

2013-0312

INTRODUCED BY: PAUL J. HOGAN, PE, COUNCILMAN, DISTRICT IV

An ordinance to amend the Parish Code of Ordinances, Chapter 5-Boats, Docks, and Waterways; Article II-Airboats and all sections thereof.

WHEREAS, the unauthorized operation of airboats on private and public property and waterways creates an unnecessary risk of damages to the property of area residents and hazards to public health and safety; and,

WHEREAS, airboats can generate excessive noise, vibrations, speed and exhaust detrimental to migratory birds, marine life, marine traffic, wildlife habitats, and wetlands preservation in environmentally sensitive areas; and,

WHEREAS, the purpose of this ordinance is to eliminate the hazards of improper and unauthorized airboat uses within St. Charles Parish and is designed to safeguard the health, safety, and welfare of the persons, and to protect private and public property.

**CHAPTER 5 – BOATS, DOCKS, WATERWAY
ARTICLE II – AIRBOATS**

Sec. 5-14. Defined.

As written-

An airboat is defined to be any boat, sled, sea skiff or swamp boat pushed, pulled or propelled by airpower generated by a non-detachable motor of more than twenty-five (25) horsepower including any vessel with a propulsion mechanism similar to that of an airplane with propulsion out of the water.

Amended-

A. "Airboat" shall be defined as any water craft propelled by means of an air propeller powered by an engine of at least twenty five (25) horsepower.

B. "Idle" speed and "No Wake Zone" shall mean bare steerage speed, the slowest speed the vessel can travel while allowing the operator to maintain directional control of the vessel to produce the minimum water surface turbulence.

C. "Sign" means any 'No Trespass-Airboats Prohibited' or 'Posted-Airboats Prohibited' sign or signs placed on real property in such place or places where the sign(s) may reasonably be expected to be seen. A sign forbidding entry of airboats on the property shall be conspicuously posted or exhibited at the entrances of said property regulated by this section.

Sec. 5-18. Area of use restricted.

As written-

The operation and use of airboats in the parish is hereby restricted to use for lawful purposes on real property or land for which the airboat is registered and the navigable streams of the parish.

Amended-

A. It shall be unlawful for any commercial or recreational airboat to commit a trespass on private or public real property and on non-navigable streams or waterways within St. Charles Parish.

B. It shall be unlawful to operate an airboat at more than idle speed within three hundred (300') feet of a public boat launch and/or public docking facility adjacent to a public boat launch and within one-fourth mile of any inhabited dwelling within the boundaries of unincorporated St. Charles Parish.

C. Airboats shall at all times be operated in compliance with all parish, state and federal laws and regulations and in additional to any restrictions placed on the use of the airboats in a "letter of no objection" or other "use specific written permission" issued by any affected property owner(s). An exception to the Parish's restrictions regarding use on private or public real property and on non-navigable streams within St. Charles Parish is allowed provided written permission is granted by the property owner specifically granting the exception.

Sec. 5-20. Penalty.

As written-

Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall forfeit and surrender his license to the court and shall be fined not exceeding one hundred dollars (\$100.00) or imprisoned for not more than thirty (30) days, or both, at the discretion of the court.

Amended-

Sec. 5-20. Enforcement and Penalty.

A. Enforcement of this Article is authorized, by state and local law enforcement agencies, and duly commissioned officers of state or federal wildlife and fisheries agencies. No person shall be convicted, of trespass if signs as defined in this Section 5-14 were not in place at the time of the alleged violation. It shall be unlawful for any person to remove, without the permission of the landowner, any signs posted or exhibited on any property in accordance with this ordinance.

B. Any person violating any of the provisions of this article shall be guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall forfeit and surrender his license to the court and shall be fined not exceeding two hundred dollars

(\$200.00) or imprisoned for not more than thirty (30) days, or both, at the discretion of the court.

C. The penalty for any person violating the speed restrictions set forth in Section 5-18 (B) shall be in accordance with La. Revised Statute 56:31.

ADD NEW SECTION TO CURRENT CODE

Sec. 5-21. Exemptions

This ordinance shall not apply to any emergency, police, fire, ambulance, or other governmental vessels, airboats or other water craft when same being operated in an official capacity. In addition, no person shall be found in violation of this article by reason of being upon a non-navigable waterway without authorization for the purpose of accessing hunting or trapping land where no other waterway is available, for repairs to any utilities, pipelines, transmission lines, or related infrastructure, and for maritime or other emergency use.

Sec. 5-22. Severability

The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences.

NOW, THEREFORE BE IT ORDAINED, THAT WE, THE MEMBERS OF THE ST. CHARLES PARISH COUNCIL, do hereby amend the Parish Code of Ordinances, Chapter 5-Boats, Docks, and Waterways; Article II-Airboats and all sections thereof.

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

YEAS: SCHEXNAYDRE, WILSON, WOODRUFF, HOGAN

NAYS: LEWIS, COCHRAN, FLETCHER, FISHER-PERRIER

ABSENT: BENEDETTO

PROPOSED ORDINANCE FAILED FOR LACK OF A FAVORABLE MAJORITY ON DECEMBER 1, 2014.