

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 3372 ORDINANCE COUNCIL SERIES NO. _____

COUNCIL SPONSOR MR. CANULETTE PROVIDED BY: COUNCIL OFFICE

INTRODUCED BY MR. BURKHALTER SECONDED BY MS. BRISTER

ON THE 7th DAY OF SEPTEMBER, 2006

ORDINANCE TO AMEND AND REENACT PARISH CODE OF ORDINANCES, CHAPTER 15, ARTICLE XIV, AND ALL SECTIONS THEREOF, PROHIBITING COMMERCIAL AND RECREATIONAL AIRBOATS FROM TRESPASSING ON PUBLIC AND PRIVATE PROPERTY WITHIN UNINCORPORATED ST. TAMMANY PARISH WITHOUT THE WRITTEN PERMISSION OF THE LAND OWNERS, AND TO ESTABLISH ADDITIONAL ENFORCEMENT PROVISIONS.

WHEREAS, the unauthorized operation of Airboats on private and public property creates an unnecessary risk of damages to the property of area residents and hazards to public health and safety. Additionally, Airboats can generate excessive noise, vibrations, and exhaust detrimental to migratory birds, marine life, wildlife habitats and wetlands preservation in environmentally sensitive areas; and

WHEREAS, the purpose of this Ordinance is to eliminate the hazards of improper Airboat uses within St. Tammany Parish and is designed to safeguard the health, safety and welfare of the citizens, and to protect private and public property.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS that it amends and reenacts the Parish Code of Ordinances, Chapter 15, Article XIV, Airboats, as follows:

CHAPTER 15 - OFFENSES - MISCELLANEOUS

ARTICLE XIV - AIRBOATS

SECTION 15-950.00 UNAUTHORIZED AIRBOATS PROHIBITED

It is recognized that the use of Airboats on real property without the express written permission of land owners poses eminent hazards within the Parish of St. Tammany; therefore, it shall be unlawful for any commercial or recreational Airboat to commit a trespass on private or public real property without the express written permission of the landowner.

SECTION 15-951.00 AIRBOAT DEFINITION

1. "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.
2. "Idle" speed shall mean the minimum possible speed that the water craft can travel and still maintain safe steering.
3. "Sign" means any 'No Trespass' or 'Posted' sign or signs placed on immovable real property in such place or places where the sign(s) may reasonably be expected to be seen. A sign forbidding entry on the property shall be conspicuously posted or exhibited at the entrances of said property regulated by this section.

SECTION 15-952.00 OPERATION OF AIRBOATS

A. Airboats shall not be launched or operated within the boundaries of unincorporated St. Tammany Parish within one (1) mile of any residence between 9:00 p.m. and 4:30 a.m.

1. It shall be unlawful at any time for an Airboat to operate at more than idle speed within one-half (½) mile of any residence within the boundaries of unincorporated St. Tammany Parish.

B. The operation of Airboats shall be conducted in such a manner so as not to be a violation of the applicable Nuisance provisions of Chapter 14 of this Code of Ordinances. In addition, the exhaust of any internal combustion engine used on any Airboat shall be muffled in such a manner so as not to be in violation of noise and sound provisions of Article IV of Chapter 14.

C. Airboats shall at all times be operated in compliance with all parish, state and federal laws and regulations, and 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).

D. No person shall go into or remain in or upon or attempt to go into or upon any immovable real property which belongs to another, for the purpose of operating or using an Airboat, after having been forbidden to do so, either orally or in writing, including by means of any sign placed in conformity with this Article, by any owner, lessee, or custodian of the property or by any other person authorized by any such persons.

E. All Airboats operated within the unincorporated portion of St. Tammany Parish shall be registered with the Louisiana Department of Wildlife and Fisheries and shall at all times have the registration number issued by said Department displayed on both sides of the rudder in figures of contrasting colors at least twelve (12) inches high and one (1) inch in width. In addition, the registration numbers shall be displayed in the same color and size on the deck of decked Airboats or on the floor of the bow of air boats without decks in a manner so as to be visible from the air at all times.

SECTION 15-953.00 ENFORCEMENT

Enforcement of this Article is authorized, directed, and empowered to state and local law enforcement agencies, and duly commissioned officers with state or federal wildlife and fisheries agencies.

No person shall be convicted of violating this Ordinance if a sign was 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 properly posted "No Trespass" sign posted or exhibited at the entrances of any property in accordance with this Ordinance.

