

CITY ORDINANCE NO. CO-010-2022

AN ORDINANCE OF THE LAFAYETTE CITY COUNCIL AMENDING THE LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT CODE OF ORDINANCES CHAPTER 62, ARTICLE I, DIVISION 2, BY ENACTING SECTION 62-93, “OPERATING A WATERCRAFT ON THE VERMILION RIVER, INCLUDING AREAS INUNDATED BY FLOODWATERS OF THE VERMILION RIVER, WHEN THE RIVER IS AT OR ABOVE FLOOD STAGE,” AND ESTABLISHING FINES AND PENALTIES FOR VIOLATIONS THEREOF

BE IT ORDAINED by the Lafayette City Council, that:

WHEREAS, when the Vermilion River rises to levels at or above flood stage, the operation of watercraft on the Vermilion River and any areas inundated by floodwaters of the Vermilion River creates a hazard to people and property located on the Vermilion River and in those areas inundated by its floodwaters; and

WHEREAS, in furtherance of the public health, safety and welfare of the citizens of the City of Lafayette, and the protection of properties along the Vermilion River and in areas inundated by its floodwaters, the Lafayette City Council desires to enact Chapter 62, Article I, Division 2, Section 62-93 “Operating a Watercraft on the Vermilion River, Including Areas Inundated by Floodwaters of the Vermilion River, When the River is at or Above Flood Stage,” to provide regulations associated with same.

NOW, THEREFORE, BE IT FURTHER ORDAINED by the Lafayette City Council, that:

SECTION 1: All of the aforescribed “Whereas” clauses are adopted as part of this ordinance.

SECTION 2: Chapter 62, Article I, Division 2, Section 62-93 “Operating a Watercraft on the Vermilion River, Including Areas Inundated by Floodwaters of the Vermilion River, When the River is at or Above Flood Stage,” of the Lafayette City-Parish Consolidated Government Code of Ordinances is enacted as follows:

Sec. 62-96. - Operating a Watercraft on the Vermilion River, Including Areas Inundated by Floodwaters of the Vermilion River, When the River is at or Above Flood Stage

- (a) *Definitions:* The following words, terms and phrases when used in this section shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Watercraft means any conveyance equipped with or propelled by any type of machinery, whether or not such machinery is the principal source of propulsion when being so propelled, used or designated for navigation on water, including but not limited to a personal watercraft as defined in La. R.S. 34:855.2.

Operate means to navigate or otherwise use a watercraft.

Person means an individual, partnership, firm, corporation, association, or other entity.

Flood Stage means NINE (9.0) feet as read at the Corps of Engineers' Gauge at the Surrey Street Bridge on the Vermilion River.

- (b) *Unlawful*: It shall be unlawful to operate a watercraft on the Vermilion River, including those areas inundated by floodwaters of the Vermilion River, when the river is at or above flood stage.
- (c) *Exemptions*: The provisions of the section shall not apply to the following:
1. Federal, state and/or local law enforcement personnel, Louisiana Department of Wildlife and Fisheries personnel, members of the National Guard and/or any branch of the military, emergency services personnel (i.e., first responders), and members of a rescue or disaster relief organization or group when engaged in the exercise of their lawful duties;
 2. Persons who reside or own property in or adjacent to the flooded Vermilion River and/or inundated area or his representative while engaged in caring for his life, family, or property or the lives, families, or property of his neighbors, provided entry is not prohibited by a law enforcement officer or other person authorized to be within the area in the exercise of their lawful duties; and
 3. A business or company which operates in or adjacent to the flooded Vermilion River and/or inundated area or its representatives while engaged in caring for the lives of its employees or its property, provided entry is not prohibited by a law enforcement officer or other person authorized to be within the area in the exercise of their lawful duties.
- (d) *Enforcement*: When a peace officer has reasonable grounds to believe a person has committed a violation of this section, he shall issue a summons to the offender in accordance with law, commanding him to appear and answer the charge. For the purposes of this section, "peace officer" shall mean the Lafayette Parish Sheriff, the Chief of the Lafayette Police Department, and any employee of the Lafayette Police Department or the Lafayette Parish Sheriff's Office, whose duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state, the Parish of Lafayette and/or the City of Lafayette. The term "peace officer" shall also mean any member of the Louisiana Department of Wildlife and Fisheries.
- (e) A person may be found guilty and penalized under this Section, although the commission of the offense did not occur in the presence of a peace officer if the evidence presented to the court exercising jurisdiction establishes that the defendant has committed the offense.
- (f) *Penalties*: Whoever commits a violation of this section shall be guilty of a misdemeanor, punishable as follows:
1. For a first offense, a fine of not less than \$200.00 and community service of not less than six (6) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries;
 2. For a second offense, a fine of not less than \$300.00 and community service of not less than ten (10) seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries; and
 3. For a third offense and each subsequent offense, a fine of not less than \$500.00 and community service of not less than 20 seven-hour days of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries, and/or imprisonment for not more than 180 days.

(g) *Inability to Pay Penalties.* If a person convicted of a violation under this section can demonstrate the inability to pay a penalty imposed by the court, that person shall be ordered, in lieu of the penalty, to perform community service of not less than one (1) seven-hour day of collecting and picking up litter and trash on public roads, streets and highways, and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries per \$50.00 of the penalty imposed.

