, a list of such landowners will be kept on record for public review at the parish's _____ (government office) and those participating will be allowed to advertise that they are _____ Parish Outstanding Green Space Members.

Section 7: Inspection and Penalties

Inspections: The _____ (authorized parish inspector) will be allowed access to all land with a green space agreement in order to ensure that proper maintenance, as designated in the agreement, of the green space is being carried out. Inspections may be made on a random basis or in conjunction with a complaint received by the _____ (designated parish department).

Complaint-driven inspections: The _____ (designated parish department) will accept letters of complaint from other government entities or from the general public. Upon

receiving a complaint the _____ (designated parish department) will inspect the green space in question to determine if maintenance as established in the agreement is being carried out. Notice of violation: Upon inspection and documentation of failure to maintain any provisions in a green space agreement the _____ (designated parish official) will mail a certified letter (notice of violation) to the property owner. The letter will contain: time and date of inspection, the specific violation(s) detected and a short explanation of the work necessary to correct the violation. The notice of violation will state the property owner has ___ days to either correct the violation or respond in writing. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within days of the decision of the _____ (designated municipal authority) upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Cost of Abatement of the Violation: Within days after abatement of the violation by _____ (designated municipal authority) , the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within days. If the amount due is not paid within a timely manner as determined by the decision of the _____ (designated municipal authority) or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment

Section 8: Appeals

Appeal of Notice of Violation: Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The appeal will be made to _____ (designated municipal authority) The notice of appeal must be received within days from the date of the Notice of Violation. Hearing on the appeal before the _____ (designated municipal authority or their designee) shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the _____ (designated municipal authority or their designee) shall be final.

Section 9: Severability

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

Section 10: Adoption of Ordinance

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

All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED and ADOPTED this ____ day of _____, 20____, by the following vote