SECTION 15-954.00 EXEMPTIONS

This Ordinance shall not apply to any emergency, police, fire, ambulance, or other government vessels, Airboats or other water craft when same is being operated in an official capacity. In addition, no person shall be found in violation of this Article by reason of being upon property without authorization when the reason for such is a maritime or other emergency.

SECTION 15-955.00 PENALTY

Any person who violates any of the provisions of this Article; or who violates or fail to comply with any order made hereunder, within the time fixed therein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine of not less than ONE HUNDRED (\$100.00) DOLLARS nor more than FIVE HUNDRED (\$500.00) DOLLARS, or by imprisonment for not more than thirty (30) days, or both such fines and imprisonment. Each day that any violation of this Article continues shall constitute a separate offense.

REPEAL: All ordinances or parts of Ordinances in conflict herewith are hereby and henceforth repealed.

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.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after final adoption.

MOVED FOR ADOPTION BY: _____, SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 7th DAY OF SEPTEMBER, 2006; AND BECOMES ORDINANCE COUNCIL SERIES NO. _____.

STEVE STEFANCIK, COUNCIL CHAIRMAN

ATTEST:

DIANE HUESCHEN, COUNCIL CLERK

KEVIN C. DAVIS, PARISH PRESIDENT

Published introduction _____, 2006

Published adoption _____, 2006

Delivered to the Parish President _____, 2006 at _____

Returned to the Council Clerk on _____, 2006 at _____

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ARTICLE XIV
AIRBOATS

~~SEC. 15-950.00 — Airboats Prohibited — Areas Adjacent to Penn Chapel Acres,
Hidden Acres and ————— Pineland Park Subdivisions~~

~~EDITORIAL NOTE: The Police Jury recognizes the eminent hazards created by the use and operation of airboats in the marshland areas adjacent to residential subdivisions in Ward 4. To protect area residents' health, safety and property, the animals, fowl, marine/plant life, natural habitats, wetlands and local environment, it is necessary to prohibit airboats in marshland areas adjacent to Penn chapel Acres, Hidden Acres and Pineland Park Subdivisions.~~

~~————— It shall be unlawful for any person to use or operate an airboat or similarly propelled craft over, across, around or through the marshlands near Penn chapel Acres, Hidden Acres and Pineland Park Subdivisions; more particularly the area bounded on the north by Highway 190 and on the south of Lake Pontchartrain. (Ord. 94-1941, adopted 03/17/94)~~

~~SEC. 15-950.01 — Airboat Defined~~

~~————— An airboat is any boat, sled, sea skiff or swamp craft pushed, pulled or propelled by airpower generated by a non-detachable motor, including any vessel, vehicle or craft with a propulsion mechanism similar to that of an airplane which propels out of water. (Ord. 94-1941, adopted 03/17/94)~~

~~SEC. 15-950.02 — Enforcement~~

~~————— Enforcement of this Article is authorized, directed and empowered to the St. Tammany Parish Sheriff, the Louisiana State Police, and duly commissioned officers with the State or Federal Wildlife and Fisheries Agencies. (Ord. 94-1941, adopted 03/17/94)~~

~~SEC. 15-950.03 — Exemption~~

~~————— Exempt herefrom are all law enforcement, Wildlife and Fisheries, rescue and emergency watercraft on bona fide assignments, life-saving missions or enforcement patrols. (Ord. 94-1941, adopted 03/17/94)~~

~~SEC. 15-950.04 — Violations; Penalty~~

~~————— Any person violating provisions of this Article shall be guilty of a misdemeanor, punishable in accordance with Sec. 1-800.00 of the Code of Ordinances for St. Tammany Parish, Louisiana. (Ord. 94-1941, adopted 03/17/94)~~

~~SECS. 15-950.05 — 15-974.99 Reserved~~

Diane Hueschen

From: Neil Hall
Sent: Friday, October 20, 2006 12:23 PM
To: Diane Hueschen; Mike Sevante
Subject: Emailing: Ord. Airboat Substitute Ord

Attachments: Ord. Airboat Substitute Ord



Ord. Airboat
Substitute Ord (3...

Diane and Mike: Attached is the ordinance that is to be substituted for Ord. Cal. No. 3372, which is the air boat ordinance currently on the agenda.