(h) *Community Service.* The community service of collecting and picking up litter and trash on public roads, streets and highways and cleaning, cutting grass, removing weeds, litter and trash in public parks, playgrounds and cemeteries shall be performed by such person through a court approved community service litter abatement program. The court may elect to substitute two (2) seven-hour days of community service for each one (1) day of imprisonment.

Secs. 62-94-62-99. – Reserved.

SECTION 3: All ordinances or resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 4: This ordinance shall become effective upon signature by the Lafayette Mayor-President, the elapse of ten (10) days after receipt by the Lafayette Mayor-President without signature or veto, or upon override of a veto, whichever occurs first.

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Internal Memorandum
Legal Department


TO: Cydra Wingerter, Chief Administrative Officer
CC: Joshua S. Guillory, Mayor-President
CC: Liz W. Hebert, Councilmember District 3
FROM: Paul D. Escott, Assistant City-Parish Attorney
SUBJECT: City Council Agenda Item – City Ordinance
February 1, 2022 Meetings – Introduction
February 15, 2022 Meetings – Final Adoption
DATE: January 13, 2022

Cydra,

On behalf of Mayor-President Guillory and Councilmember Liz Hebert, I submit the following, to wit:

- A. An Ordinance of the Lafayette City Council Amending the Lafayette City-Parish Consolidated Government Code of Ordinances Chapter 62, Article I, Division 2, by Enacting Section 62-93, "Operating a Watercraft on the Vermilion River, Including Areas Inundated by Floodwaters of the Vermilion River, When the River is at or Above Flood Stage," and Establishing Fines and Penalties for Violations Thereof; and
- B. City Ordinance – Agenda Item Submittal Form

I respectfully request that this City Ordinance be placed on the City Council's February 1, 2022 meeting agenda for consideration, for introduction, with consideration for final adoption at the City Council's February 15, 2022 meeting.



Paul D. Escott
Assistant City-Parish Attorney

LAFAYETTE CITY COUNCIL MEETING

AGENDA ITEM SUBMITTAL FORM

1) JUSTIFICATION FOR REQUEST: An Ordinance of the Lafayette City Council Amending the Lafayette City-Parish Consolidated Government Code of Ordinances Chapter 62, Article I, Division 2, by Enacting Section 62-93, "Operating a Watercraft on the Vermilion River, Including Areas Inundated by Floodwaters of the Vermilion River, When the River is at or Above Flood Stage," and Establishing Fines and Penalties for Violations Thereof

2) ACTION REQUESTED: Adoption of City Ordinance

3) COUNCIL DISTRICT(S) (if applicable): _____

4) REQUESTED ACTION OF COUNCIL:

A) INTRODUCTION: February 1, 2022

B) FINAL ADOPTION: February 15, 2022

5) DOCUMENTATION INCLUDED WITH THIS REQUEST:

A) Cover Memo (1 page)

B) City Ordinance (3 pages)

C) Agenda Item Submittal Form (1 page)

6) FISCAL IMPACT:

Fiscal Impact


No Fiscal Impact

CO-AUTHORED BY:

JOSHUA S. GUILLORY
Mayor-President

LIZ W. HEBERT,
Councilmember, District 3

SUBMITTED BY:



Paul D. Escott
Assistant City-Parish Attorney

APPROVED FOR AGENDA:



CYDRA WINGERTER
LCG Chief Administrative Officer

DISPOSITION OF ORDINANCE NO. CO-010-2022

1. This ordinance was introduced: February 1, 2022. YEAS: Lewis, Naquin, Hebert, Cook, Lazard. NAYS: None. ABSENT: None. ABSTAIN: None. Final disposition by Council: February 15, 2022. YEAS: Lewis, Naquin, Hebert, Cook, Lazard. NAYS: None. ABSENT: None. ABSTAIN: None.

2. Notice of Public Hearing: This ordinance was published by Title and Notice of Public Hearing was published in the Advertiser on February 4, 2022.

3. This ordinance was presented to the Mayor-President for approval on February 16, 2022, at 10:00 o'clock a.m. [Signature] CLERK OF THE COUNCIL

4. Disposition by Mayor-President:

I hereby:

- A. Approve this ordinance, the 17th day of February, 2022, at 4:30 o'clock p.m.
B. Veto this ordinance, the ___ day of ___, 2022, at ___ o'clock ___m., veto message is attached.
C. Line item veto certain items this ___ day of ___, 2022, at ___ o'clock ___m., veto message is attached.

[Signature] MAYOR-PRESIDENT

5. Returned to Council Office with/without veto message on February 18, 2022, at 4:12 o'clock a.m.

6. Reconsideration by Council (if vetoed):

On ___, 2022, the Council did/refused to adopt this ordinance after the Mayor-President's veto.

7. Returned to the Council Office without signature of Mayor-President (unsigned) on ___, 2022, at ___ o'clock ___m.

If not signed or vetoed by the Mayor-President, and ten days have elapsed since this ordinance was presented to him for action, same has been automatically approved.

[Signature] CLERK OF THE COUNCIL

8. Full publication of this ordinance was made in the Advertiser on February 18, 2022.