The message is ready to be sent with the following file or link attachments:

Ord. Airboat Substitute Ord

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

ST. TAMMANY PARISH COUNCIL

*Substitute per
Neil's email
10/26/06*

ORDINANCE

ORDINANCE CALENDAR NO. 3372 ORDINANCE COUNCIL SERIES NO. _____

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INTRODUCED BY _____ SECONDED BY _____

ON THE _____ DAY OF _____, 2006

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WHEREAS, the unauthorized operation of air boats on private and public property creates an unnecessary risk of damages to the property of area residents and hazards to public health and safety. Additionally, air boats can generate excessive noise, vibrations, and exhaust detrimental to migratory birds, marine life, wildlife habitats and the preservation of wetlands in environmentally sensitive areas; and

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It is recognized that the use of air boats on real property without the express written permission of land owners poses eminent hazards within the Parish of St. Tammany. Therefore, except as otherwise provided herein, it shall be unlawful for any commercial or recreational air boat to commit a trespass on private or public real property.

SECTION 15-951.00 AIR BOAT DEFINITION

1. "Air boat" 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.
2. "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.
3. "Sign" forbidding entry on immovable property means any 'No Trespass' or 'Posted' sign or signs placed on immovable real property in such place or places where the sign(s) may reasonably be expected to be seen by a person operating an air boat, watercraft or vessel.

SECTION 15-952.00 OPERATION OF AIRBOATS

A. It shall be unlawful to operate an air boat at more than idle speed within three hundred (300') feet of a public boat launch or a public docking facility adjacent to a public boat launch within the boundaries of unincorporated St. Tammany Parish.

B. Air boats shall at all times be operated in compliance with all parish, state and federal laws and regulations, and any restrictions placed on the use of the air boats in a letter of no objection or other use-specific written permission issued by any affected property owner(s).

C. Except as otherwise provided herein, no person shall go upon or remain in or upon or attempt to go into or upon any immovable real property which belongs to another, for the purpose of operating or using an air boat, after having been forbidden to do so, either orally or in writing, including by means of any sign placed in conformity with this Article, by any owner, lessee, or custodian of the property or by any other person authorized by any such persons.

D. In the absence of a sign having been placed on the property in conformity with this Article, no person operating an airboat shall enter upon or remain upon immovable property owned by another without express, legal, or implied authorization.

E. The following persons may enter or remain upon immovable property of another:

- (1) A duly commissioned law enforcement officer in the performance of his duties.
- (2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the Louisiana Department of Agriculture and Forestry engaged in locating and suppressing a fire.
- (3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.
- (4) Any federal, state or local government employee, public utility employee or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.
- (5) Any federal, state or local government employee, public utility employee or agent in the performance of his duties when otherwise authorized by law to enter or remain on immovable or movable property.
- (6) Any person authorized by a court of law to enter or remain on immovable property.
- (7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

F. The following persons may enter or remain upon immovable property of another, unless specifically forbidden to do so by the owner or other person with authority, either orally or in writing:

- (1) A professional land surveyor or his authorized personnel, engaged in the "Practice of Land Surveying", as defined in R.S. 37:682.
- (2) A person, affiliate, employee, agent or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal

Communication Commission under the Cable Reregulation Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude or any property located on the immovable property which belongs to such a business.

(3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian or a resident of the immovable property, and who, immediately upon entry, seeks to make the delivery, to conduct business or to conduct the communication.

(4) An employee of the owner, lessee or custodian of the immovable property while performing his duties, functions and responsibilities in the course and scope of his employment.

(5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.

(6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

(7) Any candidate for political office or any person working on behalf of a candidate for a political office.

(8) The owner or occupant of an air boat, watercraft or vessel engaged in the retrieval of his property or for obtaining assistance in an emergency situation.

SECTION 15-953.00 ENFORCEMENT

Enforcement of this Article is authorized, directed, and empowered to state and local law enforcement agencies, and duly commissioned officers with state or federal wildlife and fisheries agencies.

It shall be unlawful for any person to remove, without the permission of the landowner, any "No Trespass" sign that has been posted or exhibited on any property in accordance with this Article.

SECTION 15-954.00 EXEMPTIONS

This Article shall not apply to those persons set forth in paragraph E herein above and no person shall be found in violation of this Article by reason of being upon property without authorization in case of a maritime or other emergency.

SECTION 15-955.00 PENALTY

Any person who violates any of the provisions of this Article; or who violates or fail to comply with any order made hereunder, within the time fixed therein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor punishable by a fine of not less than ONE HUNDRED (\$100.00) DOLLARS nor more than FIVE HUNDRED (\$500.00) DOLLARS, or by imprisonment for not more than thirty (30) days, or both such fines and imprisonment. Each day that any violation of this Article continues shall constitute a separate offense.

ORDINANCE CALENDAR NO. _____

ORDINANCE P.C. SERIES NO. _____

PAGE NO. 4 OF 4

REPEAL: All ordinances or parts of Ordinances in conflict herewith are hereby and henceforth repealed.

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.

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